**Writings of James Madison, Vols 1-4 1769-1836**

**James Madison**

LETTERS & OTHER WRITINGS OF JAMES MADISON FOURTH PRESIDENT OF THE UNITED STATES IN FOUR VOLUMES

**Volume 1: 1769-1793**

1769

To the Reverend Thomas Martin.

LETTERS.

To the Reverend Thomas Martin.

Nassau Hall, August 16, 1769.

Writings of Madison, Volume 1: 1769-1793, p.1

REV. SIR,—I am not a little affected at hearing of your misfortune, but cannot but hope the cure may be so far accomplished as to render your journey not inconvenient. Your kind advice and friendly cautions are a favor that shall be always gratefully remembered; and I must beg leave to assure you that my happiness, which you and your brother so ardently wish for, will be greatly augmented by both your enjoyments of the like blessing.

Writings of Madison, Volume 1: 1769-1793, p.1

I have been as particular to my father as I thought necessary for this time, as I send him an account of the institution, &c., &c., and of the college, wrote by Mr. Blair, the gentleman formerly elected President of this place. You will likewise find two pamphlets entitled "Britannia's Intercession for John Wilkes," &c., which, if you have not seen it, perhaps may divert you.

Writings of Madison, Volume 1: 1769-1793, p.1

I am perfectly pleased with my present situation; and the prospect before me of three years' confinement, however terrible it may sound, has nothing in it, but what will be greatly alleviated by the advantages I hope to derive from it.

Writings of Madison, Volume 1: 1769-1793, p.1

The near approach of examination occasions a surprising application to study on all sides, and I think it very fortunate that I entered college immediately after my arrival. Though I believe there will not be the least danger of my getting an Irish hint, as they call it, yet it will make my studies somewhat easier. I have by that means read over more than half Horace and made myself pretty well acquainted with prosody, both which will be almost neglected the two succeeding years.

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The very large packet of letters for Carolina I am afraid will be incommodious to your brother on so long a journey, to whom I desire my compliments may be presented; and conclude with my earnest request for a continuance of both your friendships, and sincere wishes for your recovery, and an agreeable journey to your whole company.

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I am, sir, your obliged friend and obedient servant.

To James Madison.

Nassau Hall, September 30, 1769.

Writings of Madison, Volume 1: 1769-1793, p.2

Honored Sir,—I received your letter by Mr. Rossekrans, and wrote an answer; but as it is probable this will arrive sooner which I now write by Dr. Witherspoon, I shall repeat some circumstances to avoid obscurity.

Writings of Madison, Volume 1: 1769-1793, p.2

On Wednesday last we had the usual commencement. Eighteen young gentlemen took their Bachelor's degrees, and a considerable number their Master's degrees. The degree of Doctor of Laws was bestowed on Mr. Dickinson the Farmer, and Mr. Galloway the Speaker of the Pennsylvania Assembly, a distinguishing mark of honor, as there never was any of that kind done before in America. The commencement began at ten o'clock, when the President walked first into the church, a board of trustees following, and behind them those that were to take their first degrees. After a short prayer by the President, the head oration, which is always given to the greatest scholar by the President and Tutors, was pronounced in Latin by Mr. Samuel Smith, son of a Presbyterian minister in Pennsylvania. Then followed the other orations, disputes, and dialogues, distributed to each according to his merit, and last of all was pronounced the valedictory oration by Mr. John Henry, son of a gentleman in Maryland. This is given to the greatest orator. We had a very great assembly of people, a considerable number of whom came from New York; those at Philadelphia were most of them detained by Races which were to follow on the next day.

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Since commencement, the trustees have been sitting about business relative to the college, and have chosen for tutors for the ensuing year, for the junior class, Mr. Houston from North Carolina, in the room of Mr. Peream; for the freshman class, Mr. Reeve, (a gentleman who has for several years past kept a school at Elizabethtown,) in the room of Mr. Pemberton. The sophomore tutor, Mr. Thomson, still retains his place, remarkable for his skill in the sophomore studies, having taken care of that class for several years past. Mr. Halsey was chosen junior tutor, but refused. The trustees have likewise appointed Mr. Caldwell, a minister at Elizabethtown, to take a journey through the Southern Provinces as far as Georgia, to make collections by which the college fund may be enabled to increase the library, provide an apparatus of mathematical and philosophical instruments, and likewise to support professors, which would be a great addition to the advantages of this college. Dr. Witherspoon's business to Virginia is nearly the same, as I conjecture, and perhaps to form some acquaintance to induce gentlemen to send their sons to this college.

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I feel great satisfaction from the assistance my uncle has received from the springs, and I flatter myself from the continuance of my mother's health that Dr. Shore's skill will effectually banish the cause of her late indisposition.

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I recollect nothing more at present worth relating, but as often as opportunity and anything worthy your attention shall occur, be assured you shall hear from

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Your affectionate son.

1770

To Mr. James Madison.

Nassau Hall, July 23, 1770.

Writings of Madison, Volume 1: 1769-1793, p.4

HONORED SIR,— \* \* \* \* \* \* \* \* \* \*

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We have no public news but the base conduct of the merchants in New York in breaking through their spirited resolutions not to import; a distinct account of which I suppose will be in the Virginia Gazette before this arrives. Their letter to the merchants in Philadelphia requesting their concurrence, was lately burnt by the students of this place in the college yard, all of them appearing in their black gowns, and the bell tolling.

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The number of students has increased very much of late; there are about an hundred and fifteen in college, and in the grammar school twenty-two commence this fall, all of them in American cloth.

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With my love to all the family, I am, honored sir, your affectionate son.

1771

To James Madison, Esq.

PRINCETON, October 9, 1771.

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HONORED Sir,—In obedience to your requests I hereby send you an answer to yours of the 25th of September, which I received this morning. My letter by Dr. Witherspoon, who left this place yesterday week, contains most of what you desire to be informed of. I should be glad if your health and other circumstances should enable you to visit him during his stay in Virginia. I am persuaded you would be much pleased with him, and that he would be very glad to see you.

Writings of Madison, Volume 1: 1769-1793, p.4

I was so particular in my last with regard to my determination about staying in Princeton this winter coming, that I need say nothing more in this place, my sentiments being still the same.

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I am sorry Mr. Chew's mode of conveyance will not answer in Virginia. I expect to hear from him in a few days, by return of a man belonging to this Town from New London, and shah then acquaint him with it and get it remedied by the methods you propose.

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Mr. James Martin was here at commencement, and had an opportunity of hearing from his brothers and friends in Carolina by a young man lately come from thence to this college; however, I shall follow your directions in writing to him immediately, and visiting him as soon as I find it convenient.

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I am, Dr sir, your affectionate son.

1772

To Mr. William Bradford, Jr.

(At the Coffee-House. Philadelphia.—By the post.)

ORANGE, VIRGINIA., November 9, 1772.

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MY DEAR B.,—You moralize so prettily, that if I were to judge from some parts of your letter of October 13, I should take you for an old philosopher that had experienced the emptiness of earthly happiness; and I am very glad that you have so early seen through the romantic paintings with which the world is sometimes set off by the sprightly imaginations of the ingenious. You have happily supplied, by reading and observation, the want of experiment; and therefore I hope you are sufficiently guarded against the allurements and vanities that beset us on our first entrance on the theatre of life. Yet, however nice and cautious we may be in detecting the follies of mankind, and framing our economy according to the precepts of Wisdom and Religion I fancy there will commonly remain with us some latent expectation of obtaining more than ordinary happiness and prosperity till we feel the convincing argument of actual disappointment. Though I will not determine whether we shall be much the worse for it if we do not allow it to intercept our views towards a future state, because strong desires and great hopes instigate us to arduous enterprizes, fortitude, and perseverance. Nevertheless, a watchful eye must be kept on ourselves, lest while we are building ideal monuments of renown and bliss here, we neglect to have our names enrolled in the annals of Heaven. These thoughts come into my mind because I am writing to you, and thinking of you. As to myself, I am too dull and infirm now to look out for any extraordinary things in this world, for I think my sensations for many months past have intimated to me not to expect a long or healthy life; though it may be better with me after some time, [but] I hardly dare expect it, and therefore have little spirit and alacrity to set about anything that is difficult in acquiring and useless in possessing after one has exchanged time for eternity. But you have health, youth, fire, and genius, to bear you along through the high track of public life, and so may be more interested and delighted in improving on hints that respect the temporal though momentous concerns of man.

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I think you made a judicious choice of History and the science of morals for your winter's study. They seem to be of the most universal benefit to men of sense and taste in every post, and must certainly be of great use to youth in settling the principles and refining the judgment, as well as in enlarging knowledge and correcting the imagination. I doubt not but you design to season them with a little divinity now and then, which, like the philosopher's stone, in the hands of a good man, will turn them and every lawful acquirement into the nature of itself, and make them more precious than fine gold.

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As you seem to require that I should be open and unreserved, (which is indeed the only proof of true friendship,) I will venture to give you a word of advice, though it be more to convince you of my affection for you than from any apprehension of your needing it. Pray do not suffer those impertinent fops that abound in every city to divert you from your business and philosophical amusements. You may please them more by admitting them to the enjoyment of your company, but you will make them respect and admire you more by showing your' indignation at their follies, and by keeping them at a becoming distance. I am luckily out of the way of such troubles, but I know you are surrounded with them; for they breed in towns and populous places as naturally as flies do in the shambles, because there they get food enough for their vanity and impertinence.

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I have undertaken to instruct my brothers and sisters in some of the first rudiments of literature; but it does not take up so much of my time but I shall always have leisure to receive and answer your letters, which are very grateful to me, I assure you; and for reading any performances you may be kind enough to send me, whether of Mr. Freneau or anybody else. I think myself happy in your correspondence, and desire you will continue to write as often as you can, as you see I intend to do by the early and long answer I send you. You are the only valuable friend I have settled in so public a place, and I must rely on you for an account of all literary transactions in your part of the world.

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I am not sorry to hear of Livingston's getting a degree. I heartily wish him well, though many would think I had but little reason to do so; and if he would be sensible of his opportunities and encouragements, I think he might still recover. Lucky (?) and his company, after their feeble yet wicked assault upon Mr. Erwin, in my opinion, will disgrace the catalogue of names; but they are below contempt, and I spend no more words about them.

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And now, my friend, I must take my leave of you, but with such hopes that it will not be long before I receive another epistle from you, as make me more cheerfully conclude and subscribe myself

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Your sincere and affectionate friend.

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Your direction was right; however, the addition of "Jr." to my name would not be improper.

1773

To William Bradford, Jun.

ORANGE COUNTY, VIRGINIA, April 28, 1773.

Writings of Madison, Volume 1: 1769-1793, p.7

DEAR B.,—I received your letter dated March the 1st about a week ago; and it is not more to obey your demands than to fulfil my own desires that I give you this early answer. I am glad you disclaim all punctiliousness in our correspondence. For my own part I confess I have not the face to perform ceremony in person, and I equally detest it on paper; though as Tully says, It cannot blush. Friendship, like all truth, delights in plainness and simplicity, and it is the counterfeit alone that needs ornament and ostentation. I am so thoroughly persuaded of this, that when I observe any one over complaisant to me in his professions and promises, I am tempted to interpret his language thus: "As I have no real esteem for you, and for certain reasons think it expedient to appear well in your eye, I endeavor to varnish falsehood with politeness, which I think I can do in so ingenious a manner that so vain a blockhead as you cannot see through it."

Writings of Madison, Volume 1: 1769-1793, p.8

I would have you write to me when you feel as you used to do, when we were under the same roof, and you found it a recreation and release from business and books to come and chat an hour or two with me. The case is such with me that I am too remote from the post to have the same choice, but it seldom happens that an opportunity catches me out of a humor of writing to my old Nassovian friends, and you know what place you hold among them.

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I have not seen a single piece against the Doctor's address. I saw a piece advertised for publication in the Philadelphia Gazette, entitled "Candid remarks," &c., and that is all I know about it. These things seldom reach Virginia, and when they do, I am out of the way of them. I have a curiosity to read those authors who write with "all the rage of impotence," not because there is any excellence or wit in their writings, but because they implicitly proclaim the merit of those they are railing against, and give them an occasion of shewing by their silence and contempt that they are invulnerable. I am heartily obliged to you for your kind offer of sending me some of these performances. I should also willingly accept Freneau's works, and the "Sermons to Doctors in Divinity," which I hear are published, and whatever else you reckon worth reading. Please to note the cost of the articles, for I will by no means suffer our acquaintance to be an expense on your part alone, and I have nothing fit to send you to make it reciprocal. In your next letter be more particular as to yourself, your intentions, present employments, &c., Erwin, McPherson, &c., the affairs of the college. Is the lottery like to come to anything ? There has happened no change in my purposes since you heard from me last. My health is a little better, owing, I believe, to more activity and less study, recommended by physicians. I shall try, if possible, to devise some business that will afford me a sight of you once more in Philadelphia within a year or two. I wish you would resolve the same with respect to me in Virginia, though within a shorter time. I am sorry my situation affords me nothing new, curious, or entertaining, to pay .you for your agreeable information and remarks, You, being at the fountain head of political and literary intelligence, and I in an obscure corner, you must expect. to be greatly loser on that score by our correspondence. But as you have entered upon it, I am determined to hold you to it, and shall give you some very severe admonitions whenever I perceive a remissness or brevity in your letters. I do not intend this as a beginning of reproof, but as a caution to you never to make it necessary at all.

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If Mr. Horton is in Philadelphia, give him my best thanks for his kindness in assisting Mr. Wallace to do some business for [ ……?] not long ago.

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I must re-echo your pressing invitations to [ ……?] do with the more confidence as I have complied.

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I am, dear sir, yours, most unfeignedly.

To William Bradford, Esq.

ORANGE COUNTY, ViIRGINIA, 6th Sept., 1773.

Writings of Madison, Volume 1: 1769-1793, p.9

DEAR SIR,—If I did not love you too well to scold at you, I Should begin this with upbraiding your silence, contrary to your express promise and my earnest solicitations. The bundle of pamphlets you sent by the post has miscarried, or I would not trouble you with sending them again; but perhaps if you would inquire of the posts, they might still be discovered.

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I expect this will be handed to you by Mr. Erwin, who has been kind enough to extend his journey this far, whose praise. is in every man's mouth here for an excellent discourse he this day preached for us. He will let you know everything that occurs to me worth mentioning at commencement, or Philadelphia, if you should not attend the commencement. Gratitude to him, and friendship to yourself and others, with some business, perhaps, will induce me to visit Philadelphia or Princeton in the spring, if I should be alive, and should have health sufficient.

Writings of Madison, Volume 1: 1769-1793, p.10

I set too high a value on Mr. Erwin's company to write much to you now, and besides have the like office of friendship to several other friends.

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I am, dear sir, yours most affectionately.

1774

To Mr. William Bradford, Jr.

January the 24th, 1774.

Writings of Madison, Volume 1: 1769-1793, p.10

MY WORTHY FRIEND,—Yours of the 25th of last month came into my hands a few days past. It gave singular pleasure, not only because of the kindness expressed in it, but because I had reason to apprehend the letter you received last from me had miscarried, and I should fail in procuring the intelligence I wanted before the trip I designed in the spring.

Writings of Madison, Volume 1: 1769-1793, p.10

I congratulate you on your heroic proceedings in Philadelphia with regard to the tea. I wish Boston may "conduct matters with as much discretion as they seem to do with boldness. They seem to have great trials and difficulties by reason of the obduracy and ministerialism of their Governor. However, political contests are necessary sometimes, as well as military, to afford exercise and practice, and to instruct in the art of defending liberty and property. I verily believe the frequent assaults that have been made on America (Boston especially) will in the end prove of real advantage.

Writings of Madison, Volume 1: 1769-1793, p.11

If the Church of England had been the established and general religion in all the northern colonies as it has been among us here, and uninterrupted tranquillity had prevailed throughout continent, it is clear to me that slavery and subjection might and would have been gradually insinuated among us. Union of religions sentiments begeats a suprisiing confidence, and ecclesiastical establishments tend to great ignorance corruptions; all of which facilitate the execution of mischievous projects.

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But away with politics! Let me address you as a student and philosopher, and not as a patriot, now. I am pleased that you are going to converse with the Edwards and Henrys and Charleses, &c., &c., who have swayed the British sceptre, though I believe you will find some of them dirty and unprofitable companions, unless you will glean instruction from their follies, and fall more in love with liberty by beholding such detestable of tyranny and cruelty.

Writings of Madison, Volume 1: 1769-1793, p.11

I was afraid you would not easily have loosened your affections from the belles lettres. A delicate taste and warm imagination like yours must find it hard to give up such refined and exquisite enjoyments for the coarse and dry study of the law. It is like leaving a pleasant flourishing field for a barren desert; perhaps I should not say barren either, because the law does bear fruit, but it is sour fruit, that must be gathered and and distilled before it can bring pleasure or profit. I have made a very awkward comparison; but I got thought by the end, and had gone too far to quit it before I perceived that it was too much entangled in my brain to run it through; and so you must forgive it. I myself used to have great a hankering after those amusing studies. Poetry, and criticism, romances, plays, &c., captivated me much; I began to discover that they deserve but a small portion of a mortal's time, and that something more substantial, more durable, and more profitable, befits a riper age. It would be exceedingly improper for a laboring man to have nothing but flowers in his garden, or to determine to eat nothing but sweetmeats and confections. Equally absurd would it be for a scholar and a man of business to make up his whole library with books of fancy, and feed his mind with nothing but such luscious performances.

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When you have an opportunity and write to Mr. Brackenridge, pray tell him I often think of him, and long to see him, and am resolved to do so in the spring. George Luckey was with me at Christmas, and we talked so much about old affairs and old friends, that I have a most insatiable desire to see you all. Luckey will accompany me, and we are to set off on the 10th of April, if no disaster befalls either of us.

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I want again to breathe your free air. I expect it will mend my constitution and confirm my principles. I have indeed as good an atmosphere at home as the climate will allow; but have nothing to brag of as to the state and liberty of my country. Poverty and luxury prevail among all sorts; pride, ignorance, and knavery among the priesthood, and vice and wickedness among the laity. This is bad enough, but it is not the worst I have to tell you. That diabolical, hell-conceived principle of persecution rages among some; and to their eternal infamy, the clergy can furnish their quota of imps for such business. This vexes me the worst of anything whatever. There are at this time in the adjacent country not less than five or six well-meaning men in close jail for publishing their religious sentiments, which in the main are very orthodox. I have neither patience to hear, talk, or think of anything relative to this matter; for I have squabbled and scolded, abused and ridiculed, so long about it to little purpose, that I am without common patience. So I must beg you to pity me, and pray for liberty of conscience to all.

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I expect to hear from you once more before I see you, if time will admit; and want to know when the synod meets, and where; what the exchange is at, and as much about my friends and other matters as you can [tell,] and think worthy of notice. Till I see you,

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Adieu !

Writings of Madison, Volume 1: 1769-1793, p.13

N.B. Our correspondence is too far advanced to require apology for bad writing and blots.

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Your letter to Mr. Wallace is yet in my hands, and shall be forwarded to you as soon as possible. I hear nothing from him by letter or fame.

To Mr. William Bradford, Jr.

VIRGINIA, ORANGE COUNTRY, April 3, 1774.

Writings of Madison, Volume 1: 1769-1793, p.13

MY WORTHY FRIEND,—I have another favor to acknowledge in the receipt of your kind letter of March the 4th. I did not intend to have written again to you before I obtained a nearer communication with you; but you have too much interest in my inclinations ever to be denied a request.

Writings of Madison, Volume 1: 1769-1793, p.13

Mr. Brackenridge's illness gives me great uneasiness; I think he would be a loss to America. His merit is rated so high by me that I confess, if he were gone, I could almost say with the poet, that his country could furnish such a pomp for death no more. But I solace myself from Finley's ludicrous descriptions as you do.

Writings of Madison, Volume 1: 1769-1793, p.13

Our Assembly is to meet the first of May, when it is expected something will be done in behalf of the dissenters. Petitions, I hear, are already forming among the persecuted Baptists, and I fancy it is in the thoughts of the Presbyterians also, to intercede for greater liberty in matters of religion. For my own part, I cannot help being very doubtful of their succeeding in the attempt. The affair was on the carpet during the last session; but such incredible and extravagant stories were told in the House of the monstrous effects of the enthusiasm prevalent among the sectaries, and so greedily swallowed by their enemies, that I believe they lost footing by it. And the bad name they still have with those who pretend too much contempt to examine into their principles and conduct, and are too much devoted to the ecclesiastical establishment to hear of the toleration of dissentients, I am apprehensive, will be again made a pretext for rejecting their requests.

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The sentiments of our people of fortune and fashion on this subject are vastly different from what you have been used to. That liberal, catholic, and equitable way of thinking, as to the rights of conscience, which is one of the characteristics of a free people, and so strongly marks the people of your province, is but little known among the zealous adherents to our hierarchy. We have, it is true, some persons in the Legislature of generous principles both in Religion and Politics; but number, not merit, you know, is necessary to carry points there. Besides the clergy are a numerous and powerful body, have great influence at home by reason of their connection with and dependence on the Bishops and Crown, and will naturally employ all their art and interest to depress their rising adversaries; for such they must consider dissenters who rob them of the good will of the people, and may, in time, endanger their livings and security.

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You are happy in dwelling in a land where those inestimable privileges are fully enjoyed; and the public haslong felt the good effects of this religious and civil liberty. Foreigners have been encouraged to settle among you. Industry and virtue have been promoted by mutual emulation and mutual inspection; commerce and the have flourished; and I cannot help attributing those continual exertions of genius which appear among you to the inspiration of liberty, and that love of fame and knowledge which always accompany it. Religious bondage shackles and debilitates the mind, and unfits it for every noble enterprise every expanded prospct. How far this is the case with Virginia will more clearly appear when the ensuing trial is made.

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I am making all haste in preparing for my journey. It appears as if it would be the first of May before I can start, which I can more patiently bear, because I may possibly get no company before that time; and it will answer so exactly with the meeting of the synod. George Luckey talks of joining me if I can wait till then. I am resolutely determined to come if it is in my power. If anything hinders me, it will be most likely the indisposition of my mother, who is in a very low state of health; and if she should grow worse, I am afraid she will be more unwilling to part with my brother, as she will be less able to bear a separation. If it should unfortunately happen that I should be forced off or give out coming, Luckey on his return to Virginia will bring me whatever publications you think 'worth sending, and among others [Caspapini's ?] letters.

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But whether I come or not, be assured I retain the most ardent affection and esteem for you, and the most cordial gratitude for your many generous kindnesses. It gives me real pleasure when I write to you that I can talk in this language without the least affectation, and without the suspicion of it, and that if I should omit expressing my love for you, your friendship can supply the omission; or if I make use of the most extravagant expressions of it, your corresponding affection can believe them to be sincere. This is a satisfaction and delight to all who correspond for business and conveniency, richly enjoyed by all who make pleasure and improvement business of their communications.

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Farewell,

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J.M.

Writings of Madison, Volume 1: 1769-1793, p.15

P.S. You need no longer direct to the care of Mr. Maury.

To William Bradford, Jr.

July 1, 1774.

Writings of Madison, Volume 1: 1769-1793, p.15

DEAR SIR,—I am once more got into my native land, and into the possession of my customary employments, solitude and contemplation; though I must confess not a little disturbed by the sound of war, blood, and plunder, on the one hand, and the threats of slavery and oppression on the other. From the best accounts I can obtain from our frontiers, the savages are determined on the extirpation of the inhabitants, and no longer leave them the alternative of death or captivity. The consternation and timidity of the white people, who abandon their possessions without making the least resistance, are as difficult to be accounted for as they are encouraging to the enemy. Whether it be owing to the unusual cruelty of the Indians, the want of necessary implements or ammunition for war, or to the ignorance and inexperience of many who, since the establishment of peace, have ventured into those new settlements, I can neither learn, nor with any certainty conjecture. However, it is confidently asserted that there is not an inhabitant for some hundreds of miles back which have been settled for many years except those who are [forted ?] in or embodied by their military commanders. The state of things has induced Lord Dunmore, contrary to his intentions at the dissolution of the Assembly, to issue writs for a new election of members, whom he is to call together on the 11th of August.

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As to the sentiments of the people of this Colony with respect to the Bostonians, I can assure you I find them very warm in their favor. The natives are very numerous and resolute, are making resolves in almost every county, and I believe are willing to fall in with the other Colonies in any expedient measure, even if that should be the universal prohibition of trade. It must not be denied, though, that the Europeans, especially the Scotch, and some interested merchants among the natives, discountenance such proceedings as far as they dare; alledging the injustice and perfidy of refusing to pay our debts to our generous creditors at home. This consideration induces some honest, moderate folks to prefer a partial prohibition, extending only to the importation of goods.

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We have a report here that Governor Gage has sent Lord Dunmore some letters relating to public matters in which he says he has strong hopes that he shall be able to bring things at Boston to an amicable settlement. I suppose you knowwhether there be any truth in the report, or any just foundation for such an opinion in Gage.

Writings of Madison, Volume 1: 1769-1793, p.17

It has been said here by some, that the appointed fast was disregarded by every Scotch clergyman, though it was observed by most of the others who had timely notice of it. I cannot avouch it for an absolute certainty, but it appears no ways incredible.

Writings of Madison, Volume 1: 1769-1793, p.17

I was so lucky as to find Dean Tucker's tracts on my return home, sent by mistake with some other books imported this spring. I have read them with peculiar satisfaction and illumination with respect to the interests of America and Britain. At the same time his ingenious and plausible defence of parliamentary authority carries in it such defects and misrepresentations, as confirm me in political orthodoxy—after the same manner as the specious arguments of Infidels have established the faith of inquiring Christians.

Writings of Madison, Volume 1: 1769-1793, p.17

I am impatient to hear from you; and do now certainly [earnestly?] renew the stipulation for that friendly correspondence which alone can comfort me in the privation of your company. I shall be punctual in transmitting you an account of everything that can be acceptable, but must freely absolve you from as strict an obligation, which your application to more important business will not allow, and which my regard for your ease and interests will not suffer me to enjoin.

Writings of Madison, Volume 1: 1769-1793, p.17

I am, dear sir, your faithful friend.

1775

To Mr. William Bradford.

VIRGINIA, ORANGE. COUNTY, January 20, 1775.

Writings of Madison, Volume 1: 1769-1793, p.17

MY WORTHY FRIEND,—Your very acceptable favors by Mr. Rutherford arrived safe, but I perceived by the date had a very tedious passage, which perhaps may be attributed to the craziness of the vessel in which you embarked them. I ought to mention, in particular, that I did not receive them till after I wrote my last, as an apology for my not then acknowledging it.

Writings of Madison, Volume 1: 1769-1793, p.18

I entirely acquiesce in your opinion of our friend Brackenridge's talents, and think his poem an indubitable proof of what you say on that head. It certainly has many real beauties in it, and several strokes of a strong original genius; but at the same time, as you observe, some very obvious defects, which I am afraid, too, are more discernible to common readers than its excellencies. If this be the case, I am apprehensive it will not answer the end proposed, which, as I collect from his letter to me, was to raise the character of his academy by the fame of its teacher. It is on this account, he says, he desires it might have a pretty general reading in this Government. For my own part, I could heartily wish, for the 'honor of the author and the success of the performance, that it might fall into the hands only of the impartial and judicious. I have shewn it to some of our middling sort of folks, and I am persuaded it will be not much relished by that class of my countrymen. The subject is itself frightful; blank verse, in some measure unintelligible, at least requires stricter attention than most people will bestow; and the antiquated phraseology, however eligible in itself, disgusts such as affect modern fashion. In short, the theme is not interesting enough, nor the dress sufficiently d la mode to attract the notice of the generality. The same merit in a political or humorous composition would have rung the author's fame through every Province on the continent. Something of this kind I am encouraged to expect soon from a passage of his letter in which he mentions a design of finishing a poem then in hand, on the present times; and from the description he gives of it, (if it be not too local,)I doubt not will meet with the public's applause. He informed me it would be ready for the press in three months from the time he wrote. If so, you must have seen it by this time.

Writings of Madison, Volume 1: 1769-1793, p.18

We are very busy at present in raising men and procuring the necessaries for defending ourselves and our friends in case of a sudden invasion. The extensiveness of the demands of the Congress, and the pride of the British nation, together with the wickedness of the present ministry, seem, in the judgment of our politicians, to require a preparation for extreme events. There will, by the Spring I expect, be some thousands of well-trained, high-spirited men ready to meet danger whenever it appears, who are influenced by no mercenary principles, but bearing their own expenses, and having the prospect of no recompense but the honor and safety of their country.

Writings of Madison, Volume 1: 1769-1793, p.19

I suppose the inhabitants of your Province are more reserved in their behavior, if not more easy in their apprehension, from the prevalence of Quaker principles and politics. The Quakers are the only people with us who refuse to accede to the ContiI nental association. I cannot forbear suspecting them to be under the control and direction of the leaders of the party in your quarter; for I take those of them that we have to be too honest and simple to have any sinister or secret views, and I do not observe anything in the association inconsistent with their religious principles. When I say they refuse to accede to the association, my meaning is that they refuse to sign it; that being the method used among us to distinguish friends from foes, and to oblige the common people to a more strict observance of it. I have never heard whether the like method has been adopted in the other Governments.

Writings of Madison, Volume 1: 1769-1793, p.19

I have not seen the following in print, and it seems to be so , just a specimen of Indian eloquence and mistaken valor, that I think you will be pleased with it. You must make allowance the unskilfulness of the interpreters.

Writings of Madison, Volume 1: 1769-1793, p.19

The speech of Logan, a Shawanese Chief, to Lord Dunmore: "I appeal to any white man to say, if ever he entered Logan's hungry, and I gave him not meat; if ever he came cold or and I gave him not clothing. During the course of the last long and bloody war, Logan remained idle in his tent, an for peace; nay, such was my love for the whites, that of my own country pointed at me as they passed by, and 'Logan is the friend of white men.' I had even thought live with you but for the injuries of one man. Col. Cressop, last spring, in cold blood and unprovoked, cut off all the relations of Logan, not sparing even my women and children. There runs not a drop of my blood in the veins of any human creature. This called on me for revenge. I have sought it; I have killed many; I have fully glutted my vengeance. For my country I rejoice at the beams of peace; but do not harbor a thought that mine is the joy of fear. Logan never felt fear. He will not turn on his heel to save his life. Who is there to mourn for Logan ?—not one!"

Writings of Madison, Volume 1: 1769-1793, p.20

If you should see any of our friends from Princeton a little before the time of your intending to write to me, and could transmit any little intelligence concerning the health, &c., of my little brother there, it would be very acceptable to me, and very gratifying to a fond mother; but I desire it may only be done when it will cost you less than five words.

Writings of Madison, Volume 1: 1769-1793, p.20

We had with us a little before Christmas .the Rev. Moses Allen, on his return from Boston to Charlestown. He told me he came through Philadelphia, but did not see you, though he expresses a singular regard for you, and left his request with me that you would let him hear from you whenever it is convenient, promising to return the kindness with punctuality. He travelled with considerable equipage for a dissenting ecclesiastic, and seems to be willing to superadd the airs of the fine gentleman to the graces of the spirit. I had his company for several days, during which time he preached two sermons with general approbation. His discourses were above the common run some degree; and his appearance in the pulpit on the whole was no discredit to [——?] He retains too much of his pristine levity, but promises amendment. I wish he may for the sake of himself, his friends, and his flock. I only add that he seems to be one of those geniuses that are formed for shifting in the world rather than shining in a college, and that I really believe him to possess a friendly and generous disposition.

Writings of Madison, Volume 1: 1769-1793, p.20

You shall ere long hear from me again. Till then, Vive, vale el Loetare.

1776

To James Madison, Esq.

WILLIAMSBURG, June 27, 1776.

Writings of Madison, Volume 1: 1769-1793, p.21

HOND. SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.21

It is impossible for me to say when the Convention will adjourn; but am pretty certain it will not be so soon as was expected when I wrote by ——.

Writings of Madison, Volume 1: 1769-1793, p.21

It is said that seven ships, some of them very large, have within a few days past come to the aid of Dunmore. Whether they be transports or ships of war is not yet determined.

Writings of Madison, Volume 1: 1769-1793, p.21

I am, dear sir, yours affectionately.

Copy of the Declaration of Rights

Writings of Madison, Volume 1: 1769-1793, p.21

[Among Mr. Madison's papers is the following copy, both in print and manuscript, of the Declaration of Rights, as reported by the select committee of the Virginia convention of 1776. It corresponds n the main, through not without occasional variations, with the original draft prepared by Colonel George Mason. In the last article, to which the note there subjoined by Mr. Madison refers, the draft of the committee and that of Colonel Mason were in all respects identical.]

Writings of Madison, Volume 1: 1769-1793, p.21

The following Declaration was reported to the Convention by the committee appointed to prepare the same, and referred to the consideration of a committee of the whole Convention; and 'in the mean time is ordered to be printed for the perusal of the members:

Writings of Madison, Volume 1: 1769-1793, p.21

A DECLARATION OF RIGHTS made by the representatives of the good people of Virginia, assembled in full and free convention, which rights do pertain to us and our posterity, as the basis and foundation of government.

Writings of Madison, Volume 1: 1769-1793, p.21

1. That all men are born equally free and independent, and have certain inherent of which they cannot, by any compact, deprive their posterity; among which are the enjoyment of life and liberty, with the means of acquiring and property, and pursuing and obtaining happiness and safety.

Writings of Madison, Volume 1: 1769-1793, p.21

2. That all power is vested in, and consequently derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

Writings of Madison, Volume 1: 1769-1793, p.22

3. a government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community: of all the various modes and forms of government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of mal-administration; and that whenever any government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, unalienable, and indefensible right to reform, alter, or abolish it, in such manner as shall be judged most conducive to the public weal.

Writings of Madison, Volume 1: 1769-1793, p.22

4. That no man or set of men are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services; which not being descendible or hereditary, the idea of a man born a magistrate, a legislator, or a judge, is unnatural and absurd.

Writings of Madison, Volume 1: 1769-1793, p.22

5. That the legislative and executive powers of the State should be separate and distinct from the judicative; and that the members of the two first may be restrained from oppression by feeling and participating the burdens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by frequent, certain, and regular elections.

Writings of Madison, Volume 1: 1769-1793, p.22

6. That elections of members to serve as representatives of the people, in Assembly, ought to be free; and that all men, having sufficient evidence of permanent common interest with and attachment to the community, have the right of suffrage.

Writings of Madison, Volume 1: 1769-1793, p.22

7. That no part of a man's property can be taken from him, or applied to public uses, without his own consent or that of his legal representatives; nor are the people bound by any laws but such as they have, in like manner, assented to for their common good.

Writings of Madison, Volume 1: 1769-1793, p.22

8. That all power of suspending laws, or the execution of laws by any authority without consent of the representatives the people, is injurious to their rights and ought not to be exercised.\

Writings of Madison, Volume 1: 1769-1793, p.23

9. That laws having retrospect to crimes, and punishing offences committed before the existence of such laws, are generally oppressive and ought to be avoided.

Writings of Madison, Volume 1: 1769-1793, p.23

10. That in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers or witnesses, to call for evidence in his favor, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty, nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

Writings of Madison, Volume 1: 1769-1793, p.23

11. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Writings of Madison, Volume 1: 1769-1793, p.23

12. That warrants unsupported by evidence, whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are grievous and oppressive, and ought not to be granted.

Writings of Madison, Volume 1: 1769-1793, p.23

13. That in controversies respecting property, and insults between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

Writings of Madison, Volume 1: 1769-1793, p.23

14. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic government

Writings of Madison, Volume 1: 1769-1793, p.23

15. That a well-regulated militia, composed of the body of the people, trained to arms, is the proper, natural, and safe defence of a free State; that standing armies in time of peace should be avoided as dangerous to liberty; and that in all cases "the military should be under strict subordination to, and governed by, the civil power.

Writings of Madison, Volume 1: 1769-1793, p.23

16. That the people have a right to uniform government, and therefore that no government separate from, or independent of the government of Virginia, ought of right to be erected or established within the limits thereof.

Writings of Madison, Volume 1: 1769-1793, p.23

17. That no free government or the blessings of liberty can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

Writings of Madison, Volume 1: 1769-1793, p.24

18. That Religion, or the duty which we owe to our CREATOR, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore that all men should enjoy fullest toleration in the exercise of religion according to the dictates of conscience, unpunished and unrestrained by the magistrate, unless, color of religion, any man disturb the peace, the happiness, or safety of society; and that it is the natural duty of all to practice Christian forbearance, love, and charity towards each other.\*

Writings of Madison, Volume 1: 1769-1793, p.24

[The following draught of a "Plan of Government," which seems to have been the original sketch of the Virginia Constitution of 1776, is found among Mr. Madison's papers, both in print and transcribed by him; and the two notes, the one at the beginning and the other at the end, are subjoined in his hand-writing to the manuscript copy:]

A Plan of Government.

Writings of Madison, Volume 1: 1769-1793, p.24

Laid before the Committee of the House, which they have ordered to be printed for the perusal of the members.\*

Writings of Madison, Volume 1: 1769-1793, p.24

1. Let the legislative, executive, and judicative departments be separate and distinct, so that neither exercise the powers properly belonging to the other.

Writings of Madison, Volume 1: 1769-1793, p.25

2. Let the legislative be formed of two distinct branches, who together shall be a complete Legislature. They shall meet once or oftener every year, and shall be called the GENERAL ASSEMBLY of VIRGINIA.

Writings of Madison, Volume 1: 1769-1793, p.25

3. Let one of these be called the Lower House of Assembly, and consist of two delegates or representatives, chosen for each county annually, by such men as have resided in the same for one year last past, are freeholders of the county, possess an estate of inheritance of land in Virginia of at least one thousand pounds value, and are upwards of twenty-four years of age.

Writings of Madison, Volume 1: 1769-1793, p.25

4. Let the other be called the Upper House of Assembly, and consist of twenty-four members, for whose election let the different counties be divided into twenty-four districts, and each county of the respective district, at the time of the election of its delegates for the Lower House, choose twelve deputies or sub-electors, being freeholders residing therein, and having an estate of inheritance of lands within the district, of at least five hundred pounds value. In case of dispute, the qualifications to be determined by the majority of the said deputies. Let these deputies choose by ballot one member for the Upper House of Assembly, who is a freeholder of the district, hath been a resident therein for one year last past, possesses an estate of inheritance of lands in Virginia of at least two thousand pounds value, and is upwards of twenty-eight years of age. To keep up this Assembly by rotation let the districts be equally divided into four classes and numbered. At the end of one year, after the general election, let the six members elected by the first division be displaced, rendered ineligible for four years, and the vacancies be supplied in the manner aforesaid. Let this rotation be applied to each division according to its number, and continued in due order annually.

Writings of Madison, Volume 1: 1769-1793, p.26

5. Let each House settle its own rules of proceeding; direct writs of election for supplying intermediate vacancies; and let the right of suffrage, both in the election of members for the Lower House and of deputies for the districts, be extended to those having leases for land in which there is an unexpired term of seven years, and to every housekeeper who hath resided for one year last past in the county, and hath been the father of three children in this country.

Writings of Madison, Volume 1: 1769-1793, p.26

6. Let all laws originate in the lower House, to be approved or rejected by the upper House, or to be amended with the consent of the lower House, except money bills, which in no instance shall be altered by the upper House, but wholly approved or rejected.

Writings of Madison, Volume 1: 1769-1793, p.26

7. Let a Governor, or Chief Magistrate, be chosen annually by joint ballot of both Houses, who shall not continue in that office longer than three years successively, and then be ineligible for the next three years. Let an adequate but moderate salary be settled on him during his continuance in office; and let him, with the advice of a Council of State, exercise the executive powers of Government, and the power of proroguing or adjourning the General Assembly, or of calling it upon emergencies, and of granting reprieves or pardons, except in cases where the prosecution shall have been carried on by the Lower House of Assembly.

Writings of Madison, Volume 1: 1769-1793, p.26

8. Let a privy Council or Council of State, consisting of eight members, be chosen by joint ballot of both Houses of Assembly promiscuously, from their own members, or the people at large, to assist in the administration of Government.

Writings of Madison, Volume 1: 1769-1793, p.26

Let the Governor be President of this Council; but let them annually choose one of their own members as Vice President, who, in case of the death or absence of the Governor, shall act as Lieutenant Governor. Let these members be sufficient to act, and their advice be entered of record in their proceedings. Let them appoint their own clerk, who shall have a salary settled by law, and taken with oath of secrecy, in such matters as he shall be directed to conceal, unless called upon by the Lower House of Assembly for information. Let a sum of money appropriated to that purpose be divided annually among the members in proportion to their attendance, and let them be incapable, during their continuance in office, of sitting in either House of Assembly. Let two members be removed by ballot of their own Board at the end of every three years, and be ineligible for the next three years. Let this be regularly continued by rotation, so as that no member be removed before he hath been three years in the Council; and let these vacancies, as well as those occasioned by death or incapacity, be supplied by new elections in the same manner as the first.

Writings of Madison, Volume 1: 1769-1793, p.27

9. Let the Governor, with the advice of the Privy Council, have the appointment of the militia officers, and the government of the militia, under the laws of the country.

Writings of Madison, Volume 1: 1769-1793, p.27

10. Let the two Houses of Assembly, by joint ballot, appoint Judges of the Supreme Court, Judges in Chancery, Judges of the Admiralty, and the Attorney General, to be commissioned by the Governor, and continue in office during good behaviour. In case of death or incapacity, let the Governor, with the advice of the Privy Council, appoint persons to succeed in office pro tempore, to be approved or displaced by both Houses. Let these officers have fixed and adequate salaries, and be incapable of having a seat in either House of Assembly, or in the Privy Council, except the Attorney General and the Treasurer, who may be permitted to a seat in the lower House of Assembly.

Writings of Madison, Volume 1: 1769-1793, p.27

11. Let the Governor and Privy Council appoint justices of the peace for the counties. Let the clerks of all the courts, the sheriffs, and coroners, be nominated by the respective courts, approved by the Governor and Privy Council, and commissioned by the Governor. Let the clerks be continued during good behaviour, and all fees be regulated by law. Let the justices appoint constables.

Writings of Madison, Volume 1: 1769-1793, p.27

12. Let the Governor, any of the Privy Counsellors, Judges of the Supreme Court, and all other officers of Government, for mal-administration or corruption be prosecuted by the Lower House of Assembly, (to be carried on by the Attorney General, or such other person as the House may appoint,) in the Supreme Court of common law. If found guilty, let him or them be either removed from office, or forever disabled to hold any office under the Government, or subjected to such pains or penalties as the laws shall direct.

Writings of Madison, Volume 1: 1769-1793, p.27

The writer is betrayed into an acknowledgment of this in his 7th No., where he applies his reasoning to Spain as well as to Great Britain and Holland. He had forgotten that Spain was not included in the proclamation.

Writings of Madison, Volume 1: 1769-1793, p.28

13. Let all commissions run in the name of the Commonwealth of Virginia, and be tested by the Governor, with the seal of the Commonwealth annexed. Let writs run in the same manner, and be tested by the clerks of the several courts. Let indictments conclude, against the peace and dignity of the Commonwealth.

Writings of Madison, Volume 1: 1769-1793, p.28

14. Let a Treasurer be appointed annually, by joint ballot of both Houses.

Writings of Madison, Volume 1: 1769-1793, p.28

15. In order to introduce this Government, let the representatives of the people now met in Convention choose twenty-four members to be an Upper House, and let both Houses, by joint ballot, choose a Governor and Privy Council; the Upper House to continue until the last day of March next, and the other officers until the end of the succeeding session of Assembly. In case of vacancies, the President to issue writs for new elections.\*

1777

To James Madison, Esq.

ORANGE, March, 1777.

Writings of Madison, Volume 1: 1769-1793, p.28

HOND. SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.28

The following odd affair has furnished the court of this county with some very unexpected business.

Writings of Madison, Volume 1: 1769-1793, p.28-p.29

Two persons travelling from Philadelphia to the southward, one of them a Frenchman and an officer in the Continental army, and the other a man of decent figure, came to the courthouse on the evening of the court day, and immediately inquired for a member of the committee. Being withdrawn with several members into a private room, they gave information that they fell in with a man on the road a few miles from the court-house, who, in the course of conversation on public affairs, gave abundant proof of his being an adherent to the King of Great Britain, and a dangerous enemy to the State; that he ran into the most outrageous abuse of our proceedings, and on their threatening to inform against him, in the most daring manner bid defiance to committees, or whoever should pretend to judge or punish him. They said the man they alluded to had come with them to the court-house, and they made no doubt but they could point him out in the crowd. On their so doing, the culprit appeared to be Benjamin Haley. As the committee had no jurisdiction in the case, it was referred to a justice of the peace. Every one seemed to be agreed that his conduct was a direct violation of law, and called aloud for public notice; but the witnesses being travellers, and therefore unable to attend at a trial, it was thought best not to undertake a prosecution which promised nothing but impunity and matter of triumph to the offender. Here the affair dropped, and every one supposed was entirely at an end; but as the Frenchman was accidentally passing through the room where Haley was, he took occasion to admonish the people of his being a disaffected person, and upbraided him for his tory principles. This introduced a debate, which was continued for some time with great heat on the part of the Frenchman, and great insolence on the part of Haley. At the request of the latter, they at length both appeared before a justice of the peace. Haley at first evaded the charges of his antagonist; but after some time, said he scorned to be counterfeit, and in answer to some questions that were put to him, signified that we were in the state of rebellion and had revolted from our lawful Sovereign, and that if the King had justice done him, his authority would still be in exercise among us. This passed in the presence of twenty or thirty persons, and rendered the testimony of the travellers needless. A warrant for arresting him was immediately issued and executed. The criminal went through his examination, in which his very pleas seemed to aggravate his guilt. Witnesses were summoned, sworn, and their evidences taken; and on his obstinate refusal to give security for his appearance, he was committed to close gaol. This happened about eight o'clock. I have since heard he begged about one o'clock in the morning to be admitted to bail, and went home, but not without threats of revenge, and making public declaration that he was King George's man. I have stated the case thus particularly that you may, if an opportunity occurs, take the advice of some gentleman skilled in the law, on the most proper and legal mode of proceeding against him.

1778

To James Madison, Esq.

WILLIAMSBURG, JANUARY 23, 1778

Writings of Madison, Volume 1: 1769-1793, p.30

HONORED SIR,—I got safe to this place on Tuesday following the day I left home, and at the earnest invitation of my kinsman, Mr. Madison,\* have taken my lodgings in a room of the President's house, which is a much better accommodation than I could have promised myself.

Writings of Madison, Volume 1: 1769-1793, p.30

You will be informed in due time by advertisement from the Governor what is proper to be done with the shoes, &c., collected for the army. You will be able to obtain so circumstantial an account of public affairs from Major Moore, that I may spare myself the trouble of anticipating it.

Writings of Madison, Volume 1: 1769-1793, p.30

Although I well know how inconvenient and disagreeable it is to you to continue to act as Lieutenant of the county, I cannot help informing you that a resignation at this juncture is here supposed to have a very unfriendly aspect on the execution of the draught, and consequently to betray at least a want of patriotism and perseverance. This is so much the case that a recommendation of county Lieutenant this day received by the Governor, to supply the place of one who has resigned to the court, produced a private verbal message to the old Lieutenant to continue to act at least as long as the present measures were in execution.

Writings of Madison, Volume 1: 1769-1793, p.31

I am, dear sir, your affectionate son.

To James Madison, Esq.

WILLIAMSBURG, MARCH 6, 1778

Writings of Madison, Volume 1: 1769-1793, p.31

HONORED SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.31

We have no news here that can be depended on. It is said by Mr. King, who is just from Petersburg, that a gentleman was at that place who informed that sundry persons had arrived at Edenton from Providence Island, who affirmed that they saw in Providence a London paper giving an account that Bourgoyne's disaster had produced the most violent fermentation in England; that the Parliament had refused to grant the supplies for carrying on the war, and that a motion for acknowledging our independence was overruled by a small majority only.

Writings of Madison, Volume 1: 1769-1793, p.31

The people who bring this news to Edenton, as the story goes, were prisoners with the enemy at Providence, when they were relieved by a New England privateer, which suddenly landed her men, took possession of the small fort that commanded the harbor, and secured several vessels that lay in it, one of which was given up to these men to bring them to the continent. I leave you to form your own judgment as to the credibility of this report. I wish it carried stronger marks of truth.

Writings of Madison, Volume 1: 1769-1793, p.31

The Governor has just received a letter from the captain of the French frigate I mentioned in my last, informing him of his safe arrival in North Carolina with a rich cargo of various useful and important articles, which will be offered for sale to us. The frigate belongs to a company at Nantes, in France. We also hear, but in a less authentic manner, that 7,000 tents have arrived at Martinique, on their way from France to the grand army.

Writings of Madison, Volume 1: 1769-1793, p.32

A letter from New York town, this moment received, informs us that an exchange of prisoners is at last agreed on between W. and H.

Writings of Madison, Volume 1: 1769-1793, p.32

Your affectionate son.

1779

To Colonel James Madison.

WILLIAMSBURG, December 8, 1779.

Writings of Madison, Volume 1: 1769-1793, p.32

HONORED SIR,—The assembly have not yet concluded their plan for complying with the requisitions from Congress. It may be relied on that that cannot be done without very heavy taxes on every species of property. Indeed, it is thought questionable whether it will not be found absolutely impossible. No exertions, however, ought to be omitted to testify our zeal to support Congress in the prosecution of the war. It is also proposed to procure a large sum on loan by stipulating to pay the interest in tobacco. A tax on this article necessary for that purpose is to be collected. Being very imperfectly acquainted with the proceedings of the Assembly on this matter, I must refer you for the particulars to the return of Major Moore, or some future opportunity. The law for escheats and forfeitures will be repealed as it respects orphans, &c. The effects of the measures taken by the Assembly on the credit of our money and the prices of things cannot be predicted. If our expectations had not been so invariably disappointed, they ought to be supposed very considerable. But from the rapid progress of depreciation at present, and the universal struggle among sellers to bring up prices, I cannot flatter myself with the hope of any great reformation. Corn is already at £20, and rising. Tobacco is also rising. Pork will probably command any price. Imported goods exceed everything else many hundreds per cent.

Writings of Madison, Volume 1: 1769-1793, p.32

I am much at a loss how to dispose of Willey.\* I cannot think it would be expedient in the present state of things to send him out of the State. From a new arrangement of the college here, nothing is in future to be taught but the higher and rarer branches of science. The preliminary studies must, therefore, be pursued in private schools or academies. If the academy at Prince Edward is so far dissolved that you think his return thither improper, I would recommend his being put under the instruction of Mr. Maury, rather than suffer him to be idle at home. The languages, (including English,) geography, and arithmetic, ought to be his employment, till he is prepared to receive a finish to his education at this place.

Writings of Madison, Volume 1: 1769-1793, p.33

By the late change, also, in the college, the former custom of furnishing the table for the president and professors is to be discontinued. I am induced by this consideration to renew my request for the flour mentioned to you. It will perhaps be the only opportunity I may have of requiting received and singular favors; and, for the reason just assigned, will be extremely convenient. I wish to know without any loss of time how far this supply may be reckoned on. Perhaps Mr. R. Burnley would receive and store it for me.

Writings of Madison, Volume 1: 1769-1793, p.33

I am desired by a gentleman here to procure for him two bear skins to cover the foot of his chariot. If they can be bought anywhere in your neighborhood, I beg you or Ambrose will take the trouble to inquire for them, and send them to Captain Anderson, at Hanover town. If the flour should come down, the same opportunity will serve for them. Captain Anderson may be informed that they are for Mr. Norton. If they can be got without too much trouble, I should be glad of succeeding, as he will rely on my promise to procure them for him.

Writings of Madison, Volume 1: 1769-1793, p.33

Having nothing to add under the head of news, I subscribe myself your dutiful son.

1780

To Colonel James Madison.

PHILADELPHIA, March 20, 1780.

Writings of Madison, Volume 1: 1769-1793, p.34

HONORED SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.34

The extreme badness of the roads and frequency of rains rendered my journey so slow that I did not reach this place till Saturday last. The only public intelligence I have to communicate, is that the great and progressive depreciation of the paper currency had introduced such disorder and perplexity into public affairs, for the present, and threatened to lead the United States with such an intolerable burden of debt, that Congress have thought it expedient to convert the 200,000,000 of dollars now in circulation into a real debt of 5,000,000, by establishing the exchange at 40 for 1; and taxes for calling it in during the ensuing year are to be payable, at the option of the people, in specie or paper, according to that difference. In order to carry on public measures in future, money is to be emitted under the combined faith of Congress and the several States, secured on permanent and specific funds to be provided by the latter. This scheme was finally resolved on on Saturday last. It has not yet been printed, but will be immediately. I shall transmit a copy to you by the first opportunity. The little time I have been here makes it impossible for me to enter into a particular delineation of it. It will probably create great perplexity and complaints in many private transactions. Congress have recommended to the States to repeal their tender laws, and to take measures for preventing injustice as much as possible. It is probable that in the case of loans to the public, the state of depreciation at the time they were made will be the rule of payment; but nothing is yet decided on that point.

To Edmund Pendleton.

PHILADELPHIA, October 3, 1780.

Writings of Madison, Volume 1: 1769-1793, p.34

DEAR SIR,—I had the pleasure of receiving yours of the 25th ult. yesterday, and am sorry it is not yet in my power to gratify your hopes with any prospect of a successful issue to this campaign. The reports of the approach or arrival of a French fleet continue to be circulated, and to prove groundless. If any foreign operations are undertaken on the continent, it will probably be against the Floridas by the Spaniards. A Spanish gentleman, who resides in this city, has received information from the Governor of Cuba that an armament would pass from the Havannah to Pensacola towards the end of last month, and that ten or twelve ships of the line, and as many thousand troops, would soon be in readiness for an expedition against St. Augustine. It would be much more for the credit of that nation, as well as for the common good, if instead of wasting their time and resources in these separate and unimportant enterprises, they would join heartily with the French in attacking the enemy, where success would produce the desired effect.

Writings of Madison, Volume 1: 1769-1793, p.35

The enclosed papers contain all the particulars which have been received concerning the apostacy and plot of Arnold. A variety of his iniquitous jobs prior to this chef d'ceuvre of his villainy, carried on under cover of his military authority, have been detected among his papers, and involve a number of persons both within and without the enemy's lines. The embarkation lately going on at New York, and given out to be destined for Virginia or Rhode Island, was pretty certainly a part of the plot against West Point; although the first representation of it has not yet been officially contradicted.

Writings of Madison, Volume 1: 1769-1793, p.35

With sincere regard, I am, Dr sir, your obt and humble servant.

To the Honble Edmund Pendleton.

Writings of Madison, Volume 1: 1769-1793, p.35

DEAR SIR,—Your favor of the 1st instant came safe to hand yesterday. The enclosed was sent to Mr. Pendleton, who is still in town.

Writings of Madison, Volume 1: 1769-1793, p.36

All we know of the several fleets in the American seas, is that Rodney with a few ships is at New York, the remainder having joined Graves and Arbuthnot, whom we know nothing about. Ternay is still at Rhode Island. The main French fleet under Cuichen left the West Indies about the time first mentioned, with a large fleet of merchantmen under its convoy, and has not since been heard of. The residue of the French fleet is in the West Indies, but we do not hear of their being any way employed. It is said an English expedition is preparing at Jamaica against some of the Spanish settlements. The Spanish expeditions against the Floridas I believe I mentioned in my last.

Writings of Madison, Volume 1: 1769-1793, p.36

We have private accounts, through a channel which has seldom deceived, that a very large embarkation is still going on at New York. I hope Virginia will not be surprised, in case she should be the meditated victim.

Writings of Madison, Volume 1: 1769-1793, p.36

André was hung as a spy on the 2d instant. Clinton made a frivolous attempt to save him by pleading the passport granted by Arnold. He submitted to his fate in a manner that showed him to be worthy of a better one. His coadjutor, Smith, will soon follow him. The hero of the plot, although he may for the present escape an ignominious death, must lead an ignominious life, which, if any of his feelings remain, will be a sorer punishment. It is said that he is to be made a Brigadier, and employed in some predatory expedition against the Spaniards, in which he may gratify his thirst for gold. It is said with more probability, that his baseness is universally despised by those. who have taken advantage of it, and that some degree of resentment is mixed with their contempt, on account of the loss o their darling officer, to which he was accessory.

Writings of Madison, Volume 1: 1769-1793, p.36

With sincere regard, I am, dear sir, your obedient, humble servant.

To Hon. Edmund Pendleton, Caroline County, Virginia. Philidelphia, November 14, 1780.

Writings of Madison, Volume 1: 1769-1793, p.37

Dr SIR,—Your favor of the 6th instant came to hand yesterday. Mr. Griffin, by whom you appear also to have written, has not yet arrived.

Writings of Madison, Volume 1: 1769-1793, p.37

It gives me great pleasure to find that the enemy's numbers are so much less formidable than was at first computed; but the information from New York makes it not improbable that the blank in the computation may shortly be filled up. General Washington wrote to Congress on the 4th instant that another embarkation was going on at that place, and in another letter of the 7th he says that, although he had received no further intelligence on the subject, he had reason still to believe that such a measure was in contemplation. Neither the amount nor the object of it, however, had been ascertained.

Writings of Madison, Volume 1: 1769-1793, p.37

The inroads of the enemy on the frontier of New York have been distressing and wasteful almost beyond their own example. They have totally laid in ashes a fine settlement called Schoharie, which was capable, General Washington says, of yielding no tess than 80,000 bushels of grain for public consumption. Such a loss is inestimable, and is the more to be regretted because both local circumstances and the energy of that Government left little doubt that it would have been applied to public use.

Writings of Madison, Volume 1: 1769-1793, p.37

I fancy the taking of Quebec was a mere invention. Your letter gave me the first account of such a report. A different report concerning the second division of the French fleet has sprung up, as you will see by the enclosed paper. It is believed here by many, and some attention given to it by all. It is also said that Rodney has sailed from New York with twenty ships for Europe. If he has sailed at all, and the first report be true also, it is more likely that he has gone out to meet the French.

Writings of Madison, Volume 1: 1769-1793, p.37

The late exchange has liberated about one hundred and forty officers and all our privates at New York, amounting to four hundred and seventy-six. General Washington has acceded to a proposal of a further exchange of the convention officers without attaching any privates to them, which will liberate almost the whole residue of our officers at that place.

Writings of Madison, Volume 1: 1769-1793, p.38

I am, sir, with the highest esteem and regard, your obt friend and servt.

To the Hon. Edmund Pendleton.

PHILADELPHIA, November 21, 1780.

Writings of Madison, Volume 1: 1769-1793, p.38

DEAR SIR,—Your favor of the 13th came safe yesterday. The past week has brought forth very little of consequence, except the disagreeable and, I fear, certain information of the arrival of the Capefleet. Our last account of the embarkation at New York was that the ships had fallen down to the Hook, that the number of troops was quite unknown, as well as their destination, except that in general it was southwardly. It is still said that Philips is to command this detachment. If the projected junction between Leslie and Cornwallis had not been so opportunely frustrated by the gallant volunteers at King's Mountain, it is probable that Philips would have reinforced the former, as the great force in his rear would otherwise have rendered every advance hazardous.

Writings of Madison, Volume 1: 1769-1793, p.38

At present, it seems more likely that the declining state of their Southern affairs will call their attention to that quarter. They can, it is well-known, regain at any time their present footing in Virginia, if it should be thought expedient to abandon it, or to collect in their forces to a defensible point; but every retrograde step they take towards Charlestown proves fatal to their general plan. Mr. J. Adams, in a letter of the 23d of August, from Amsterdam, received yesterday, says that General Prevost had sailed from England with a few frigates for Cape Fear, in order to facilitate the operations of their arms in North Carolina, and that the Ministry were determined to make the Southern States the scene of a very active winter campaign. No intimation is given by Mr. Adams of the number of troops under General Prevost. The second division of the French fleet mentioned in my last to have been off Bermudas has not yet made its appearance. It is now either [?] supposed to have been a British one.

Writings of Madison, Volume 1: 1769-1793, p.39

The death of General Woodford is announced in a New York paper of the 17th. I have not seen the paper, but am told that no particulars are mentioned. I suppose it will reach his friends before this will be received, through some other channel.

Writings of Madison, Volume 1: 1769-1793, p.39

Adieu.

To the Hon. Edmund Pendleton.

PHILADELPHIA, December 5, 1780.

Writings of Madison, Volume 1: 1769-1793, p.39

DEAR SIR,—I have your favor of the 27th ult., and congratulate you on the deliverance of our country from the distresses of actual invasion. The spirit it has shewn on this occasion will, I hope, in some degree protect it from a second visit.

Writings of Madison, Volume 1: 1769-1793, p.39

Congress yesterday received letters from Mr. Jay and Mr. Carmichael, as late as the 4th and 9th of September. The general tenor of them is that we are not to rely on much aid in the article of cash from Spain, her finances and credit being scarcely adequate to her own necessities, and that the British emissaries are indefatigable in misrepresenting our affairs in that kingdom, and in endeavoring to detach it from the war. The character, however, of the Catholic King for steadiness and probity, and the entire confidence of our allies in him, forbid any distrust on our part. Portugal, on the pressing remonstrances of France and Spain, has at length agreed to shut her ports against English prizes, but still refuses to accede to the armed neutrality. Mr. Adams writes that the news of the fate of the Quebec and Jamaica fleets arrived at London nearly about the same time, and had a very serious effect on all ranks, as well as on stocks and insurance.

Writings of Madison, Volume 1: 1769-1793, p.39

Our information from the West Indies gives a melancholy picture of the effects of the late tempest. Martinique has suffered very considerably, both in shipping and people. Not less than six hundred houses have been destroyed in St. Vincent's. The Spaniards in Cuba, also, have not escaped, and it is reported that the fleet on its way from the Havannah to Pensacola has been so disabled and dispersed as to defeat the expedition for the present. On the other side, our enemies have suffered severely. The Ajax, a ship of the line, and two frigates stationed off St. Lucie, to intercept the Martinique trade, are certainly lost, with the greatest part, if not the whole, of their crews; and there is great reason to believe that several other capital ships that have not been since heard of have shared the like fate. The island of St. Lucie is totally defaced. In Barbadoes, also, scarce a house remains entire, and one thousand five hundred persons at least have perished. One of the largest towns in Jamaica has been totally swept away, and the island otherwise much damaged. The consequences of this calamity must afford a striking proof to Great Britain of her folly in shutting our ports against her West India commerce, and transferring the advantage of our friendship to her enemies.

Writings of Madison, Volume 1: 1769-1793, p.40

I am, Dr sir, yours sincerely.

To the Hon. Edmund Pendleton.

PHILADELPHIA, December, 1780.

Writings of Madison, Volume 1: 1769-1793, p.40

DEAR SIR,—I had the pleasure of yours of the 2d instant yesterday. We have not heard a word of the fleet which lately left the Chesapeake. There is little doubt that the whole of it has gone to the southward.

Writings of Madison, Volume 1: 1769-1793, p.40

Our intelligence from Europe confirms the accession of Portugal to the neutral league, so far at least as to exclude the English from the privileges which their vessels of war have hitherto enjoyed in her ports. The Ariel, commanded by P. Jones, which had on board the clothing, &c., which has been long expected from France, was dismasted a few days after she sailed, and obliged to return into port; an event which must prolong the sufferings which our army has been exposed to from the delay of this supply.

Writings of Madison, Volume 1: 1769-1793, p.41

Mr. Sartine, the Minister of the French Marine, has been lately removed from the administration of that department. His successor is the Marquis de Castries, who is held out to us as a man of greater activity, and from whom we may hope for more effectual co-operation.

Writings of Madison, Volume 1: 1769-1793, p.41

An Irish paper informs us that Mr. Laurens was committed to the Tower on the 6th of October, by the three Secretaries of State, on suspicion of high treason. As the warrant, with the names of the Secretaries subscribed, (with some other particulars,) is inserted, no hope remains of the fact being a forgery.

Writings of Madison, Volume 1: 1769-1793, p.41

With very sincere regard, I am, Dr sir, your obt sort.

1781

To the Hon. Edmund Pendleton.

PHILADELPHIA, January 23, 1781.

Writings of Madison, Volume 1: 1769-1793, p.41

DEAR SIR,—I have nothing new this week for you but two reports; the first is, that very great discontents prevail in New York among the German troops, for causes pretty similar to those which produced the eruption in the Pennsylvania line. It is further said on this head, that a body of two hundred have deserted from Long Island and gone to Rhode Island. The other report is, that the British minister either has or proposes to carry a bill into Parliament authorizing the commanding officer in America to permit and promote a trade with us in British goods of every kind, except linens and woollens. This change of system is said to be the advice of some notable refugees, with a view to revive an intercourse as far as possible between the two countries, and particularly to check the habit that is taking place in the consumption of French manufactures. Whatever their public views may be, it is certain that such a plan would open fine prospects to them in a private view.

Writings of Madison, Volume 1: 1769-1793, p.41

We have received no fresh or certain information of the designs of F. and Spain in assembling so great a force at Cadiz. There does not appear to be any object in that quarter except Gibraltar. Should the attempts be renewed against that place, it will prove that the former has not that absolute sway in the cabinet of the latter which has been generally imagined. Nothing would have prevailed on the French to recall their fleet from the islands at the time they did, but the necessity of humoring Spain on the subject of her hobby-horse.

Writings of Madison, Volume 1: 1769-1793, p.42

I am glad to hear that Arnold has been at last fired at. It sounded a little unfavorably for us in the ears of people here that he was likely to get off without that proof of a hostile reception. If he ventures an irruption in any other quarter, I hope he will be made sensible that his impunity on James river was owing to the suddenness of his appearance, and not to the want of spirit in the people.

Writings of Madison, Volume 1: 1769-1793, p.42

I am, Dr sir, yours sincerely,

To Hon. Edmund Pendleton.

PHILADELPHIA, Febry, 1781.

Writings of Madison, Volume 1: 1769-1793, p.42

DR SIR,—I have your favor of the 5th instant by the post. Col. Harrison arrived here yesterday, and as he mentions no circumstance which indicated an intended departure of the enemy, I am afraid your intelligence on that subject was not well founded. Immediately on the receipt of your former letter, relating to an exchange of C. Taylor, I applied to the Admiralty Department, and if such a step can be brought about with propriety, I hope he will be gratified; but considering the tenor of their treatment of naval prisoners, and the resolutions with which it has inspired Congress, I do not think it probable that exchanges will go on easily; and if this were less the case, a mere passenger, under the indulgence, too, of a parole, can scarcely hope to be preferred to such as are suffering the utmost hardships, and even made prisoners in public service.

Writings of Madison, Volume 1: 1769-1793, p.42

A vessel arrived here a few days ago from Cadiz, which brings letters of as late date as the last of December. Those that are official tell us that England is making the most strenuous exertions for the current year, and that she is likely to be but too successful in the great article of money. The Parliament have voted 32,000 seamen; and a considerable land reinforcement for their southern army in America is also said to be in preparation.

Writings of Madison, Volume 1: 1769-1793, p.43

Private letters by the same conveyance mention that the blockade of Gibraltar is going on with alacrity, and that the garrison is in such distress as flatters the hope of a speedy capitulation.

Writings of Madison, Volume 1: 1769-1793, p.43

If Mr. Pendleton, your nephew, is still with you, be pleased to return him my compliments.

Writings of Madison, Volume 1: 1769-1793, p.43

With great respect, I am, Dr sir, your obedient servant.

To Edmund Randolph.

(Extract.)

PHILADELPHIA, May 1, 1781.

Writings of Madison, Volume 1: 1769-1793, p.43

DEAR SIR,—A letter which I received a few days ago from Mr. Jefferson gives me a hope that he will lend his succor in defending the title of Virginia. He professes ignorance of the ground on which the report of the committee places the controversy. I have exhorted him not to drop his purpose, and referred him to you as a source of copious information on the subject. I wish much you and he could unite your ideas on it. Since you left us I have picked up several pamphlets which had escaped our researches. Among them are the examination of the Connecticut claim, and the charter of Georgia, bound up with that of Maryland and four others. Presuming that a better use will be made of them, I will send them by Mr. Jones, requesting, however, that they may be returned by the hands of him, Doctor Lee, or yourself, as the case may be.

To Philip Mazzei.

PHILADELPHIA, July 7, 1781.

Writings of Madison, Volume 1: 1769-1793, p.44

MY DEAR FRIEND,—I have received two copies of your favor of the 7th of December last, and three of that of the 30th of November preceding. Having neglected to bring with me from Virginia the cypher concerted between you and the Executive, I still remain ignorant of the paragraph in your last which I suppose the best worth knowing.

Writings of Madison, Volume 1: 1769-1793, p.44

The state of our affairs has undergone so many vicissitudes since you embarked for Europe, and I can so little judge how far you may have had intelligence of them, that I am at a loss where I ought to begin my narrative. As the present posture of them is the most interesting, I shall aim at nothing further at present than to give you some idea of that, referring to past events so far only as may be necessary to explain it.

Writings of Madison, Volume 1: 1769-1793, p.44

The insuperable difficulties which opposed a general conquest of America seemed as early as the year 1779 to have been felt by the enemy, and to have led them into the scheme of directing their operations and views against the Southern States only. Clinton accordingly removed with the principal part of his force from New York to South Carolina, and laid siege to Charleston, which, after an honorable resistance, was compelled to surrender to a superiority of force. Our loss in men, besides the inhabitants of the town, was not less than two thousand. Clinton returned to New York. Cornwallis was left with about five thousand troops to pursue his conquests. General Gates was appointed to the command of the Southern department, in place of Lincoln, who commanded in Charleston at the time of its capitulation. He met Cornwallis on the 16th of August, 1780, near Camden, in the upper part of South Carolina and on fire border of North Carolina. A general action ensued, in which the American troops were defeated with considerable loss, though not without making the enemy pay a good price for their victory. Cornwallis continued his progress into North Carolina, but afterwards retreated to Camden. The defeat of Gates was followed by so general a clamor against him, that it was judged expedient to recall him. Greene was sent to succeed in the command. About the time of his arrival at the army, Cornwallis, having been reinforced from New York, resumed his enterprise into North Carolina. A detachment of his best troops was totally defeated by Morgan with an inferior number, and consisting of a major part of militia detached from Greene's army. Five hundred were made prisoners, between two and three hundred killed and wounded, and about the like number escaped. This disaster, instead of checking the ardor of Cornwallis, afforded a new incentive to a rapid advance, in the hope of recovering his prisoners. The vigilance and activity, however, of Morgan, secured them. Cornwallis continued his pursuit as far as the Dan river, which divides North Carolina from Virginia. Greene, whose inferior force obliged him to recede this far before the enemy, received such succors of militia on his entering Virginia that the chase was reversed. Cornwallis, in his turn, retreated precipitately. Greene overtook him on his way to Wilmington, and attacked him. Although the ground was lost on our side, the British army was so much weakened by the loss of five or six hundred of their best troops, that their retreat towards Wilmington suffered little interruption. Greene pursued as long as any chance of reaching his prey remained, and then, leaving. Cornwallis on his left, took an oblique direction towards Camden, which, with all the other posts in South Carolina except Charleston and Ninety-Six, have, in consequence, fallen again into our possession. His army lay before the latter when we last heard from him. It contained seven or eight hundred men and large quantities of stores. It is nearly two hundred miles from Charleston, and, without some untoward accident, cannot fail of being taken. Greene has detachments all over South Carolina, some of them within a little distance of Charleston; and the resentments of the people against their late insolent masters ensure him all the aids they can give in re-establishing the American Government there. Great progress is also making in the redemption of Georgia.

Writings of Madison, Volume 1: 1769-1793, p.45-p.46

As soon as Cornwallis had refreshed his troops at Wilmington, abandoning his Southern conquests to their fate, he pushed forward into Virginia. The parricide Arnold had a detachment at Portsmouth when he lay on the Dan; Philips had reinforced him so powerfully from New York, that the junction of the two armies at Petersburg could not be prevented. The whole force amounted to about six thousand men. The force under the Marquis De La Fayette, who commanded in Virginia, being greatly inferior, did not oppose them, but retreated into Orange and Culpeper in order to meet General Wayne, who was on his way from Pennsylvania to join him. Cornwallis advanced northward as far as Chesterfield, in the county of Caroline, having parties at the same time at Page;s warehouse and other places in its vicinity. A party of horse, commanded by Tarleton, was sent with all the secrecy and celerity possible to surprise and take the General Assembly and Executive who had retreated from Richmond to Charlottesville. The vigilance of a young gentleman who discovered the design and rode express to Charlottesville prevented a complete surprise. As it was, several Delegates were caught, and the rest were within an hour of sharing the same fate. Among the captives was Colonel Lyon of Hanover. Mr. Kinlock, a member of Congress from South Carolina, was also caught at Mr. John Walker's, whose daughter he had married some time before. Governor Jefferson lind a very narrow escape. The members of the Government rendezvoused at Stanton, where they soon made a House. Mr. Jefferson's year having expired, he declined a re-election, and General Nelson has taken his place. Tarleton's party retreated with as much celerity as it had advanced. On the junction of Wayne with the Marquis and the arrival of militia, the latter faced about and advanced rapidly on Cornwallis, who retreated to Richmond, and thence precipitately to Williamsburg, where he lay on the 27th ultimo. The Marquis pursued, and was at the same time within twenty miles of that place. One of his advanced parties had had a successful skirmish within six miles of Williamsburg. Bellini has, I understand, abided patiently in the college the dangers and inconveniences of such a situation. I do not hear that the consequences have condemned the experiment. Such is the present state of the war in the Southern Department. In the Northern, the operations have been for a considerable time in a manner suspended. At present, a vigorous siege of New York by General Washington's army, aided by five or six thousand French troops under Count De Rochambeau, is in contemplation, and will soon commence. As the English have the command of the water, the result of such an enterprise must be very uncertain. It is supposed, however, that it will certainly oblige the enemy to withdraw their force from the Southern States, which may be a more convenient mode of relieving them than by marching the troops from New York at this season of the year to the southward. On the whole, the probable conclusion of this campaign is, at this juncture, very flattering, the enemy being on the defensive in every quarter.

Writings of Madison, Volume 1: 1769-1793, p.47

The vicissitudes which our finances have undergone are as great as those of the war, the depreciation of the old continental bills having arrived at forty, fifty, and sixty for one. Congress, on the 18th of March, 1780, resolved to displace them entirely from circulation, and substitute another currency, to be issued on better funds, and redeemable at a shorter period. For this purpose, they fixed the relative value of paper and specie at forty for one; directed the States to sink by taxes the whole two hundred millions in one year, and to provide proper funds for sinking in six years a new currency which was not to exceed ten millions of dollars, which was redeemable within that period, and to bear an interest of five per cent., payable in bills of exchange on Europe or hard money. The loan-office certificates granted by Congress are to be discharged at the value of the money at the time of the loan; a scale of depreciation being fixed by Congress for that purpose. This scheme has not yet been carried into full execution. The old bills are still unredeemed, in part, in some of the States, where they have depreciated to two, three, and four hundred for one. The new bills, which were to be issued only as the old ones were taken in, are consequently in a great degree still unissued; and the depreciation which they have already suffered has determined Congress and the States to issue as few more of them as possible. We seem to have pursued our paper projects as far as prudence will warrant. Our medium in future will be principally specie. The States are already levying taxes in it. As the paper disappears, the hard money comes forward into circulation. This revolution will also be greatly facilitated by the influx of Spanish dollars from the Havannah, where the Spanish forces employed against the Floridas\* consume immense quantities of our flour. and remit their dollars in payment. We also receive considerable assistance from the direct aids of our ally, and from the money expended among us by his auxiliary troops. These advantages, as they have been and are likely to be improved by the skill of Mr. Robert Morris, whom we have constituted minister of our finances, afford a more flattering prospect in this department of our affairs than has existed at any period of the war.

Writings of Madison, Volume 1: 1769-1793, p.48

The great advantage the enemy have over us lies in the superiority of their navy, which enables them continually to shift the war into defenceless places, and to weary out our troops by long marches. The squadron sent by our ally to our support did not arrive till a reinforcement on the part of the enemy had counteracted their views. They have been almost constantly blocked up at Rhode Island by the British fleet. The effects of a hurricane in the last spring on the latter gave a temporary advantage to the former, but circumstances delayed the improvement of it till the critical season was past. Mr. Destouches, who commanded the French fleet, nevertheless hazarded an expedition into Chesapeake bay. The object of it was to co-operate with the Marquis de la Fayette in an attack against Arnold, who lay at Portsmouth with about fifteen hundred British troops. Had he got into the bay, and taken a favorable station, the event would certainly have been adequate to our hopes. Unfortunately, the British fleet, which followed the French immediately from Rhode Island, reached the capes of Virginia first. On the arrival of the latter, a regular and fair combat took place. It lasted for several hours, and ended rather in favor of our allies. As the enemy, however, were nearest the capes, and one of the French ships had lost her rudder, and was otherwise much damaged, the commander thought it best to relinquish his object, and return to his former station. The damage sustained by the enemy, according to their own representation, exceeded that of the French; and as their number of ships and weight of metal were both superior, it does great honor. to the gallantry and good conduct of Mr. Destouches. Congress, and indeed the public at large, were so sensible of this, that their particular thanks were given him on the occasion.

Writings of Madison, Volume 1: 1769-1793, p.49

No description can give you an adequate idea of the barbarity with which the enemy have conducted the war in the Southern States. Every outrage which humanity could suffer has been committed by them. Desolation rather than conquest seems to have been their object. They have acted more like desperate bands of robbers or buccaneers than like a nation making war for dominion. Negroes, horses, tobacco, &c., not the standards and arms of their antagonists, are the trophies which display their success. Rapes, murders, and the whole catalogue of individual cruelties, not protection and the distribution of justice, are the acts which characterize the sphere of their usurped jurisdiction. The advantage we derive from such proceedings would, if it were purchased on other terms than the distresses of our citizens, fully compensate for the injury accruing to the public. They are a daily lesson to the people of the United States of the necessity of perseverance in the contest; and wherever the pressure of their local tyranny is removed, the subjects of it rise up as one man to avenge their wrongs and prevent a repetition of them. Those who have possessed a latent partiality for them, as their resentment is embittered by their disappointment, generally feel most sensibly their injuries and insults, and are the foremost in retaliating them. It is much to be regretted that these things are so little known in Europe. Were they published to the world in their true colors, the British nation would be hated by all nations as much as they have heretofore been feared by any, and all nations would be sensible of the policy of abridging a power which nothing else can prevent the abuse of.

To Col. James Madison.

Writings of Madison, Volume 1: 1769-1793, p.50

PHILADELPHIA, August 1, 1781. We have heard little of late from Europe, except that the mediation proffered by Russia in the dispute between England and Holland has been referred by the former to the general pacification, in which the mediation of the Emperor will be joined with that of Russia. As this step is not very respectful to Russia, it can only proceed from a distrust of her friendship, and the hopes entertained by Britain as to the issue of the campaign, which, as you will see in an intercepted letter from Getmaine to Clinton, were extravagantly sanguine. We have no late intelligence from the West Indies. General Washington is going on with his preparations and operations against New York. What the result will be can be decided by time alone. We hope they will at least withdraw some of the invaders from Virginia. The French fleet is still at Rhode Island. The British, it is reported, has lately left the Hook.

August 2.—Information has been received from New York, through a channel which is thought a good one, that orders are gone to Virginia for a large part of the troops under Cornwallis immediately to sail for that place. Should this be well founded, the execution of the orders will announce it to you. Among other. advantages attending an evacuation of Virginia, it will not be the least that the communication with this place by the bay will supply the State with many necessary articles which are now transported by land at so much expense, and will enable you to pay for them easier by raising the price of your commodities. It gives me pain to hear that so many of the people have incautiously sold, or rather given away, their tobacco to speculators, when it was in no danger from the enemy. The destruction of that article, which alarmed them, was an obvious cause of its future rise, and a reason for their retaining it till the alarm should be over. Goods of all kinds, particularly dry goods, are rising here already. Salt, in particular, has risen within a few days from two dollars to a guinea per bushel.

To the Hon, Edmund Pendleton.

PHILA, September 18, 1781.

Writings of Madison, Volume 1: 1769-1793, p.51

DEAR SIR,—I was yesterday favored with yours of the 10th instant. The various reports arrived of late from the Chesapeake prepared us for a confirmation from our correspondents of a fortunate rencontre between the two fleets. A continuation of these reports, although unsupported by any authentic evidence, still keeps up the public anxiety. We have not heard a word of De Bancs. The arrival of Digby is far from being certain, and the circulating reports have reduced his force to six ships of the line. The preparations at New York for some movement are pretty well attested. The conjectures of many are directing it against this city, as the most practicable and important object within the reach of Clinton. The successful blow struck by the parricide Arnold against the town of New London is described, as far as the particulars are known here, in the enclosed Gazette. There have been several arrivals of late from Europe with very little intelligence of any kind, and with none from official sources. It all relates to the junction of the French and Spanish fleets, for the purpose of renewing the investiture of Gibraltar, and enterprising something against Minorca. Thus the selfish projects of Spain not only withhold from us the co-operation of their armaments, but divert in part that of our allies; and yet we are to reward her with a cession of what constitutes the value of the finest part of America.

Writings of Madison, Volume 1: 1769-1793, p.51

General Washington and the Count de Rochambeau, with the forces under them, have, I presume, by this time, got within Virginia. This revolution in our military plan cannot fail to produce great advantages to the Southern department, and particularly to Virginia, even if the immediate object of it should be unexpectedly frustrated. The presence of the Commander-in-chief, with the proportion of our force which will always attend him, will better protect the country against the depredations of the enemy, although he should be followed by troops from New York which would otherwise remain there, than it has hitherto been; will leave the militia more at leisure to pursue their occupations, at the same time that the demands of the armies will afford a sure market for the surplus provisions of the country; will diffuse among them a share of the gold and silver of our ally, and, I may now say, of our own, of which their Northern brethren have hitherto had a monopoly, which will be peculiarly grateful to them after having been so long gorged with depreciating paper; and as we may suppose that the ships of our ally allotted for our service will, so long as his troops remain in the United States, be kept in the Chesapeake, it will revive the trade through that channel, reduce the price of imported necessaries, and raise the staple of the country once more to its proper value.

Writings of Madison, Volume 1: 1769-1793, p.52

I am, Dr Sir, your sincere friend, and obt servt.

To the Hon. Edmund Pendlenton.

PHILA, October 2, 1781.

Writings of Madison, Volume 1: 1769-1793, p.52

DEAR SIR,—Yours of 24th ultimo came safe by yesterday's post. In addition to the paper of this day, I enclose you two of the preceding week, in one of which you will find a very entertaining and interesting speech of Mr. Fox, and in the other, a handsome forensic discussion of a case important in itself, and which has some relation to the State of Virginia.

Writings of Madison, Volume 1: 1769-1793, p.52

Our intelligence from N. York through several channels confirms the sufferings of the British fleet from their rash visit to the capes of the Chesapeake. The troops which were kept in transports to await that event have, since the return of the fleet, been put on shore on Staten Island. This circumstance has been construed into a preliminary to an expedition to this city, which had revived, till within a few days, the preparations for a militia opposition, but is better explained by the raging of a malignant fever in the city of N. York. Digby, we hear, is now certainly arrived, but with three ships of the line only. It is given out that three men with a large number of transports came with him, and that they only lay back till it was known whether they could proceed to N.Y. with safety. This is not improbably suspected to be a trick to palliate the disappointment and to buoy up the sinking hopes of their adherents, the most staunch of whom give up Lord Cornwallis as irretrievably lost.

Writings of Madison, Volume 1: 1769-1793, p.53

We have received some communications from Europe relative to the general state of its affairs. They all centre in three important points. The first is the obstinacy of Great Britain; the second, the fidelity of our ally; and the third, the absolute necessity of vigorous and systematic preparations for war on our part, in order to insure a speedy, as well as favorable peace. The wisdom of the Legislature of Virginia will, I flatter myself, not only prevent an illusion from the present brilliant prospects, but take advantage of the military ardor and sanguine hopes of the people to recruit their line for the war. The introduction of specie will also, I hope, be made subservient to some salutary operations in their finances. Another great object, which, in my opinion, claims an immediate attention from them, is some liberal provision for extending the benefits of government to the distant parts of the State. I am not able to see why this cannot be done so as fully to satisfy the exigencies of the people, and at the same time preserve the idea of unity in the State. Any plan which divides in any manner the sovereignty may be dangerous, and precipitate an evil which ought, and may at least, be long procrastinated. The administration of justice, which is the capital branch, may certainly be diffused sufficiently, and kept in due subordination in every part to one supreme tribunal. Separate boards for crediting [auditing?] accounts may also be admitted with safety and propriety. The same as to a separate depository for the taxes, &c., and as to a land office. The military powers of the Executive may well be intrusted to militia officers of rank, as far as the defence of the country and the custody of military stores make it necessary. A complete organization of the militia, in which general officers would be erected, would greatly facilitate this part of the plan. Such an one, with a council of field officers, might exercise, without encroaching on the constitutional powers of the supreme Executive, all the powers over the militia which any emergency could demand.

Writings of Madison, Volume 1: 1769-1793, p.54

I am, Dr Sir, yours sincerely.

To the Hon. Edmund Pendleton.

PHILA, Oct. 9, 1781.

Writings of Madison, Volume 1: 1769-1793, p.54

DEAR SIR,—Having sent you the arguments on one side of the judiciary question relating to the property of Virginia seized by Mr. Nathan, it is but reasonable that you should see what was contended on the other side. With this view, although I in some measure usurp the task of Mr. Jones, I enclose the paper of Wednesday last. As it may escape Mr. Jones, I also enclose a copy of Mr. Adams's memorial to the States general. I wish I could have informed you of its being lodged in the archives of their High Mightinesses instead of presenting it to you in print.

Writings of Madison, Volume 1: 1769-1793, p.54

I am, Dr Sir, yrs affectionately.

To the Hon. Edmund Pendleton.

(In answer to Mr. Fs, 8th Oct.)

PHILA, Oct. 16th, 1781.

Writings of Madison, Volume 1: 1769-1793, p.54

DEAR SIR,—When you get a sight of the resolution of the General Assembly, referred to in your favor of the 8th, you will readily judge from the tenor of it what steps would be taken by the Delegates. It necessarily submitted the fate of the object in question to the discretion and prospects of the gentleman whom reports, it seems, have arraigned to you, but who, I am bound in justice to testify, has entirely supported the character which he formerly held with you.\* I am somewhat surprised that you never had before known of the Resolution just mentioned, especially as, what is indeed much more surprising, it was both debated and passed with open doors and a full gallery. This circumstance alone must have defeated any reservations attached to it.

Writings of Madison, Volume 1: 1769-1793, p.55

The N. York papers and the intelligence from thence make it evident that they have no hope of relieving Cornwallis, unless it can be effected by some desperate naval experiment, and that such an one will be made. Their force will probably amount to twenty-six sail of the line, and if we are not misinformed as to the late arrival of three ships of the line, to twenty-nine sail. The superiority still remaining on the part of our allies, and the repeated proofs given of their skill and bravery on the water, forbid any apprehension of danger. At the same time, we cannot help calculating that every addition to the British force proportionally diminishes the certainty of success. A fleet of provisions amounting to about sail, convoyed by a forty-four and two frigates, have arrived at N.Y. within the week past.

Writings of Madison, Volume 1: 1769-1793, p.55

Having sent all the papers containing the proceedings on the case of Mr. N. against Virga, as they came out, I shall, to complete your view of it, add the last effort in his favor published in the enclosed No. of the Freeman's Journal. I am told, however, that the publisher ought to have subjoined that the Privy Council interposed, and directed restitution of the King of Spain's effects.

Writings of Madison, Volume 1: 1769-1793, p.55

I am, Dr Sir, yrs affly.

To the Hon. Edmund Pendleton.

PHILA, Nov. 27th, 1781.

Writings of Madison, Volume 1: 1769-1793, p.56

DEAR SIR,—Your favor of the 19th inst. came to hand yesterday. On the same evening arrived our illustrious general, returning to his position on the North river. We shall probably, however, have his company here for some days at least, where he will be able to give Congress very seasonable aid in settling the military establishment for the next year, about which there is some diversity of opinion. Whatever the total requisition of men may be on the States, I cannot but wish that Virginia may take effectual measures for bringing into the field her proportion of men. One reason for this wish is the calumhies which her enemies ground on her present deficiency; but the principal one is the influence that such an exertion may have in preventing insults and aggressions, from whatever quarter they may be meditated, by showing that we are able to defy them.

Writings of Madison, Volume 1: 1769-1793, p.56

The Delegates have lately transmitted to the Governor, for the Assembly, all the proceedings which have taken place on the subject of the Territorial cessions. The tenor of them, and the reception given them by the Assembly, will, I doubt not, be communicated to you by some of your correspondents in it.

Writings of Madison, Volume 1: 1769-1793, p.56

There is pretty good reason to believe that a descent on Minorca has actually taken place. It is a little problematical with me whether successes against Great Britain in any other quarter except America tend much to hasten a peace. If they increase her general distress, they at the same time increase those demands against her which are likely to impede negotiations, and her hopes from the sympathy of other powers. They are favorable to us, however, in making it more the interest of all the belligerent powers to reject the uti possidetis as the basis of a pacification.

Writings of Madison, Volume 1: 1769-1793, p.56

The report of Rodney's capture never deserved the attention, it seems, which was given to it.

Writings of Madison, Volume 1: 1769-1793, p.56

I am, Dr Sir, yrs sincerely.

To the Hon. Edmund Pendleton.

PHIL., Dec. 11th, 1781.

Writings of Madison, Volume 1: 1769-1793, p.57

DR SIR,—I am favored with yours of the 3d instant. Other letters by the Same conveyance confirm your report of the election of Mr. Harrison to the chief magistracy. Several other appointments are mentioned which I make no doubt are all well known to you.

Writings of Madison, Volume 1: 1769-1793, p.57

On whichever side Mr. Deane's letters are viewed, they present mysteries. Whether they be supposed genuine or spurious, or a mixture of both, difficulties which cannot well be answered may be started. There are, however, passages in some of them which can scarcely be imputed to any other hand. But it is unnecessary to rely on these publications for the real character of the man. There is evidence of his obliquity which has for a considerable time been conclusive.

Writings of Madison, Volume 1: 1769-1793, p.57

Congress have not resumed their proceedings on the Western business. They have agreed on a requisition on the States for 8,000,000 of dollars, and a completion of their lines according to the last establishment of the army. We endeavored, though with very little effect, to obtain deductions in the first article from the quota of Virginia, but we did not oppose the aggregate of the demand in either. If we do not obtain a sufficiency of men and money from the States by regular and duly-appointed calls, we know by experience that the burden of the war will fall on the resources of the States which happen to be the subject of it.

Writings of Madison, Volume 1: 1769-1793, p.57

Mr. Moore, late Vice President, has been elected President of this State in place of Mr. Reed, whose period of eligibility was out.

Writings of Madison, Volume 1: 1769-1793, p.57

I am, dr sir, yours.

To the Hon. Edmund Pendleton.

PHILA, Dec. 25th, 1781.

Writings of Madison, Volume 1: 1769-1793, p.58

DEAR SIR,—You only do me justice in ascribing your disappointment in the part of the week preceding your favor of the 16th instant to some other cause than my neglect. If I were less disposed to punctuality, your example would preserve me from transgressing it. As the last letter went to the post-office here, and you did not receive it from the post in Virginia, the delinquency must have happened in that line. It is, however, I believe, of little consequence, as I do not recollect that anything material has been contained in my letters for several weeks, any more than there will be in this, in which I have little else to say than to tender you the compliments of the day. Perhaps, indeed, it will be new to you what appeared here in a paper several days ago, that the success of Commodore Johnstone in taking five Dutch East Indiamen, homeward bound, and destroying a sixth, is confirmed. Whatever may be thought of this stroke of fortune by him and his rapacious crew, the Ministry will hardly think it a compensation to the public for the danger to which the remains of their possessions in the East will be exposed by the failure of his expedition.

Writings of Madison, Volume 1: 1769-1793, p.58

It gives me great pleasure to hear of the honorable acquittal of Mr. Jefferson. I know his abilities, and I think I know his fidelity and zeal for his country so well, that I am persuaded it was a just one. We are impatient to know whether he will undertake the new service to which he is called.

Writings of Madison, Volume 1: 1769-1793, p.58

I am, Dr Sir, yrs affectionately.

1782

To James Madison, Esq.

Feb. 12th, 1782.

Writings of Madison, Volume 1: 1769-1793, p.58

HOND SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.58

The disappointment in forwarding the money by Mr. Brownlow has been sorely felt by me, and the more so as the Legislature has made no provision for the subsistence of the Delegates that can be relied on. I hope some opportunity will soon put it in your power to renew the attempt to transmit it, and that the delay will have made considerable addition to it. Besides the necessity of this supply for the common occasions, I have frequent opportunities here of purchasing many scarce and necessary books at a fourth of the price which, if to be had at all, they will hereafter cost me. If an immediate conveyance does not present itself for the cash, I would recommend that a bill of exchange on some merchant here be got of Mr. Hunter, Mr. Maury, or other respectable merchant, and forwarded by the post. This is a safer method than the first, and I make no doubt is very practicable. I wish, at all events, the trial to be made, and that speedily.

Writings of Madison, Volume 1: 1769-1793, p.59

I recollect nothing new which is not contained in some of the late papers.

Writings of Madison, Volume 1: 1769-1793, p.59

Present my affectionate regards to all the family. I have not time to add more than that I am,

Writings of Madison, Volume 1: 1769-1793, p.59

Your dutiful son.

To Col. James Madison.

PHILADELPHIA, March 30th, 1782.

Writings of Madison, Volume 1: 1769-1793, p.59

HOND SIR,—The newspapers will give you in general the intelligence we have from Europe. As far as we are enabled to judge of the views of the British Cabinet, the misfortunes of one more campaign, at least, will be necessary to conquer their obstinacy. They are attempting a separate peace with the Dutch, and talk of suspending their offensive war against us, and directing their whole resources against the naval power of France and Spain. If this be their real plan, we may be sure they do mean by it not to abandon their pretensions to the United States, but try another mode for recovering them. During their offensive exertions against our Ally, they can be practising insidious ones against us; and if in the first they should be successful, and in the latter disappointed, a renewal of a vigorous war upon us will certainly take place. The best security against every artifice and every event will be such military preparations on our part as will be sufficient either to resist or expel them, as the case may require.

To James Madison, Esq.

PHILIDELPHIA, May 20th, 1782.

Writings of Madison, Volume 1: 1769-1793, p.60

HOND SIR,—Having written a letter and enclosed it with a large collection of newspapers for you, which was to have been carried by Mr. J. Smith, but which I have now put into the hands of Captain Walker, whose return will be quicker, little remains for me to add here.

Writings of Madison, Volume 1: 1769-1793, p.60

Our anxiety on account of the West India news, published at New York, is still supported by contradictory reports and conjectures. The account, however, to which Rodney's name is prefixed, renders our apprehensions too strong for our hopes. Rivington has been very bold in several of his spurious publications, and at this conjuncture might venture as far to serve a particular turn as at any. But it is scarcely credible that he would dare or be permitted to sport with so high an official name.

Writings of Madison, Volume 1: 1769-1793, p.60

If Mr. Jefferson will be so obliging as to superintend the legal studies of William, I think he cannot do better than prosecute the plan he has adopted. The interruption occasioned by the election\* of Mr. J., although inconvenient in that respect, is by no means a decisive objection against it.

Writings of Madison, Volume 1: 1769-1793, p.60

I did not know before that the letters which Mr. Walker was to have carried last fall had met with the fate which it seems they did. I shall be more cautious hereafter. The papers missing in your list were, I presume, for I do not recollect, contained in them.

Writings of Madison, Volume 1: 1769-1793, p.60

If Continental money passes here at all, it is in a very small quantity, at very great discount, and merely to serve particular local and temporary ends.

Writings of Madison, Volume 1: 1769-1793, p.61

It has at no time been more difficult for me to fix my probable return to Virginia. At present all my colleagues have left Congress except Colonel Bland, and it is a crisis which calls for a full representation from every State. Anxious as I am to visit my friends, as long as I sustain a public trust I shall feel a principle which is superior to it.

1783

To James Madison, Esq.

Jan. 1st, 1783.

Writings of Madison, Volume 1: 1769-1793, p.61

HOND SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.61

The negotiations for peace are said to be going on under the late commission to Mr. Oswald, which authorizes him to treat with commissioners from the thirteen United States. Mr. Jefferson will depart in a little time, in order to give his aid in case it be in season. The insidiousness and instability of the British Cabinet forbid us to be sanguine, especially as the relief of Gibraltar was posterior to Oswald's commission, and the interests to be adjusted among the belligerent parties are extremely complicated.

Writings of Madison, Volume 1: 1769-1793, p.61

I am, with great affection, your dutiful son.

To James Madison, Esq.

PHILIDELPHIA, Feb. 12th, 1783.

Writings of Madison, Volume 1: 1769-1793, p.61

HOND SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.61

I readily suppose, from the reports prevalent here, that some information on the subject of peace will be expected, and I wish it were in my power to gratify you. The truth is, we are in nearly as great uncertainty here as you can be. Every day, almost, brings forth some fresh rumor, but it is so mingled with mercantile speculations that little faith is excited. The most favorable evidence on the side of peace seems to be a material fall in the price of imported goods; which, considering the sagacity and good intelligence of merchants, is a circumstance by no means to be despised. A little time will probably decide in the case, when I shall follow this with something more satisfactory.

Writings of Madison, Volume 1: 1769-1793, p.62

In the mean time, I remain your affectionate son.

To Thomas Jefferson, Esq.

PHILADELPHIA, Feb. 11th, 1783.

Writings of Madison, Volume 1: 1769-1793, p.62

DEAR SIR,—Your favor of the 31st of January was safely brought by Mr. Thompson. That of the 7th instant came by yesterday's mail. The anecdote related in the first was new to me.\* and if there were no other key, would sufficiently decipher the implacability of the party triumphed over. In answer to the second, I can only say at this time, that I feel deeply for your situation,\* that I approve of the choice you have made among its difficulties, and that every aid which can depend on me shall be exerted to relieve you from them. Before I can take any step with propriety, however, it will be expedient to feel the sentiments of Congress, and to advise with some of my friends. The first point may possibly be brought about by your letter to the Secretary of Foreign Affairs, which I suppose came too late yesterday to be laid before Congress, but which will, no doubt, be handed in this morning.

Writings of Madison, Volume 1: 1769-1793, p.62

The time of Congress since you left us has been almost exclusively spent on projects for a valuation of the land, as the federal articles require, and yet I do not find that we have got an inch forward towards the object. The mode of referring the task to the States, which had at first the warmest and most numerous support, seems to be in a manner abandoned, and nothing determinate is yet offered on the mode of effecting it without their intervention. The greatest misfortune, perhaps, attending the case is, that a plan of some kind is made an indispensable preliminary to any other essay for the public relief. I much question whether a sufficient number of States will be found in favor of any plan that can be devised, as I am sure that in the present temper of Congress a sufficient number cannot, who will agree to tell their constituents that the law of the Confederation cannot be executed, and to propose an amendment of it.

Writings of Madison, Volume 1: 1769-1793, p.63

Congress yesterday received from Mr. Adams several letters dated September, not remarkable for anything unless it be a fresh display of his vanity, and prejudice against the French court, and his venom against Doct. Franklin. Other preparations for the post do not allow me to use more cypher at present.

Writings of Madison, Volume 1: 1769-1793, p.63

I have a letter from Randolph dated February 1, confirming the death of His aunt. You are acquainted, no doubt, with the course the estate is to take. He seems disposed, in case he can make a tolerable compromise with his father's creditors, to resign his appointment under the State, and go into the Legislature. His zeal for some Continental arrangement as essential for the public honor and safety forms at least one of his motives, and I have added all the fuel to it in my power.

Writings of Madison, Volume 1: 1769-1793, p.63

My neglect to write to you heretofore has proceeded from a hope that a letter would not find you at Baltimore, and no subject has occurred for one of sufficient importance to follow you. You shall henceforward hear from me as often as an occasion presents, until your departure forbids it.

Writings of Madison, Volume 1: 1769-1793, p.63

The ladies and gentlemen to whom I communicated your respects return them with equal sincerity, and the former, as well as myself, very affectionately include Miss Patsy in the object of them.

Writings of Madison, Volume 1: 1769-1793, p.63

I am, dear sir, your sincere friend.

To General Washington.

PHILADELPHIA, April 29th, 1783.

Writings of Madison, Volume 1: 1769-1793, p.64

SIR,—I have been honored with your Excellency's favor of the 22d instant, bearing testimony to the merits and talents of Mr. McHenry. The character which I had preconceived of this gentleman was precisely that which your representation has confirmed. As Congress have not yet fixed the peace establishment for their foreign affairs, and will not probably fill up vacancies, unless there be some critical urgency, until such an establishment be made, it is uncertain when an opportunity will present itself of taking into consideration the wishes and merits of Mr. McHenry. Should my stay here be protracted till that happens, which I do not at present expect, I shall feel an additional pleasure in promoting the public interest from my knowledge that I at the same time fulfil both your Excellency's public judgment and private inclination.

To James Madison, Esq.

PHILA., May 27, 1783.

Writings of Madison, Volume 1: 1769-1793, p.64

HOND SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.64

I have hitherto not been inattentive to the request of Mrs. J., and shall, in consequence of your letter, renew my efforts for the books, which the return of peace renders more likely to be attainable for her. I see few books in the catalogue which you have sent which are worth purchasing, but I will peruse it more carefully, and send you the titles of such as I may select.

Writings of Madison, Volume 1: 1769-1793, p.64

I received a letter from Mr. Joseph Chew a few days ago, by which, and the information of Colonel Wadsworth, who brought it and is a friend of his, I find that he is in New York with his family; that they are all well; that he continues as yet to hold a post which supports them comfortably; that although he has enjoyed opportunities of honestly laying up profits, his generosity of temper has prevented it. I cannot learn whether he proposes to remain in this country or not, but am inclined to think he will go to Canada, where he has some little expectations. He seems to be exceedingly anxious to hear of his friends in Virginia, and I have written as fully to him on the subject as my knowledge would admit. I wish some of his friends on the spot, and particularly yourself, would write to him. Besides the information he would receive, it would be a pleasing proof to him that he still retained a place in their remembrance and regards.

Writings of Madison, Volume 1: 1769-1793, p.65

We are without information of late as to the progress of the definitive treaty, and of the bill in the British Parliament for opening trade with the United States. The confusions produced in their counsels by the long suspension of the Ministry seem to put everything to a stand. The paper which I enclose will give you the latest information on that subject. yr dutiful son.

To James Madison, Esq.

PHILA., June 5, 1783.

Writings of Madison, Volume 1: 1769-1793, p.65

HOND SIR,—By the post preceding the last, I answered yours of the 16th, addressing it to the care of Mr. Maury. I was prevented by more necessary writing from enclosing the papers again by the last post, as I had intended. I now supply the omission by two gentlemen going to Fredericksburg. All the news we have received is contained in them, and respects solely the arrangement which is at length made of a British Ministry.

Writings of Madison, Volume 1: 1769-1793, p.65

Having sent several copies of the pamphlet of Congress on the subject of revenue, &c., which I suppose will be transcribed in the Virginia gazettes, I shall add nothing on that subject, presuming that you will, through some channel or other, obtain a sight of these proceedings. I enclose a memorandum of the books which I wish you to select from Dr. Hamilton's catalogue.

Writings of Madison, Volume 1: 1769-1793, p.65

I shall take care not to disappoint you of the chair which I promised to bring with me. The time of my setting out is as uncertain as at the date of my last; but it will certainly take place before the Fall.

Writings of Madison, Volume 1: 1769-1793, p.66

Remember me affly to my mother and all the family, and be assured that I am, your dutiful son.

1784

To Edmund Randolph.

ORANGE, March 10th, 1784.

Writings of Madison, Volume 1: 1769-1793, p.66

MY DEAR FRIEND,—Your favor of the 27th January was safely delivered to me about a fortnight ago, and was received with the greater pleasure, as it promises a continuance of your friendly attention. I am sorry that my situation enables me to stipulate no other return than sincere and thankful acknowledgments.

Writings of Madison, Volume 1: 1769-1793, p.66

On my arrival here, which happened early in December, I entered, as soon as the necessary attentions to my friends admitted, on the course of reading which I have long meditated. Coke Littleton, in consequence, and a few others from the same shelf, have been my chief society during the winter. My progress, which in so short a period could not have been great under the most favorable circumstances, has been much retarded by the want of some important books, and still more by that of some living oracle for occasional consultation. But what will be most noxious to my project, I am to incur the interruptions which will result from attendance in the Legislature, if the suffrage of my county should destine me for that service, which I am made to expect will be the case. Among the circumstances which reconcile me to this destination, you need not be assured that the opportunity of being in your neighborhood has its full influence.

Writings of Madison, Volume 1: 1769-1793, p.66

I have perused, with both pleasure and edification, your observations on the demand made by the Executive of South Carolina of a citizen of this State. If I were to hazard an opinion after yours, it would be that the respect due to the chief magistracy of a Confederate State, enforced as it is by the Articles of Union, requires an admission of the fact as it has been represented. If the representation be judged incomplete or ambiguous, explanations may certainly be called for; and if, on a final view of the charge, Virginia. should hold it to be not a casus foederis, she will be at liberty to withhold her citizen, (at least upon that ground,) as South Carolina will be to appeal to the tribunal provided for all controversies among the States. Should the law of South Carolina happen to vary from the British law, the most difficult point of discussion, I apprehend, will be, whether the terms "treason," &c., are to be referred to those determinate offences so denominated in the latter code, or to all those to which the policy of the several States may annex the same titles and penalties. Much may be urged, I think, both in favor of and against each of these expositions. The two first of those terms, coupled with "breach of the peace," are used in the 5th article of the Confederation, but in a way that does not clear the ambiguity. The truth, perhaps, in this as m many other instances, is, that if the compilers of the text had severally declared their meanings, these would have been as diverse as the comments which will be made upon it.

Writings of Madison, Volume 1: 1769-1793, p.67

Waiving the doctrine of the Confederation, my present view of the subject would admit few exceptions to the propriety of surrendering fugitive offenders. My reasons are these: 1. By the express terms of the Union, the citizens of every State are naturalized within all the others, and being entitled to the same privileges, may with the more justice be subjected to the same penalties. This circumstance materially distinguishes the citizens of the United States from the subjects of other nations not so incorporated. 2. The analogy of the laws throughout the States, and particularly the uniformity of trial by juries of the vicinage, seem to obviate the capital objections against removal to the State where the offence is charged. In the instance of continuous States, a removal of the party accused from one to the other must often be a less grievance than what happens within the same State when the place of residence and the place where the offence is laid are at distant extremities. The transportation to Great Britain seems to have been reprobated on very different grounds; it would have deprived the accused of the privilege of trial by jury of the vicinage, as well as of the use of his witnesses, and have exposed him to trial in a place where he was not even alledged to have ever made himself obnoxious to it; not to mention the danger of unfairness arising from the circumstances which produced the regulation. 3. Unless citizens of one State transgressing within the pale of another be given up to be punished by the latter, they cannot be punished at all; and it seems to be a common interest of the States that a few hours, or at most a few days, should not be sufficient to gain a sanctuary for the authors of the numerous offences below "high misdemeanor." In a word, experience will shew, if I mistake not, that the relative situation of the United States calls for a "Droit Public" much more minute than that comprised in the federal articles, and which presupposes much greater mutual confidence and amity among the societies which are to obey it, than the law which has grown out of the transactions and intercourse of jealous and hostile nations.

Writings of Madison, Volume 1: 1769-1793, p.68

Present my respectful compliments to your amiable lady, and accept the sincerest wishes for your joint happiness of

Writings of Madison, Volume 1: 1769-1793, p.68

Your affece friend and obt servt.

Writings of Madison, Volume 1: 1769-1793, p.68

P.S. By my Brother who is charged with this, I send Chastellux's work, De la Fellcité Publique, which you may perhaps find leisure to run through before May; also a notable work of one of the Representatives of the U.S. in Europe.

To Thomas Jefferson.

ORANGE, March 16th, 1784.

Writings of Madison, Volume 1: 1769-1793, p.68

DEAR SIR,—Your favor of the 20th ult. came duly to hand a few days ago.

Writings of Madison, Volume 1: 1769-1793, p.68

I cannot apprehend that any difficulties can ensue in Europe from the involuntary and immaterial delay of the ratification of the peace, or if there should, that any imputations can be devised which will not be repelled by the collective force of the reasons in the intended protest, some of which, singly taken, are unanswerable. As you no doubt had recourse to authorities which I have no opportunity of consulting, I probably err in supposing the right of the Sovereign to reject the act of his plenipotentiary to be more circumscribed than you lay it down. I recollect well that an implied condition is annexed by the usage of nations to a Plenipotentiary Commission, but should not have extended the implication beyond cases where some palpable and material default in the Minister could be alledged by the Sovereign. Waiving some such plea, the language both of the Commission and of reason seems to fix on the latter as clear an engagement to fulfil his promise to ratify a treaty, as to fulfil the promises of a treaty which he has ratified. In both cases, one would pronounce the obligation equally personal to the Sovereign, and a failure on his part, without some absolving circumstance, equally a breach of faith.

Writings of Madison, Volume 1: 1769-1793, p.69

The project of affixing the seal of the United States, by seven States, to an act which had been just admitted to require nine, must have stood self-condemned; and though it might have produced a temporary deception abroad, must have been immediately detected at home, and have finally dishonored the federal counsels everywhere. The competency of seven States to a Treaty of Peace has often been a subject of debate in Congress, and has sometimes been admitted into their practice, at least so far as to issue fresh instructions. The reasoning employed in defence of the doctrine has been, "that the cases which require nine States, being exceptions to the general authority of seven States, ought to be taken strictly; that in the enumeration of the powers of Congress in the first clause of article 9 of the Confederation, the power of entering into treaties and alliances is contradistinguished from that of determining on peace and war, and even separated by the intervening power of sending and receiving ambassadors; that the excepting clause, therefore, in which 'Treaties and alliances' ought to be taken in the same confined sense, and in which the power of determining on peace is omitted, cannot be extended by construction to the latter power; that under such a construction five States might continue a war which it required nine to commence, though where the object of the war has been obtained, a continuance must in every view be equivalent to a commencement of it, and that the very means provided for preserving a state of peace might thus become the means of preventing its restoration."

Writings of Madison, Volume 1: 1769-1793, p.70

The answer to these arguments has been, that the construction of the federal articles which they maintain is a nicety which reason disclaims, and that if it be dangerous on one side to leave it in the breast of five States to protract a war, it is equally necessary on the other to restrain seven States from saddling the Union with any stipulations which they may please to interweave with a Treaty of peace. I was once led by this question to search the files of Congress for such lights as the history of the Confederation might furnish, and on a review now of my papers, I find the evidence from that source to consist of the following circumstances: In Doctor Franklin's "Sketch of Articles of Confederation," laid before Congress, on the 21st day of July, 1775, no number beyond a majority is required in any cases. In the plan reported to Congress by the Committee appointed 11th June, 1776, the general enumeration of the powers of Congress in article 18 is expressed in a similar manner with the first clause in the present 9th article, as are the exceptions in a subsequent clause of the 18th article of the report, with the excepting clause as it now stands; and yet in the margin of the Report, and I believe in the same handwriting, there is a "Qu.: If so large a majority is necessary in concluding a Treaty of peace." There are sundry other marginal queries in the report from the same pen.

Writings of Madison, Volume 1: 1769-1793, p.70

Hence it would seem that, notwithstanding the preceding discrimination between the powers of "determining on peace" and "entering into Treaties," the latter was meant by the Committee to comprise the former. The next form in which the articles appear is a printed copy of the Report as it had been previously amended, with sundry amendments, erasures, and notes, on the printed copy itself, in the hand of Mr. Thomson. In the printed text of this paper, Art. 14, the phraseology which defines the general powers of Congress is the same with that in Art. 18 of the manuscript report. In the subsequent clause requiring nine States, the text as printed ran thus: "The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any Treaties or alliances except for peace,"the words except for peace being erased, but sufficiently legible through the erasure. The fair inference from this passage seems to be: 1. That without those words nine States were held to be required for concluding peace. 2. That an attempt had been made to render seven States competent to such an act, which attempt must have succeeded, either on a preceding discussion in Congress, or in a Committee of the whole, or a special committee. 3. That on fuller deliberation, the power of making Treaties of peace was meant to be left on the same footing with that of making all other Treaties. The remaining papers on the files have no reference to this question.

Writings of Madison, Volume 1: 1769-1793, p.71

Another question which several times during my service in Congress exercised their deliberations was, whether seven States could revoke a Commission for a Treaty issued by nine States, at any time before the faith of the Confederacy should be pledged under it. In the instance of a proposition in 1781 to revoke a Commission which had been granted under peculiar circumstances in 1779 to Adams, to form a treaty of commerce with Great Britain, the competency of seven States was resolved on, (by seven States indeed,) and a revocation took place accordingly. It was, however, effected with much difficulty, and some members of the minority even contested the validity of the proceeding. My own opinion then was, and still is, that the proceeding was equally valid and expedient. The circumstances which had given birth to the commission had given place to others totally different; not a single step had been taken under the commission which could affect the honor or faith of the United States, and it surely can never be said that either the letter or spirit of the Confederation requires the same majority to decline as to engage in foreign treaties. The safest method of guarding against the execution of those great powers, after the circumstances which dictated them have changed, is to limit their duration, trusting to renewals as they expire, if the original reasons continue. My experience of the uncertainty of getting an affirmative vote even of seven States had determined me, before I left Congress, always to contend for such limitations.

Writings of Madison, Volume 1: 1769-1793, p.72

I thought the sense of the term "appropriation" had been settled by the latter practice of Congress to be the same as you take it to be. I always understood that to be the true, the parliamentary, and the only rational sense. If no distinction be admitted between the "appropriation of money to general uses" and "expenditures in detail" the Secretary of Congress could not buy quills or wafers without a vote of nine States entered on record, and the Secretary to the Committee of the States could not do it at all. In short, unless one vote of appropriation can extend to a class of objects, there must be a physical impossibility of providing for them; and the extent and generality of such classes can only be determined by discretion and conveniency. It is observable, that in the specification of the powers which require nine States, the single technical word "appropriate" is retained. In the general recital which precedes, the word "apply" as well as "appropriate" is used.

Writings of Madison, Volume 1: 1769-1793, p.72

You were not mistaken in supposing I had in conversation restrained the authority of the federal Court to territorial disputes, but I was egregiously so in the opinion I had formed. Whence I got it I am utterly at a loss to account. It could not be from the Confederation itself, for words could not be more explicit. I detected the error a few days ago in consulting the articles on another subject, and had noted it for my next letter to you.

Writings of Madison, Volume 1: 1769-1793, p.72

I am not sure that I comprehend your idea of a cession of the Territory beyond the Kenhaway and on this side the Ohio. As all the soil of value has been granted out to individuals, a cession in that view would be improper, and a cession of the jurisdiction to Congress can be proper only where the Country is vacant of settlers. I presume your meaning, therefore, to be no more than a separation of that country from this, and an incorporation of it into the Union; a work to which all three must be parties. I have no reason to believe there will be any repugnance on the part of Virginia.

Writings of Madison, Volume 1: 1769-1793, p.73

The effort of Pennsylvania for the Western commerce does credit to her public councils. The commercial genius of this State is too much in its infancy, I fear, to rival the example. Were this less the case, the confusion of its affairs must stifle all enterprize. I shall be better able, however, to judge of the practicability of your hint when I know more of them.

Writings of Madison, Volume 1: 1769-1793, p.73

The declension of Georgetown does not surprise me, tho' it gives me regret. If the competition should lie between Trenton and Philadelphia, and depend on the vote of New York, it is not difficult to foresee into which scale it will be thrown, nor the probable effect of such decision on our Southern hopes.

Writings of Madison, Volume 1: 1769-1793, p.73

I have long regarded the council as a grave of useful talents, as well as objectionable in point of expence, yet I see not how such a reform as you suggest can be brought about. The Constitution, tho' readily overleaped by the Legislature on the spur of an occasion, would probably be made a bar to such an innovation. It directs that eight members be kept up, and requires the sanction of four to almost every act of the Governor. Is it not to be feared, too, that these little meliorations of the Government may turn the edge of some of the arguments which ought to be laid to its root? I grow every day more and more solicitous to see this essential work begun. Every day's delay settles the Government deeper into the habits of the people, and strengthens the prop which their acquiescence gives it. My field of observation is too small to warrant any conjecture of the public disposition towards the measure; but all with whom I converse lend a ready ear to it. Much will depend on the politics of Mr. Henry, which are wholly unknown to me. Should they be adverse, and G. Mason not in the Assembly, hazardous as delay is, the experiment must be put off to a more auspicious conjuncture.

Writings of Madison, Volume 1: 1769-1793, p.73

The charter granted in 1732 to Lord Baltimore makes, if I mistake not, the Southern shore of the Potowmac the boundary of Maryland on that side. The Constitution of Virginia cedes to that State "all the territories contained within its charter, with all the rights of property, jurisdiction, and Government, and all other rights whatsoever, which might at any time have been claimed by Virginia, excepting only the free navigation and use of the Rivers Potowmac and Pohomoqne, &c." Is it not to be apprehended that this language will be construed into an entire relinquishment of the Jurisdiction of these rivers, and will not such a construction be fatal to our port regulations on that side, and otherwise highly inconvenient? I was told on my journey along the Potowmac of several flagrant evasions which had been practiced with impunity and success by foreign vessels which had loaded at Alexandria. The jurisdiction of half the rivers ought to have been expressly reserved. The terms of the surrender are the more extraordinary as the patents of the N. neck place the whole river Potowmac within the Government of Virginia; so that we were armed with a title both of prior and posterior date to that of Maryland. What will be the best course to repair the error?—to extend our laws upon the River, making Maryland the plaintiff if she chooses to contest their authority—to state the case to her at once and propose a settlement by negociation—or to propose a mutual appointment of Commissioners for the general purpose of preserving a harmony and efficacy in the regulations on both sides? The last mode squares best with my present ideas. It can give no irritation to Maryland; it can weaken no plea of Virginia; it will give Maryland an opportunity of stirring the question if she chooses; and will not be fruitless if Maryland should admit our jurisdiction If I see the subject in its true light, no time should be lost in fixing the interest of Virginia. The good humour into which the Cession of the back lands must have put Maryland forms an apt crisis for any negotiations which may be necessary You will be able, probably, to look into her charter and her laws, and to collect the leading sentiments relative to the matter.

Writings of Madison, Volume 1: 1769-1793, p.74

The winter has been so severe that I have never renewed my call on the library of Monticello, and the time is now drawing so near when I may pass for a while into a different scene, that I shall await at least the return to my studies. Mr. L. Grymes told me a few days ago that a few of your books which had been borrowed by Mr. W. Maury, and ordered by him to be sent to his brother's, the clergyman, on their way to Monticello, were still at the place which Mr. M. removed from. I desired Mr. Grymes to send them to me instead of the Parson, supposing, as the distance is less, the books will probably be sooner out of danger from accidents, and that a conveyance from hence will not be less convenient. I calculated, also, on the use of such of them as may fall within my plan.

Writings of Madison, Volume 1: 1769-1793, p.75

I lately got home the trunk which contained my Buffon, but have barely entered upon him. My time begins already to be much less my own than during the winter blockade. I must leave to your discretion the occasional purchase of rare and valuable books, disregarding the risk of duplicates. You know tolerably well the objects of my curiosity. I will only particularize my wish of whatever may throw light on the general constitution and droit publique of the several confederacies which have existed. I observe in Boenaud's catalogue several pieces on the Dutch, the German, and the Helvetic. The operations of our own must render all such lights of consequence. Books on the law of N. & N. fall within a similar remark. The tracts of Bynkershoeck, which you mention, I must trouble you to get for me, and in French, if to be had, rather than latin. Should the body of his works come nearly as cheap as these select publications, perhaps it may be worth considering whether the whole would not be preferable. Is not Wolfius also worth having? I recollect to have seen at Pritchard's a copy of Hawkin's abridgement of Co. Litt. I would willingly take it if it be still there, and you have an opportunity. A copy of Deane's letters, which were printed in New York, and which I failed to get before I left philadelphia, I should also be glad of. I use this freedom in confidence that you will be equally free in consulting your own conveniency whenever I encroach upon it. I hope you will be so, particularly in the request I have to add.

Writings of Madison, Volume 1: 1769-1793, p.76

One of my parents would be considerably gratified with a pair of good spectacles, which are not to be got here. The particular readiness of Dudley to serve you inclines me to think that an order from you would be well executed. Will you, therefore, be so good as to get from him one of his best pebble and double-jointed pair, for the age fifty-five, or thereabouts, with a good case, and forward them by the first safe conveyance to me in Orange or at Richmond, as the case may be. If I had thought of this matter before Mr. Maury set out, I might have lessened your trouble. It is not material whether I be repayed at the Bank of Philadelphia or the Treasury of Virginia, but I beg it may be at neither till you are made secure by public remittances. It will be necessary, at any rate, for £620 or 30 to be left in your hands or in the Bank for little expenditures which your kindness is likely to bring upon you.

Writings of Madison, Volume 1: 1769-1793, p.76

The Executive of South Carolina, as I am informed by the Attorney, have demanded of Virginia the surrender of a citizen of Virginia, charged on the affidavit of Jonas Beard, Esqr., whom the Executive of South Carolina represent to be "a Justice of the peace, a member of the Legislature, and a valuable, good man," as follows: that "three days before the 25th day of October, 1783, he (Mr. Beard) was violently assaulted by G. H., during the sitting of the Court of General Sessions, without any provocation thereto given, who beat him (Mr. B.) with his fist and switch over the face, head, and mouth, from which beating he was obliged to keep his room until the said 25th day of October, 1783, and call in the assistance of a physician." Such is the case as collected by Mr. Randolph from the letter of the Executive of South Carolina. The questions which arise upon it are: 1. Whether it be a charge of high misdemeanor within the meaning of the fourth Article of Confederation. 2. Whether, in expounding the terms high misdemeanor, the law of South Carolina, or the British law as in force in the United States before the Revolution, ought to be the standard. 3. If it be not a casus fcederis, what the law of nations exacts of Virginia? 4. If the law of nations contains no adequate provision for such occurrences, whether the intimacy of the Union among the States, the relative position of some, and the common interest of all them in guarding against impunity for offences which can be punished only by the jurisdiction within which they are committed, do not call for some supplemental regulations on this subject? Mr. Randolph thinks Virginia not bound to surrender the fugitive until she be convinced of the facts, by more substantial information, and of its amounting to a high misdemeanor, by inspection of the law of South Carolina, which, and not the British law, ought to be the criterion. His reasons are too long to be rehearsed.

Writings of Madison, Volume 1: 1769-1793, p.77

I know not, my dear sir, what to reply to the affectionate invitation which closes your letter. I subscribe to the justness of your general reflections; I feel the attractions of the particular situation you point out to me. I cannot altogether renounce the prospect, still less can I as yet embrace it. It is very far from being improbable that a few years more may prepare me for giving such a destiny to my future life, in which case the same or some equally convenient spot may be commanded by a little augmentation of price. But wherever my final lot may fix me, be assured that I shall ever remain, with the sincerest affection and esteem,

Writings of Madison, Volume 1: 1769-1793, p.77

Your friend and servant.

To Thomas Jefferson.

ORANGE, April 25th, 1784.

Writings of Madison, Volume 1: 1769-1793, p.77

DEAR SIR,—Your favor of the 16th of March came to hand a few days before Mazzci called on me. His plan was to have proceeded hence directly to Annapolis. My conversation led him to premise a visit to Mr. Henry, from whence he proposed to repair to Richmond, and close his affairs with the Executive. Contrary to my expectation he returned hither on Thursday last, proposing to continue his circuit through Gloucester, York, and Williamsburg, recommended by Mr. Henry, for obtaining from the former members of the Council certain facts relating to his appointment, of which the vouchers have been lost. This delay, with the expectation of your adjournment, will probably prevent his visit to Congress. Your letter gave me the first information both of his views towards a Consulate and of his enmity towards Franklin; the first was not betrayed to me by any conversation either before or after I made known to him the determination of Congress to confine such appointments to natives of America.

Writings of Madison, Volume 1: 1769-1793, p.78

As to the 2nd, he was unreserved, alleging at the same time that the exquisite cunning of the old Fox has so enveloped his iniquity, that its reality cannot be proved by those who are thoroughly satisfied of it. It is evident, from several circumstances stated by himself, that his enmity has been embittered, if not wholly occasioned, by incidents of a personal nature. Mr. Adams is the only public man whom he thinks favorably of, or seems to have associated with, a circumstance which their mutual characters may perhaps account for. Notwithstanding these sentiments towards Franklin and Adams, his hatred of England remains unabated, and does not exceed his partiality for France, which, with many other considerations which need not be pointed out, persuade me that however dreadful an actual visit from him might be to you in a personal view, it would not produce the public mischiefs you apprehend from it.

Writings of Madison, Volume 1: 1769-1793, p.78

By his interview with Mr. Henry, I learn that the present politics of the latter comprehend very friendly views toward the confederacy, a wish tempered with much caution for an amendment of our own constitution, a patronage of the payment of British debts, and of a scheme of general assessment.

Writings of Madison, Volume 1: 1769-1793, p.78

The want of both a Thermometer and Barometer had determined me to defer a meteorological diary till I could procure these instruments. Since the receipt of your letter, I have attended to the other columns.

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I hope the letter which had not reached you at the date of your last did not altogether miscarry. On the 16th of March I wrote you fully on sundry points. Among others, I suggested to your attention the case of the Potowmac, having in my eye the river below the head of navigation. It will be well, I think, to sound the ideas of Maryland also, as to the upper parts of the north branch of it. The policy of Baltimore will probably thwart, as far as possible, the opening of it; and without a very favorable construction of the right of Virginia, and even the privilege of using the Maryland Bank, it would seem that the necessary works could not be accomplished.

Writings of Madison, Volume 1: 1769-1793, p.79

Will it not be good policy to suspend further Treaties of Commerce till measures shall have taken place in America which may correct the idea in Europe of impotency in the federal Government in matters of Commerce? Has Virginia been seconded by any other State in her proposition for arming Congress with power to frustrate the unfriendly regulations of Great Britain with regard to her West India islands? It is reported here that the late change of her ministers has revived the former liberality which seemed to prevail on that subject. Is the Impost gaining or Posing ground among the States? Do any considerable payments come into the Continental Treasury ? Does the settlement of the public accounts make any comfortable progress? Has any resolution been taken by Congress touching the old Continental currency? Has Maryland fore-borne to take any steps in favour of George Town? Can you tell me whether any question in the Court of Appeals has yet determined whether the war ceased on our coast on the 3d of March or the 3d of April?

Writings of Madison, Volume 1: 1769-1793, p.79

The books which I was told were still at the place left by Mr. W. Maury had been sent away at the time Mr. L. Grymes informed me of them.

Writings of Madison, Volume 1: 1769-1793, p.79

Mr. Mazzei tells me that a subterraneous city has been discovered in Siberia, which appears to have been once populous and magnificent. Among other curiosities it contains an equestrain statue, around the neck of which was a golden chain 200 feet in length, so exquisitely wrought that Buffon inferred from a specimen of 6 feet, sent him by the Empress of Russia, that no artist in Paris could equal the workmanship. Mr. Mazzei saw the specimen in the hands of Buffon, and heard him give this opinion of it. He heard read at the same time a letter from the Empress to Buffon, in which she desired the present to be considered as a tribute to the man to whom Natural History was so much indebted. Mr. Faujas de St. Fond thought the city was between 72 and 74 N. L.; the son of Buffon, between 62 and 64°. Mr. M., being on the point of departure, had no opportunity of ascertaining the fact. If you should have had no better account of the discovery, this will not be unacceptable to you, and will lead you to obtain one.

Writings of Madison, Volume 1: 1769-1793, p.80

I propose to set off for Richmond towards the end of this week. The election in this county was on thursday last. My colleague is Mr. Charles Porter.

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I am, your affecte friend.

To Thomas Jefferson.

RICHMOND, May 15th, 1784.

Writings of Madison, Volume 1: 1769-1793, p.80

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.80

The arrangement which is to carry you to Europe has been made known to me by Mr. Short, who tells me he means to accompany or follow you. With the many reasons which make this event agreeable, I cannot but mix some regret that your aid towards a revisal of our State Constitution will be removed. I hope, however, for your licence to make use of the ideas you were so good as to confide to me, so far as they may be necessary to forward the object. Whether any experiment will be made this session is uncertain. Several members with whom I have casually conversed give me more encouragement than I had indulged. As Col. Mason remains in private life, the expediency of Starting the idea will depend much on the part to be expected from R. H. Lee and Mr. Henry. The former is not yet come to this place, nor can I determine any thing as to his politics on this point. The latter arrived yesterday, and from a short conversation I find him strenuous for invigorating the Federal Government, though without any precise plan, but have got no explanations from him as to our internal Government. The general train of his thoughts seemed to suggest favorable expectations. We did not make a house till Wednesday last, and have done nothing yet but arrange the committees and receive petitions. The former Speaker was re-elected without opposition. If you will, either before or after your leaving America, point out the channel of communication with you in Europe, I will take the pleasure of supplying you from time to time with our internal transactions, as far as they may deserve your attention; and expect that you will freely command every other service during your absence which it may be in my power to render.

Writings of Madison, Volume 1: 1769-1793, p.81

Wishing you every success and happiness, I am, dear sir, your affecte friend,

To Col. James Madison.

(Extracts.)

RICHMOND, June 5th, 1784.

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Writings of Madison, Volume 1: 1769-1793, p.81

The House of Delegates have agreed to postpone the June tax till January. It is not improbable that the Senate may require half to be collected at an earlier period.

\* \* \* \* \* \* \* \* \* \*

June 15th.—The Senate have ratified the postponement of the taxes till the last day of January. It is thought by some that an intermediate tax of some kind or other will be essential, but whether any such will take place is uncertain, and perhaps improbable, though we shall make a strange figure, after our declarations with regard to Congress and the Continental debt, if we wholly omit the means of fulfilling them.

\* \* \* \* \* \* \* \* \* \*

June 24th.—Much time has been lately spent by the Assembly in abortive efforts for an amendment of the Constitution, and fulfilling the Treaty of Peace in the article of British debts. The residue of the business will not be completed till next week.

Notes, Speech of May 1784.

Writings of Madison, Volume 1: 1769-1793, p.82

[Notes in the hand-writing of Mr. Madison, of a speech made by him in the House of Delegates of Virginia, at the May session of 1784, in support of a proposition for a Convention to revise the Constitution of the State :]

I. Nature of Constitution examd. See Mass., P. 7, 8, 15, 16; N.Y., P. 63; Penna, P. 85, 86; Del., P. 106; N.C., P. 146, 150; S.C., P. 188; Geo., P. 186.

II. Convention of 1776, without due power from people.

1. Passed ordinance for Constitun on recommendation of Congress of 15 May, prior to Declarn of Independence, as was done in N.H., P. 1, & N.J., P. 78, 84.

2. Passed from impulse of necessity. See last clause of the preamble.

3. Before independence declared by Congs.

4. Power from people nowhere pretended.

5. Other ordinances of same session deemed alterable, as relative to Senators—oaths—salt.

6. Provision for case of west Augusta, in its nature temporary.

7. Convention make themselves branch of the Legislature.

III. Constitution, if so to be called, defective.

1. In a union of powers, which is tyranny. Montesqu.

2. Executive Department dependent on Legislature: 1, for salary; 2. for character in triennial expulsion; 3, expensive; 4, may be for life, contrary to article 5 of Declaration of rights.

3. Judiciary dependent for amt of salary.

4. Privileges and wages of members of Legislature unlimited and undefined.

5. Senate badly constituted and improperly barred of the originating of Laws.

6. Equality of representation not provided for. See N.Y., P. 65; S.C., P. 165.

7. Impeachments of great moment on bad footing.

8. County courts seem to be fixed, P. 143, 144; also general Court.

9. Habeas corpus omitted.

10. No mode of expounding Constitution, and of course no check to Genl Assembly.

11. Right of suffrage not well fixed—quaere, if popish recusants, &c., not disfranchised?

IV. Constitution rests on acquiescence—a bad basis.

V. Revision during war improper; on return of peace, decency requires surrender of powers to people.

VI. No danger in referring to the people, who already exercise an equivalent power.

VII. If no change be made in the Constitution, it is advisable to have it ratified and secured against the doubts and imputations under which it now labors.

Proposition to the Virginia

House of Delegates, 1784.

Writings of Madison, Volume 1: 1769-1793, p.83

[Proposition of Mr. Madison, on the subject of British Debts, submitted to the House of Delegates of Virginia, at the May session, 1784 :]

Writings of Madison, Volume 1: 1769-1793, p.83

Whereas by the 4th article of the Definitive Treaty of peace, ratified and proclaimed by the United States in Congress assembled, on the 14th day of Jany. last, "it is agreed that creditors on either side shall meet with no lawful impediment to the recovery of the full value in sterling money of all bona fide debts heretofore contracted;" and whereas it is the duty and determination of, this Commonwealth, with a becoming reverence for the faith of Treaties, truly and honestly to give to the said article all the effect which circumstances not within its controul will now possibly admit; and inasmuch as the debts due from the good people of this Commonwealth to the subjects of G. Britain were contracted under the prospect of gradual payments, and are justly computed to exceed the possibility of full payment at once, more especially under the diminution of their property resulting from the devastations of the late war, and it is therefore conceived that the interest of the British Creditors themselves will be favored by fixing certain reasonable periods at which divided payments shall be made:

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Resolved, that it is the opinion of this committee that the laws now in force relative to British debts ought to be so varied and emended as to make the same recoverable in the proportions and at the periods following; that is to say, part thereof, with interest of 5 pr ct. from the date of the Definitive Treaty of peace, on the — day of —, another on the — day of —, another on the — day of —, and the remaining on the — day of—.

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And whereas it is further stipulated by Art. 7th of the said Treaty, among other things, that "his Britannic Majesty shall with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies, garrisons, and fleets, from the said United States, and from every port, place, and Harbour, within the same, leaving in all fortifications the American artillery that may be therein, and shall also order and cause all archives, records, deeds, and papers, belonging to any of the said States, or their citizens, which in the course of the war may have fallen into the hands of his officers, to be forthwith restored and delivered to the proper States and persons to whom they belong," which stipulation was in the same words contained in the Provisional articles, signed at Paris on the 30th day of November, 1782, by the Commissioners empowered on each part; and whereas posterior to the date of the said provisional articles, sundry negroes, the property of citizens of this Commonwealth, were carried away from the city of New York whilst in possession of the British forces, and no restitution or satisfaction on that head has been made, either before or since the Definitive Treaty of Peace; and whereas the good people of this Commonwealth have a clear right to expect that whilst, on one side, they are called upon by the U. S. in Congress assembled, to whom by the federal Constitution the powers of War and Peace are exclusively delegated, to carry into effect the stipulations in fayour of British subjects, an equal observance of the stipulations in their own favor should, on the other side, be duly secured to them under the authority of the confederacy:

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Resolved, that it is the opinion of this Committee that the Delegates representing this State in Congress ought to be instructed to urge in Congress peremptory measures for obtaining from G. Britain satisfaction for the infringement of the article aforesaid; and in case of refusal or unreasonable delay of such satisfaction, to urge that the sanction of Congress be given to the just policy of retaining so much of the debts due from citizens of this Commonwealth to British subjects as will fully repair the losses sustained from such infringement; and that to enable the said Delegates to proceed herein with the greater precision and effect, the Executive ought to be requested to take immediate measures for obtaining and transmitting to them all just claims of the citizens of this Commonwealth under the 7th art., as aforesaid.

To General Washington.

RICHMOND, July 2d, 1784.

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DEAR SIR,—The sanction given by your favor of the 12th to my desire of remunerating the genius which produced "Common Sense," has led to a trial in the Legislature for the purpose. The gift first proposed was a moiety, of the tract on the Eastern Shore known by the name of the Secretary's land. The easy reception it found induced the friends of the measure to add the other moity to the proposition, which would have raised the market value of the donation to about £4,000, or upwards; though it would not probably have commanded a rent of more than £100 per annum. In this form the Bill passed through two readings. The third reading proved that the tide had suddenly changed,\* for the Bill was thrown out by a large majority. An attempt was next made to sell the land in question, and apply £62,000 of the money to the purchase of a Farm for Mr. Paine. This was lost by a single vote. Whether a greater disposition to reward patriotic and distinguished exertions of genius will be found on any succeeding occasion is not for me to predetermine. Should it finally appear that the merits of the Man, whose writings have so much contributed to infuse and foster the spirit of Independence in the people of America, are unable to inspire them with a just beneficence, the world, it is to be feared, will give us as little credit for our policy as for our gratitude in this particular. The wish of Mr. Paine to be provided for by separate acts of the States, rather than by Congress, is, I think, a natural and just one. In the latter case it might be construed into the wages of a mercenary writer. In the former, it would look like the returns of gratitude for voluntary services. Upon the same principle, the mode wished by Mr. Paine ought to be preferred by the States themselves.

To Thomas Jefferson.

RICHMOND, July 3d, 1784.

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DEAR SIR,—The Assembly adjourned the day before yesterday. I have been obliged to remain here since on private business for my Countrymen with the Auditor's and other departments. I had allotted towards the close of the session to undertake a narration for you of the proceedings, but the hurry, on which I did not sufficiently calculate, rendered it impossible, and I now find myself so abridged in time that I cannot fulfil my intentions. It will, however, be the less material, as Mr. Short, by whom this goes, will be possessed of almost every thing I could say. I inclose you a list of the acts passed, excepting a few which had not received the last solemnity when the list went to the press. Among the latter is an Act under which 1 per cent. of the land tax will be collected this fall, and will be for Congress. This, with the 1 1/2 per cent. added to the impost on trade, will be all that Congress will obtain on their last requisition for this year. It will be much short of what they need, and of what might be expected from the declarations with which we introduced the business of the Session. These declarations will be seen in the Journal, a copy of which I take for granted will be carried by Mr. Short. Another act not on the list lays duties on law proceedings, on alienations of land, on probats of wills, administration, and some other transactions which pass through official hands. This tax may be considered as the basis of a stamp tax; it will probably yield fifteen or twenty thousand pounds at present, which is set apart for the foreign Creditors of this State.

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We made a warm struggle for the establishment of Norfolk and Alexandria as our only ports; but were obliged to add York, Tappahannock, and Bermuda hundred, in order to gain any thing and to restrain to these ports foreigners only. The footing on which British debts are put will appear from the Journal, noting only that a law is now in force which forbids suits for them. The minority in the Senate have protested on the subject. Having not seen the protest, I must refer to Mr. Short, who will no doubt charge himself with it.

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A trial was made for a State Convention, but in a form not the most lucky. The adverse temper of the House, and particularly of Mr. Henry, had determined me to be silent on the subject. But a petition from Augusta, having among other things touched on a Reform of the Government, and R. H. Lee arriving with favorable sentiments, we thought it might not be amiss to stir the matter. Mr. Stuart, from Augusta, accordingly proposed to the Committee of propositions the Resolutions reported to the House, as per Journal. Unluckily, R. H. Lee was obliged by sickness to leave us the day before the question came on in committee of the whole, and Mr. Henry shewed a more violent opposition than we expected. The consequence was, that after two days' Debate the Report was negatived, and the majority, not content with stopping the measure for the present, availed themselves of their strength to put a supposed bar on the Journal against a future possibility of carrying it. The members for a Convention with full powers were not considerable for number, but included most of the young men of education and talents. A great many would have concurred in a Convention for specified amendments, but they were not disposed to be active even for such a qualified plan.

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Several petitions came forward in behalf of a General assessment, which was reported by the Committee of Religion to be reasonable. The friends of the measure did not chuse to try their strength in the House. The Episcopal Clergy introduced a notable project for re-establishing their independence of the laity. The foundation of it was, that the whole body should be legally incorporated, invested with the present property of the Church, made capable of acquiring indefinitely, empowered to make canons and bye-laws not contrary to the laws of the land, and incumbents, when once chosen by vestries, to be immoveable otherwise than by sentence of the convocation. Extraordinary as such a project was, it was preserved from a dishonorable death by the talents of Mr. Henry. It lies over for another session.

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The public lands at Richmond not wanted for public use are ordered to be sold, and the money, aided by subscriptions, to be applied to the erection of buildings on the Hill, as formerly planned. This fixes the Government, which was near being made as vagrant as that of the United States, by a coalition between the friends of Williamsburg and Staunton. The point was carried by a small majority only.

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The lands about Williamsburg are given to the University, and are worth, Mr. H. Tazewell thinks, £10,000 to it. For the encouragement of Mr. Maury's School, licence is granted for a lottery to raise not more than £2,000.

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The revisal is ordered to be printed. A frivolous economy restrained the number of copies to 500. I shall secure the number you want and forward them by the first opportunity. The three revisors' labour was recollected on this occasion, and £500 voted for each. I have taken out your warrant in five parts, that it may be the more easily converted to use. It is to be paid out of the first unappropriated money in the Treasury, which renders its value very precarious unless the Treasurer should be willing to endorse it "receivable in taxes," which he is not obliged to do. I shall await your orders as to the disposition of it.

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An effort was made for Paine, and the prospect once flattering. But a sudden opposition was brewed up, which put a negative on every form which could be given to the proposed remuneration. Mr. Short will give you particulars.

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Col. Mason, the Attorney, Mr. Henderson, and myself, are to negociate with Maryland, if she will appoint Commissioners to establish regulations for the Potowmac.

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Since the receipt of yours of May 8, I have made diligent enquiry concerning the several schools most likely to answer for the education of your nephews. My information has determined me finally to prefer that of Mr. W. Maury, as least exceptionable. I have accordingly recommended it to Mrs. Cart, and on receiving her answer shall write to Mr. Maury, pointing out your wishes as to the course of study proper for Master Carr. I have not yet made up any opinion as to the disposition of your younger nephew, but shall continue my enquiries till I can do so. I find a greater deficiency of proper schools than I could have supposed, low as my expectations were on the subject. All that I can assure you of is, that I shall pursue your wishes with equal pleasure and faithfulness.

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Your hint for appropriating the Slave tax to Congress fell in precisely with the opinion I had formed and suggested to those who are most attentive to our finances. The existing appropriation of half of it, however, to the military debt, was deemed a bar to such a measure. I wished for it because the slave holders are Tobacco makers, and will generally have hard money, which alone will serve for Congress. Nothing can exceed the confusion which reigns throughout our revenue department. We attempted, but in vain, to ascertain the amount of our debts and of our resources, as a basis for something like a system. Perhaps by the next session the information may be prepared. This confusion, indeed, runs through all our public affairs, and must continue as long as the present mode of legislating continues. If we cannot amend the Constitution, we must at least call in the aid of accurate penmen for extending Resolutions into bills, which at present are drawn in a manner that must soon bring our laws and our Legislature into contempt among all orders of Citizens.

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I have communicated your request from Philadelphia, May 25, to Mr. Zane. He writes by Mr. Short, and tells me he is possessed of the observations which he promised you. I found no opportunity of broaching a scheme for opening the navigation of the Potowmac under the auspices of General Washington, or of providing for such occurrences as the case of Marbois. With the aid of the Attorney, perhaps something may be done on the latter point next Session.

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Adieu, my dear friend.

To Thomas Jefferson.

ORANGE, August 20th, 1784.

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DEAR SIR,—Your favor of the 1st July, written on the eve of your embarcation from Boston, was safely delivered by your servant Bob about the 20th of the same month. Along with it I received the pamphlet on the West India trade, and a copy of Deane's letters.

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My last was written from Richmond on the adjournment of the General Assembly, and put into the hands of Mr. Short. It contained a cursory view of legislative proceedings, referring to the bearer for a more circumstantial one. Since the adjournment, I have been so little abroad that I am unable to say with certainty how far those proceedings harmonize with the vox populi. The opinion of some who have better means of information is, that a large majority of the people, either from a sense of private justice or of national faith, dislike the footing on which British debts are placed. The proceedings relative to an amendment of the State Constitution seem to interest the public much less than a friend to the scheme would wish.

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The act which produces most agitation and discussion is that which restrains foreign trade to enumerated ports. Those who meditate a revival of it on the old plan of British monopoly and diffusive credit, or whose mercantile arrangements might be disturbed by the innovation, with those whose local situations give them, or are thought to give them, an advantage in large vessels coming up the rivers to their usual stations, are busy in decoying the people into a belief that trade ought in all cases to be left to regulate itself; that to confine it to particular ports is to renounce the boon with which nature has favoured our country; and that if one set of men are to be importers and exporters, another set to be carryers between the mouths and heads of the rivers, and a third retailers, trade, as it must pass through so many hands, all taking a profit, must in the end come dearer to the people than if the simple plan should be continued which unites these several branches in the same hands.

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These and other objections, tho' unsound, are not altogether unplausible, and being propagated with more zeal and pains by those who have a particular interest to serve than proper answers are by those who regard the general interest only, make it very possible that the measure may be rescinded before it is to take effect. Should it escape such a fate, it will be owing to a few striking and undeniable facts, namely, that goods are much dearer in Virginia than in the States where trade is drawn to a general mart; that even goods brought from Philadelphia and Baltimore to Winchester, and other Western and South Western parts of Virginia, are retailed cheaper than those imported directly from Europe are sold on tide water; that generous as the present price of our Tobacco appears, the same article has currently sold 15 or 20 per cent. at least higher in Philadelphia, where, being as far from the ultimate market, it cannot be intrinsically worth more; that scarce a single vessel from any part of Europe, other than the British Dominions, comes into our ports, whilst vessels from so many other parts of Europe resort to other ports of America, almost all of them, too, in pursuit of the staple of Virginia.

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The exemption of our own citizens from the restrictions is another circumstance that helps to parry attacks on the policy of it. The warmest friends to the law were averse to this discrimination, which not only departs from its principle, but gives it an illiberal aspect to foreigners; but it was a necessary concession to prevailing sentiments. The like discrimination between our own citizens and those of other States, contrary to the federal articles, is an erratum which was omitted to be rectified, but will no doubt be so.

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Notwithstanding the languor of our direct trade with Europe, this country has indirectly tasted some of the fruits of Independence. The price of our last crop of Tobacco has been, on James River, from 36s. to 42s. 6d. pr cwt., and has brought more specie into the country than it ever before contained at one time. The price of Hemp, however, has been reduced as much by the peace as that of Tobacco has been raised, being sold, I am told, as low as 20s. per cwt. beyond the Mountains. Our crops of wheat have been rather scanty, owing partly to the rigors of the Winter, partly to an insect,\* which in many places has destroyed whole fields of that grain. The same insect has, since the harvest, fallen upon the Corn with considerable damage; but without some very unusual disaster to that article the crop will be exuberant, and will afford plentiful supplies for the W. India Islands, if their European Masters will no longer deny themselves the benefit of such a trade with us. The crop of the Tobacco now on the ground will, if the weather continues favorable, be tolerably good, though much shortened on the whole by the want of early seasons for transplanting, and an uncommon number of the insects which prey upon it in its different stages. It will be politic, I think, for the people here to push the culture of this article whilst the price keeps up, it becoming more apparent every day that the richness of soil and fitness of climate on the Western waters will, in a few years, both reduce the price and engross the culture of it. This event begins to be generally foreseen, and increases the demand greatly for land on the Ohio. What think you of a guinea an acre being already the price for choice tracts, with sure titles?

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Nothing can delay such a revolution with regard to our staple but an impolitic and perverse attempt in Spain to shut the mouth of the Mississippi against the inhabitants above. I say delay, because she can no more finally stop the current of trade down the river than she can that of the river itself. The importance of this matter is in almost every mouth. I am frequently asked what progress has been made towards a treaty with Spain, and what may be expected from her liberality on this point, the querists all counting on an early ability in the western settlements to apply to other motives, if necessary. My answers have, both from ignorance and prudence, been evasive. I have not thought fit, however, to cherish unfavorable impressions, being more and more led by revolving the subject to conclude that Spain will never be so mad as to persist in her present ideas. For want of better matter for correspondence, I will state the grounds on which I build my expectations.

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First. Apt as the policy of nations is to disregard justice and the general rights of mankind, I deem it no small advantage that these considerations are in our favour. They must be felt in some degree by the most corrupt councils on a question whether the interest of millions shall be sacrificed to views concerning a distant and paltry settlement; they are every day acquiring weight from the progress of philosophy and civilization, and they must operate on those nations of Europe who have given us a title to their friendly offices, or who may wish to gain a title to ours.

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Secondly. May not something be hoped from the respect which Spain may feel for consistency of character on an appeal to the doctrine maintained by herself in the year 1609, touching the Scheld, or at least from the use which may be made of that fact by the powers disposed to favor our views ?

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Thirdly. The interest of Spain at least ought to claim her attention. 1. A free trade down the Mississippi would make New Orleans one of the most flourishing emporiums in the world, and deriving its happiness from the benevolence of Spain, it would feel a firm loyalty to her government. At present it is an expensive establishment, settled chiefly by French, who hate the government which oppresses them, who already covet a trade with the upper country, will become every day more sensible of the rigor which denies it to them, and will join in any attempt which may be made against their masters. 2d. A generous policy on the part of Spain towards the United States will be the cement of friendship and lasting peace with them. A contrary one will produce immediate heart burnings, and sow the seeds of inevitable hostility. The United States are already a power not to be despised by Spain; the time cannot be distant when, in spite of all precautions, the safety of her possessions in this quarter of the Globe must depend more on our peace-ableness than her own power. 3. In another view, it is against the interest of Spain to throw obstacles in the way of our Western settlements. The part she took during the late war shews that she apprehended less from the power growing up in her neighborhood in a state of independence than as an instrument in the hands of Great Britain. If in this she calculated on the impotence of the United States, when dismembered from the British empire, she saw but little way into futurity; if on the pacific temper of republics, unjust irritations on her part will soon prove to her that these have like passions with other governments. Her permanent security seems to lie in the complexity of our federal government, and the diversity of interests among the members of it, which render offensive measures improbable in council and difficult in execution. If such be the case, when thirteen States compose the system, ought she not to wish to see the number enlarged to three and twenty ? A source of temporary security to her is our want of naval strength; ought she not, then, to favor those emigrations to the Western land which, as long as they continue, will leave no supernumerary hands for the sea?

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Fourthly. Should none of these circumstances affect her councils, she cannot surely so far disregard the usage of nations as to contend that her possessions at the mouth of the Mississippi justify a total denial of the use of it to the inhabitants above, when possessions much less disproportionate at the mouth of other rivers have been admitted only as a title to a moderate toll. The case of the Rhine, the Maese, and the Scheld, as well as the Elbe and Odor, are, if I mistake not, in point here. How far other Rivers may afford parallel cases, I cannot say. That of the Mississippi is probably the strongest in the world.

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Fifthly. Must not the general interest of Europe in all cases influence the determinations of any particular nation in Europe, and does not that interest in the present case clearly lie on our side ? 1. All the principal powers have, in a general view, more to gain than to lose by denying a right of those who hold the mouths of rivers to intercept a communication with them above. France, Great Britain, and Sweden, have no opportunity of exerting such a right, and must wish a free passage for their merchandize in every country. Spain herself has no such opportunity, and has, besides, three of her principal rivers, one of them the seat of her metropolis, running through Portugal. Russia can have nothing to lose by denying this pretension, and is bound to do so in favor of her great rivers, the Neiper, the Niester, and the Don, which mouth in the Black sea, and of the passage thro' the Dardanelles, which she extorted from the Turks. The Emperor, in common with the inland States of Germany, and, moreover, by his possessions on the Maese and the Scheld, has a similar interest. The possessions of the King of Prussia on the Rhine, the Elbe, and the Oder, are pledges for his orthodoxy.

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The United Provinces hold, it is true, the mouths of the Maese, the Rhine, and the Scheld, but a general freedom of trade is so much their policy, and they now carry on so much of it through the channel of rivers flowing thro' different dominions, that their weight can hardly be thrown into the wrong scale. The only powers that can have an interest in opposing the American doctrine are the Ottoman, which has already given up the point to Russia; Denmark, which is suffered to retain the entrance of the Baltic; Portugal, whose principal rivers head in Spain; Venice, which holds the mouth of the Po; and Dantzick, which commands that of the Vistula, if it is yet to be considered as a sovereign City. The prevailing disposition of Europe on this point once frustrated an attempt of Denmark to exact a toll at the mouth of the Elbe by means of a fort on the Holstein side, which commands it. The fact is mentioned in Salmon's Gazetteer, under the head of Cluestadt. I have no opportunity of ascertaining the circumstances of the case, or of discovering like cases.

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2. In a more important view, the settlement of the Western country, which will much depend on the free use of the Mississippi, will be beneficial to all nations who either directly or indirectly trade with the United States. By a free expansion of our people the establishment of internal manufactures will not only be long delayed, but the consumption of foreign manufactures long continue increasing; and at the same time, all the productions of the American soil, required by Europe in return for her manufactures, will proportionably increase. The vacant land of the United States lying on the waters of the Mississippi is, perhaps, equal in extent to the land actually settled. If no check be given to the emigrations from the latter to the former, they will probably keep pace at least with the increase of our people, till the population of both becomes nearly equal. For twenty or twenty-five years we shall consequently have as few internal manufactures in proportion to our numbers as at present, and at the end of that period our imported manufactures will be doubled. It may be observed, too, that as the market for their manufactures will first increase, and the provision for supplying it will follow, the price of supplies will naturally rise in favor of those who manufacture them. On the other hand, as the demand for the tobacco, indigo, rice, corn, &c., produced by America for exportation, will neither precede nor keep pace with their increase, the price must naturally sink in favor also of those who consume them.

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Reverse the case by supposing the use of the Mississippi denied to us, and the consequence is, that many of our supernumerary hands who, in the former case, would be husbandmen on the waters of the Mississippi, will, on the latter supposition, be manufacturers on those of the Atlantic, and even those who may not be discouraged from seating the vacant lands will be obliged, by the want of vent for the produce of the soil, and of the means of purchasing foreign manufactures, to manufacture in a great measure for themselves.

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Should Spain yield the point of the navigation of the Mississippi, but at the same time refuse us the use of her shores, the benefit will be ideal only. I have conversed with several persons who have a practical knowledge of the subject, all of whom assure me that not only the right of fastening to the Spanish shore, but that of holding an entrepot in our own, or of using New Orleans as a free port, is essential to a free trade through that channel. It has been said that sea vessels can get up as high as latitude thirty-two to meet the river craft, but it will be with so much difficulty and disadvantage as to amount to a prohibition.

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The idea has also been suggested of large magazines constructed for floating; but if this expedient were otherwise admissible, the hurricanes, which in that quarter frequently demolish edifices on land, forbid the least confidence in those which would have no foundation but water. Some territorial privileges, therefore, seem to be as indispensable to the use of the river as this is to tim prosperity of the western country.

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A place called "The Englishman's turn," on the island of about six leagues below the town of New Orleans, is, I am told, the fittest for our purpose, and that the lower side of the peninsula is the best. Batonrouge is also mentioned as a convenient station; and Point Coupé as the highest to which vessels can ascend with tolerable ease. Information, however, of this, from men who judge from a general and superficial view only, can never be received as accurate. If Spain be sincerely disposed to gratify us, I hope she will be sensible it cannot be done effectually without allowing a previous survey and deliberate choice.

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Should it be impossible to obtain from her a portion of ground by other means, would it be unadvisable to attempt it by purchase ? The price demanded could not well exceed the benefit to be obtained, and a reimbursement of the public advance might easily be provided for by the sale to individuals, and the conditions which might be annexed to their tenures. Such a spot could not fail, in a little time, to equal in value the same extent in London or Amsterdam.

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The most intelligent of those with whom I have conversed think that, on whatever footing our trade may be allowed, very judicious provision will be necessary for a fair adjustment of disputes between the Spaniards and the Americans—disputes which must be not only noxious to trade, but tend to embroil the two nations. Perhaps a joint tribunal, under some modification or other, might answer the purpose. There is a precedent, I see, for such an establishment, in the twenty-first article of the treaty of Munster, in 1648, between Spain and the United Netherlands.

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I am informed that, sometime after New Orleans passed into the hands of Spain, her Governor forbid all British vessels navigating under the treaty of Paris to fasten to the shore, and caused such as did so to be cut loose. In consequence of this practice a British frigate went up near the Town, fastened to the shore, and set out guards to fire on any who might attempt to cut her loose. The Governor, after trying in vain to remove the frigate by menaces, acquiesced, after which British vessels indiscriminately used the shore; and even the residence of British Merchants in the town of New Orleans, trading clandestinely with the Spaniards, as well as openly with their own people, was winked at. The Treaty of 1763 stipulated to British subjects, as well as I recollect, no more than the right of navigating the river; and if that of using was admitted under that stipulation, the latter right must have been admitted to be included in the former.

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In consequence of my letter to Mrs. Cart, I have been called on by your elder nephew, who is well satisfied with the choice made of Williamsburg for his future studies. I have furnished him with letters to my acquaintance there, and with a draught on your steward for £12. He will be down by the opening of Mr. Maury's school at the close of the vacation, which lasts from the beginning of August to the end of September. I have the greater hopes that the preference of this school will turn out a proper one as it has received the approbation of the literary gentlemen of Williamsburg, and will be periodically examined by Mr. Wythe and others. Your younger nephew is with Major Callis, who will keep school some time longer. I am at a loss as yet where to fix him, but will guard as much as possible against any idle interval.

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I am, very affectely, dear Sir, your friend and servt

To Thomas Jefferson.

PHILADELPHIA, Sept 7th, 1784.

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DEAR SIR,—Some business, the need of exercise after a very sedentary period, and the view of extending my ramble into the Eastern States, which I have long had a curiosity to see, have brought me to this place. \* \* \* \* \* \* \* \* At Baltimore I fell in with the Marquis de la Fayette, returning from a visit to Mount Vernon. Wherever he passes he receives the most flattering tokens of sincere affection from all ranks. He did not propose to have left Virginia so soon, but General Washington was about setting out on a trip to the Ohio, and could not then accompany him on some visits, as he wished to do. The present plan of the Marquis is to proceed immediately to New York; thence, by Rhode Island, to Boston; thence thro' Albany to Fort Schuyler, where a treaty with the Indians is to be held the latter end of this month; thence to Virginia, so as to meet the Legislature at Richmond. I have some thoughts of making this tour with him, but suspend my final resolution till I get to New York, whither I shall follow him in a day or two.

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The relation in which the Marquis stands to France and America has induced me to enter into a free conversation with him on the subject of the Mississippi. I have endeavored emphatically to impress on him that the ideas of America and of Spain irreconcileably clash; that unless the mediation of France be effectually exerted, an actual rupture is near at hand; that in such an event, the connection between France and Spain will give the enemies of the former in America the fairest opportunity of involving her in our resentments against the latter, and of introducing Great Britain as a party with us against both; that America cannot possibly be diverted from her object, and therefore France is bound to set every engine at work to divert Spain from hers; and that France has, besides, a great interest in a trade with the western country through the Mississippi.

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I thought it not amiss, also, to suggest to him some of the considerations which seem to appeal to the prudence of Spain. He admitted the force of everything I said; told me he would write in the most [favorable] terms to the Count de Vergennes by the packet which will probably carry this, and let me see his letter at New York before he sends it. He thinks that Spain is bent on excluding us from the Mississippi, and mentioned several anecdotes which happened while he was at Madrid in proof of it.

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The Committee of the States have dispersed. Several of the Eastern members having, by quitting it, reduced the number below a quorum, the impotent remnant thought it needless to keep together. It is not probable they will be reassembled before November, so that there will be an entire interregnum of the federal Government for some time, against the intention of Congress I apprehend, as well as against every rule of decorum o

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The Marquis this moment stepped into my room, and, seeing my cyphers before me, dropped some questions which obliged me, in order to avoid reserve, to let him know that I was writing to you. I said nothing of the subject, but he will probably infer from our conversation that the Mississippi is most in my thoughts.

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Mrs. House charges me with a thousand compliments and kind wishes for you and Miss Patsy. We hear nothing of Mrs. Trist, since her arrival at the Falls of the Ohio, on her way to N. Orleans. There is no doubt that she proceeded down the river thence, unapprized of her loss. When and how she will be able to get back, since the Spaniards have shut all their ports against the U. S., is uncertain, and gives much anxiety to her friends. Browse has a windfall from his grandmother of £1,000 sterling.

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Present my regards to Miss Patsy and to Mr. Short, if he should be with you, and accept yourself, Dear Sir, the sincerest affection of

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Your friend and servant.

To Thomas Jefferson.

NEW YORK, SEPTr 15th, 1784.

Writings of Madison, Volume 1: 1769-1793, p.101

DEAR SIR,—In pursuance of my intentions, as explained in my last, dated in Philadelphia, I came to this City on Saturday last. The information I have here received convinces me that I cannot accomplish the whole route I had planned within the time to which I am limited, nor go from this to Boston in the mode which I had reckoned upon. I shall therefore decline this part of my plan, at least for the present, and content myself with a trip to Fort Schuyler, in which I shall gratify my curiosity in several respects, and have the pleasure of the Marquis's company. We shall set off this afternoon in a Barge up the North River. The Marquis has received in this City a continuation of those marks of cordial esteem and affection which were hinted in my last. The Gazettes herewith enclosed will give you samples of them. Besides the personal homage he receives, his presence has furnished occasion for fresh manifestations of those sentiments towards France which have been so well merited by her, but which her Enemies pretended would soon give way to returning affection for G. Britain. In this view, a republication of those passages in the Gazettes of France may be of advantage to us. They will at least give pleasure to the Friends of the Marquis.

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We have an account from Canada, how far to be relied on I cannot say, that the Indians have surprised and plundered Michillimackinac, where the English had a great amount of Stores and Merchandize, and that they have refused to treat with Sir John Johnson. \* \* \* \* \* \* \* \* \* \*

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The Marquis has shewn me a passage in his letter to the Count de Vergennes, in which he sketches the idea relative to the Mississippi. He says he has not had time to dilate upon it, but that his next letter will do it fully.

To Thomas Jefferson.

NEW YORK, October 11th, 1784.

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DEAR SIR,—My last, dated from this place on the 15th ultimo, informed you of my projected trip to Fort Schuyler. I am this moment arrived so far on my return to Virginia. My past delay requires so much hurry now, that I can only drop a few lines for the packet which is to sail on the 15th instant. The Marquis and myself were overtaken at Albany by Mr. de Marbois, on the same errand with ourselves. We reached Fort Schuyler on the 29th, and on the next day paid a visit to the Oneida Nation, 18 miles distant. The Commissioners did not get up till the Saturday following. We found a small portion only of the six nations assembled; nor was the number much increased when we quitted the scene of business. Accounts, however, had come of deputies from more distant tribes being on the way. The Marquis was received by the Indians with equal proofs of attachment as have been shewn him elsewhere in America. This personal attachment, with their supposed predilection for his nation, and the reports propagated among them that the Alliance between France and the United States was transient only, led him, with the sanction of the Commissioners, to deliver a Speech to the Indian Chiefs, coinciding with the object of the Treaty. The answers were very favorable in their general tenor. Copies of both will be sent to Mons. de Vergennes and the M. de Castries, by Mr. Marbois, and be within the reach of your curiosity. The originals were so much appropriated to this use during my stay with the Marquis, that I had no opportunity of providing copies for you.

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What the upshot of the Treaty will be is uncertain. The possession of the posts of Niagara, &c., by the British is a very inauspicious circumstance. Another is, that we are not likely to make a figure otherwise that will impress a high idea of our power or opulence. These obstacles will be rendered much more embarrassing by the instructions to the Commissioners, which, I am told, leave no space for negociation or concession, and will consequently oblige them, in case of refusal in the Indians to yield the ultimate hopes of Congress, to break up the Treaty. But what will be the consequence of such an emergency? Can they grant a peace without cessions of territory; or if they do, must not some other price hereafter purchase them ? A Truce has never, I believe, been introduced with the Savages, nor do I suppose that any provision has been made by Congress for such a contingency.

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The perseverance of the British in retaining the posts produces various conjectures. Some suppose it is meant to enforce a fufilment of the Treaty of peace on our part. This interpretation is said to have been thrown out on the other side. Others, that it is a salve for the wound given the Savages, who are made to believe that the posts will not be given up till good terms shall be granted them by Congress. Others, that it is the effect merely of omission in the British Government to send orders. Others, that it is meant to fix the fur trade in the British channel, and it is even said that the Government of Canada has a personal interest in securing a monopoly of at least the crop of this season. I am informed by a person just from Michilimackinac that this will be greater than it has been for several seasons past, or perhaps any preceding season, and that no part of it is allowed by the British Commanders to be brought through the United States. From the same quarter I learn that the posts have been lately well provisioned for the winter, and that reliefs, if not reinforcements, of the garrisons will take place. Col. Monroe had passed Oswego when last heard of, and was likely to execute his plan. If I have time and opportunity I will write again from Philadelphia, for which I set out immediately; if not, from Richmond. The Marquis proceeded from Albany to Boston, from whence he will go, via Rhode Island, to Virginia, and be at the Assembly. Thence he returns into the Northern States to embark for Europe.

To Thomas Jefferson.

PHILADELPHIA, October 17th, 1784.

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DEAR SIR,—On my arrival here I found that Mr. Short had passed through on his way to New York, and was there at the date of my last. I regret much that I missed the pleasure of seeing him. The inclosed was put into my hands by Mrs. House, who received it after he left Philadelphia. My two last, neither of which were in cypher, were written, as will be all future ones in the same situation, in expectation of their being read by postmasters. I am well assured that this is the fate of all letters, at least to and from public persons, not only in France but all the other Countries of Europe. Having now the use of my cypher, I can write without restraint.

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In my last I gave you a sketch of what passed at Fort Schuyler during my stay there; mentioning in particular that the Marquis had made a speech to the Indians, with the sanction of the Commissioners, Wolcot, Lee, and Butler. The question will probably occur how a foreigner, and a private one, could appear on the theatre of a public Treaty between the United States and the Indian nations, and how the Commissioners could lend a sanction to it. Instead of offering an opinion of the measure, I will state the manner in which it was brought about. It seems that most of the Indian tribes, particularly those of the Iroquois, retain a strong predilection for the French, and most of the latter an enthusiastic idea of the Marquis. This idea has resulted from his being a Frenchman, the figure he has made during the war, and the arrival of several important events which he foretold to them soon after he came to this country. Before he went to Fort Schuyler, it had been suggested, either in compliment or sincerity, that his presence and influence might be of material service to the treaty. At Albany, the same thing had been said to him by General Wolcot. On his arrival at Fort Schuyler, Mr. Kirkland recommended an exertion of his influence as of essential consequence to the treaty, painting in the strongest colours the attachment of the Indians to his person, which seemed indeed to be verified by their caresses, and the artifices employed by the British partizans to frustrate the objects of the treaty, among which was a pretext that the alliance between the United States and France was insincere and transitory, and, consequently, the respect of the Indians for the latter ought to be no motive for their respecting the former. Upon these circumstances, the Marquis grounded a written message to the Commissioners before they got up, intimating his disposition to render the United States any service his small influence over the Indians might put in his power, and desiring to know what the Commissioners would chuse him to say. The answer, in Mr. Lee's hand, consisted of polite acknowledgments, and information that the Commissioners would be happy in affording him an opportunity of saying whatever he might wish, forbearing to advise or suggest what it would be best for him to say. The Marquis perceived the caution, but imputed it to Lee alone.

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As his stay was to be very short, it was necessary for him to take provisional measures before the arrival of the Commissioners, and particularly for calling in the Oneida Chiefs, who were at their town. It fell to my lot to be consulted in his dilemma. My advice was, that he should invite the Chiefs in such a way as would give him an opportunity of addressing them publicly, if on a personal interview with the Commissioners it should be judged expedient, or of satisfying their expectations with a friendly entertainment in return for the civilities his visit to their town had met with. This advice was approved; but the Indians brought with them such ideas of his importance as no private reception would probably have been equal to. When the Commissioners arrived, the Marquis con-suited them in person. They were reserved; he was embarrassed. Finally, they changed their plan, and concurred explicitly in his making a Speech in form. He accordingly prepared one, communicated it to the Commissioners, and publickly pronounced it, the Commissioners promising such an one as was thought proper to introduce his. The answer of the Sachems, as well as the circumstances of the audience, denoted the highest reverence for the orator. The Chief of the Oneidas said that the word which he had spoken to them early in the war had prevented them from being misled to the wrong side of it.

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During this scene, and even during the whole stay of the Marquis, he was the only conspicuous figure. The Commissioners were eclipsed. All of them probably felt it. Lee complained to me of the immoderate stress laid on the influence of rite Marquis, and evidently promoted his departure. The Marquis was not insensible of it, but consoled himself with the service which he thought the Indian Speech would witness that he had rendered to the United States. I am persuaded that the transaction is also pleasing to him in another view, as it will form a bright column in the Gazettes of Europe. As it is blended with the proceedings of the Commissioners, it will probably not be published in America very soon.

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The time I have lately passed with the Marquis has given me a pretty thorough insight into his character. With great natural frankness of temper, he unites much address and very considerable talents. In his politics, he says his three hobby-horses are the alliance between France and the United States, the union of the latter, and the manumission of the Slaves. The two former are the dearer to him, as they are connected with his personal glory. The last does him real honor, as it is a proof of his humanity. In a word, I take him to be as amiable a man as can be imagined, and as sincere an American as any Frenchman can be; one whose past services gratitude obliges us to acknowledge, and whose future friendship prudence requires us to cultivate.

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The Committee of the States have never reassembled. The case of Longchamps has been left both by the Legislative and Executive of this State to its Judiciary course. He is sentenced to a fine of 100 crowns, to two years' imprisonment, and security for good behaviour for seven years. On tuesday morning I set off for Richmond, where I ought to be to-morrow, but some delays have put it out of my power.

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The ramble I have taken has rather inflamed than extinguished my curiosity to see the Northern and N. W. Country. If circumstances be favorable, I may probably resume it next summer. Present my compliments to Miss Patsy, for whom, as well as yourself, Mrs. House charges me with hers. She has lately had a letter from poor Mrs. Trist, every syllable of which is the language of affection itself. She had arrived safe at the habitation of her deceased Husband, but will not be able to leave that country till the spring, at the nearest. The only happiness she says she is capable of, is to receive proofs that her friends have not. forgotten her. I do not learn what is likely to be the amount of the effects left by Mr. T.; former accounts varied from 6 to 10,000 dollars.

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I am, my dear Sir, yours very affectely.

To James Monroe.

RICHMOND, November —, 1784.

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DEAR SIR,—Your favor without date was brought by thursday's post. It inclosed a cypher, for which I thank you, and which I shall make use of as occasion may require, though, from the nature of our respective situations, its chief value will be derived from your use of it. General Washington arrived here on sunday last, and the Marquis on thursday. The latter came from Boston in a French frigate. They have both been addressed and entertained in the best manner that circumstances would admit. These attentions, and the balloting for public offices, have consumed the greatest part of the past week. Mr. Jones is put into the place of Mr. Short; Mr. Roane and Mr. M. Selden are to go into those of Mr. M. Smith and Col. Christian, who are the victims to that part of the Constitution which directs a triennial purgation of the Council. The vote is not to take effect till the Spring, but was made now in consequence of the discontinuance of the spring session. The rejected Candidates were Col. Bland, Cyrus Griffin, G. Webb, W. C. Nicholas, Mr. Breckenridge, Col. Carringtion. The latter was within one vote of Mr. Selden; Col. B., Mr. N., and Mr. B., had, as nearly as, I recollect, between 20 and 30 votes; Mr. G. & Mr. W. very few. Mr. H. InneR, late Judge of the Kentucky Court, is to succeed Walker Daniel, late Attorney General, in that District. His competitor was Mr. Stuart, who was about 15 votes behind.

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I am, dear sir, your's sincerely.

To James Monroe.

RICHMOND, November 11th, 1784.

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DEAR SIR,—I had intended by this post to commence our correspondence with a narrative of what has been done and is proposed to be done at the present Session of the General Assembly, but, by your last letter to Mr. Jones, I find that it is very uncertain whether this will get to Trenton before you leave it for Virginia. I cannot, however, postpone my congratulations on your critical escape from the danger which lay in ambush for you, and your safe return to Trenton. My ramble extended neither into the dangers nor gratifications of yours. It was made extremely pleasing by sundry circumstances, but would have been more so, I assure you, Sir, if we had been co-temporarys in the route we both passed.

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The Indians begin to be unquiet, we hear, both on the North West and South East sides of the Ohio. The Spaniards are charged with spurring on the latter. As means of obviating the dangers, the House of Delegates have resolved to authorize the Executive to suspend the surveying of land within the unpurchased limits, and to instruct the Delegation to urge in Congress Treaties with the Southern Indians, and negociations with Spain touching the Mississippi. They also propose to set on foot surveys of Potowmac and James Rivers, from their falls to their sources. But their principal attention has been, and is still, occupied with a scheme proposed for a General Assessment; 47 have carried it against 32. In its present form it excludes all but Christian sects. The Presbyterian Clergy have remonstrated against any narrow principles, but indirectly favor a more comprehensive establishment. I think the bottom will be enlarged, and that a trial will be made of the practicability of the project. The successor to Mr. Harrison is not yet appointed or nominated. It is in the option of Mr. Henry, and I fancy he will not decline the service. There will be three vacancies in the Council, for which no nominations have been made. Mr. C. Griffith will probably be named, and Mr. W. Nicholas. Mr. Roane is also spoken of.

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I am, dear sir, your's sincerely.

To James Monroe.

RICHMOND, Novr 27th, 1784.

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DEAR SIR,—Your favor of the 15th instant came to hand by thursday's post. Mine by the last post acknowledged your preceding one. The umbrage given to the Commissioners of the United States by the negociations of New York with the Indians was not altogether unknown to me, though I am less acquainted with the circumstances of it than your letter supposes. The idea which I at present have of the affair leads me to say, that as far as New York may claim a right of treating with Indians for the purchase of lands within her limits, she has the Confederation on on her side; as far as she may have exerted that right in contravention of the General Treaty, or even unconfidentially with the Commissioners of Congress, she has violated both duty and decorum. The federal Articles give Congress the right of managing all affairs with the Indians not members of any State, under a proviso, that the Legislative authority of the State within its own limits be not violated. By Indians not members of a State, must be meant those, I conceive, who do not live within the body of the Society, or whose persons or property form no objects of its laws. In the case of Indians of this description, the only restraint on Congress is imposed by the Legislative authority of the State.

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If this proviso be taken in its full latitude, it must destroy the authority of Congress altogether, since no act of Congress within the limits of a State can be conceived which will not in some way or other encroach upon the authority of the State. In order, then, to give some meaning to both parts of the sentence, as a known rule of interpretation requires, we must restrain this proviso to some particular view of the parties. What was this view ? My answer is, that it was to save to the States their right of pre-emption of lands from the Indians. My reasons are: 1. That this was the principal right formerly exerted by the Colonies with regard to the Indians. 2. That it was a right asserted by the laws as well as the proceedings of all of them, and therefore, being most familiar, would be most likely to be in contemplation of the parties. 3. That being of most consequence to the States individually, and least inconsistent with the general powers of Congress, it was most likely to be made a ground of compromise. 4. It has been always said that the proviso came from the Virginia Delegates, who would naturally be most vigilant over the territorial rights of their constituents. But whatever may be the true boundary between the authority of Congress and that of New York, or however indiscreet the latter may have been, I join entirely with you in thinking that temperance on the part of the former will be the wisest policy.

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I concur with you equally with regard to the ignominious secession at Annapolis. As Congress are too impotent to punish such offences, the task must finally be left to the States, and experience has shewn, in the case of Howell, that the interposition of Congress against an offender, instead of promoting his chastisement, may give him a significancy which he otherwise would never arrive at, and may induce a State to patronize an act which of their own accord they would have punished.

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I am sorry to find the affair of Mr. de Marbois taking so serious a face. As the insult was committed within the jurisdiction of Pennsylvania, I think you are right in supposing the offender could not be transferred to another jurisdiction for punishment. The proper questions, therefore, are: 1. Whether the existing law was fully put in force against him by Pennsylvania? 2. Whether due provision has been made by that State against like contingencies ? Nothing seems to be more difficult under our new Governments than to impress on the attention of our Legislatures a due sense of those duties which spring from our relation to foreign nations.

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Several of us have been labouring much of late in the General Assembly here to provide for a case with which we are every day threatened by the eagerness of our disorderly citizens for Spanish plunder and Spanish blood. It has been proposed to authorise Congress, whenever satisfactory proof shall be given to them by a foreign power of such a crime being committed by our citizens within its jurisdiction as by the law of Nations calls for a surrender of the offender, and the foreign power shall actually make the demand, [to require his surrender from the Executive of the State,] and that the Executive may, at the instance of Congress, apprehend and deliver up the offender. That there are offences of that class is clearly stated by Vattel in particular, and that the business ought to pass through Congress is equally clear. The proposition was a few days ago rejected in Committee of the whole. To-day, on the report of the Committee, it has been agreed to by a small majority. This is the most material question that has agitated us during the week past.

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The Bill for a Religious Assessment has not been yet brought in. Mr. Henry, the father of the scheme, is gone up to his seat for his family, and will no more sit in the House of Delegates—a circumstance very inauspicious to his offspring. An attempt will be made for Circuit Courts, and Mr. Jones has it in contemplation to try whether any change has taken place in the sentiments of the House of Delegates on the subject of the Treaty. He will write to you by this post, and I refer to him for what I may have omitted.

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With sincere regard and esteem, I am, dear sir, your friend and servt.

To Col. James Madison.

RICHMOND, Novr 27th, 1784

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HOND SIR,—Having a moment's time to drop you a line, I inform you that the Bill for confirming surveys against subsequent entries has been negatived by a large majority, rather on the principle that it was unnecessary and retrospective than that it was unjust in itself. On the contrary, all the principal gentlemen were of opinion that it was just, but already provided for by the law. Mr. Innes, the late Judge of the Kentucky Court, in particular, told me he thought such surveys could not be overset. You will have heard of the vote in favor of the. General Assessment. The bill is not yet brought in, and I question whether it will; or if so, whether it will pass. This day a vote passed without a dissent for Circuit Courts. What opposition may be made to its passage I know not.

To James Monroe.

RICHMOND, December 4th, 1784.

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DEAR SIR,—On saturday last a proposition was agreed to for establishing Circuit Courts throughout this Commonwealth, and yesterday a bill for that purpose was reported. On Wednesday next it will undergo a discussion of the Committee of the whole. The circumstances under which it has passed thus far seem to promise a favorable issue, but the dangers which it is yet to go through are formidable. They proceed from latent and interested objections, which have on several former occasions proved fatal to similar attempts. The plan is pretty analogous to the Nisi prius established in England.

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On Tuesday, sundry propositions were made by Mr. Jones in favor of the 4th Article of the Treaty of peace. They passed by a large majority, with blanks as to the length of time to be given for the payment of the principal, and for disallowing the interest. The former was filled up with seven years, in preference to 10, 8, 6, and 5, which were contended for on different sides. The latter, with the period between April 19th, 1775, and March 3d, 1783, in preference to the period between the first date and May, 1784, the date of the exchange of ratifications. The bill will probably pass, but not, I fear, without some improper ingredients, and particularly some conditions relative to the North Western posts, or the Negroes, which lye without our province.

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The bill for the Religious Assessment was reported yesterday, and will be taken up in a Committee of the whole next week. Its friends are much disheartened at the loss of Mr. Henry. Its fate is, I think, very uncertain. Another Act of the House of Delegates during the present week is a direction to the Executive to carry into effect the vote of a Bust to [of?] the Marquis de Lafayette, to be presented to the City of Paris, and to cause another to be procured to be set up in this Country. These resolutions are so contrived as to hide as much as possible the circumstance in the original vote of the bust being to be presented to the Marquis himself. I find by a letter from General Washington that he was on the 28 ult. just setting out to accompany the Marquis to Annapolis, and thence to Baltimore. The latter may therefore soon be expected at Trenton. He has been much caressed here, as well as everywhere else on his Tour, and I make no doubt he will leave Congress with equal reason to be pleased with his visit. I meant to have sent you a copy of the Resolutions touching the Busts, but have been disappointed in getting one. They were offered by Mr. Jones, and agreed to unanimously, as they no doubt will also be in the Senate.

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Wishing you all happiness, I am, dear sir, your's sincerely.

To James Monroe.

RICHMOND, December 17th, 1784.

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DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

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Our progress in the Revisal has been stopped by the waste of time produced by the inveterate and prolix opposition of its adversaries, and the approach of Christmas. The Bill proportioning crimes and punishments was the one at which we stuck, after wading through the most difficult parts of it. A few subsequent bills, however, were excepted from the postponement. Among these was the Bill for establishing Religious freedom, which has got through the House of Delegates without alteration, though not without warm opposition. Mr. Mercer and

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Mr. Corbin were the principal Combatants against it. Mr. Jones is well.

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With sincerity, I am, your affectionate friend.

To James Monroe.

RICHMOND, December 24th, 1784.

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DEAR SIR,—Your favor of the 14th instant came to. hand on thursday. A proposition was made a few days ago for this State to empower Congress to carry into effect the imposts, as soon as twelve States should make themselves parties to it. It was rejected on the following grounds: 1. That it would present a disagreeable aspect of our affairs to foreign Nations. 2. That it might lead to other combinations of lesser numbers of the States. 3. That it would render Rhode Island an inlet for clandestine trade. 4. That it would sour her temper still further, at a crisis when her concurrence in some general and radical amendment of the Confederation may be invited by Congress. 5. That the chance is almost infinitely against a union of twelve States on such new ground, and consequently the experiment would be only a fresh display of the jarring policy of the States, and afford a fresh triumph and irritation to Rhode Island.

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The act empowering Congress to surrender Citizens of this State to the Sovereign demanding them, for certain crimes committed within his jurisdiction, has passed. Congress are to judge whether the crimes be such as according to the Law of Nations warrant such demand, as well as whether the fact be duly proven. Concurrent provision is made for punishing such offences by our own laws, in case no such demand be made to or be not admitted by Congress, and legal proof can be had. The latter law extends to offences against the Indians. As these tribes do not observe the law of Nations, it was supposed neither necessary nor proper to give up citizens to them. The act is not suspended on the concurrence of any other State, it being judged favorable to the interest of this though no other should follow the example, and a fit branch of the federal prerogative. The Bill for Assize Courts has passed the Senate without any material amendment, is enrolled, and waits only to be examined by the Committee and signed by the Speakers. The General Assessment, on the question for engrossing it, was yesterday carried by 44 against 42. To-day its third reading was put off till November next, by 45 against 37, or thereabouts, and it is to be printed for consideration of the people. Much business is still on the table, but we shall .probably rise about New-year's day.

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I am, dear sir, with sincere regard, your friend and servt.

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[Notes of speech made by Mr. Madison in the House of Delegates of Virginia, at the autumnal session of 1784, in opposition to the General assessment Bill for support of Religious teachers:]

I. Rel. not within purview of civil authority.

Tendency of estabg Xnty. 1. To project of uniformity.

2. To penal laws for supporte it.

Progress of Genl Assest proves this tendency.

Difference between establishg and tolerating error.

True question not, Is Relig. necessy? but—

II. Are Rel. Estabts necessy for religion? No

1. Propensity of man to Religion.

2. Experience shews relig. corrupted by Estabts.

3. Downfall of States mentioned by Mr. Henry happened where there was estabt.

4. Experience gives no model of Genl Assesst.

5. Case of Pa. explained; not solitary; N.J. See Constn of it; R. I. N.J., D.

6. Case of primitive Xnty; of reformation; of Dissenters formerly.

7. Progress of Religious liberty.

III. Policy.

1. Promote emigrations from State.

2. Prevent immigration into it, as asylum.

IV. Necessity of Estabt inferred from state of country; true causes of disease.

1. War. Common to other States, and produce same complaints in N. E.

2. Bad laws. Common to other States, and produce same complaints in N. E.

3. Pretext from taxes.

4. State of Administration of justice.

5. Transition from old to new plan.

6. Policy and hopes of friends to Gl Assesst.

True remedies: Not Estabt.—but bring out of war.

1. Laws to cherish virtue.

2. Administration of justice.

3. Personal example. Associations for Rel.

4. By present vote cut off hope of Gen. Assesst.

5. Education of youth.

V. Probable defects of Bill when prepared.

What is Xnty ? courts of law to decide.

Is it Trinitarianism, arianism, socinianism?

Is it salvation by faith, or works also? &c., &c., &c.

Ends in what is orthodoxy, what Heresy.

VI. Dishonors christianity.

Panegyric on it, on our side.

Declan of Rights.

To Richd H. Lee.

RICHMOND, 25 Dec., 1784.

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DEAR SIR,—Be pleased to accept my congratulations on the event which has given to your talents a station in which they cannot fail to be equally useful to the public and honorable to yourself.\* I offer them with the greater pleasure, too, as such an event is a proof that Congress have unfettered themselves from a rule which threatened to exclude merit from a choice in which merit only ought to prevail.

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The assize Bill has, since my last, past into a law. The Senate made no material change in it, but gave an almost unanimous suffrage to it. The only hesitation with them was between that plan and another, which would have rendered the circuit courts independent of the general court. The former, which follows the English model, unites the advantages of a trial of facts, where facts can be ascertained with greatest certainty and cheapness, with a decision of law, where such decision can be made with most wisdom and uniformity. The advantage of the latter consisted in removing the inconveniency of making up the issues and awarding the judgments in the general court, which it was supposed would increase expense, if not delay, and particularly require the service of a double number of lawyers. Experience will probably shew that the latter supposition is exaggerated, and that the system preferred is at least the best to begin with.

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The general assessment bill was ordered to be engrossed by forty-four against forty-two, and has since, by forty-five against thirty-seven, been postponed till November next, and is to be printed for immediate consideration. An act incorporating the Episcopal church has passed in a form less offensive than the one proposed at the last Session. The Bill for payment of British debts was under debate yesterday; its passage seems probable, but there is reason to fear that attempts will yet be made to trammel it. It still takes seven years for payment, though the Glasgow merchants have signified their assent to four years. The merchants of this town and Petersburg have remonstrated against the idea of giving the British merchants a summary recovery at the periods of the instalments. The Bill for opening the Potowmac is suspendedon the result of a conference. General Washington, General Gates, and Colonel Blackburn, are commissioned to hold conferences with Maryland on the subject. A Bill for opening James River, on a different plan, has passed the House of Delegates. A Bill will also probably pass for surveying the waters of those two rivers to their sources, the country between them and the western waters, and the latter down to the Ohio. It will also probably provide for a survey of the different routes for a communication between the waters of Elizabeth. River and those of North Carolina.

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In the course of last week a proposition was made to empower Congress to collect the Impost within this State [Virginia] as soon as twelve States should unite in the scheme. The arguments which prevailed against it were the unfavorable aspect it would present to foreigners; the tendency of the example to inferior combinations; the field it would open for contraband trade; its probable effect on the temper of Rhode Island, which might thwart other necessary measures requiring the unanimity of the States; the improbability of the union of twelve States on this new ground, a failure of which would increase the appearance of discord in their policy, and give fresh triumph and irritation to Rhode Island.

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I have not yet found leisure to scan the project of a Continental Convention with so close an eye as to have made up any observations worthy of being mentioned to you. In general, I hold it for a maxim, that the Union of the States is essential to .their safety against foreign danger and internal contention; and that the perpetuity and efficacy of the present system cannot be confided in. The question therefore is, in what mode and at what moment the experiment for supplying the defects ought to be made. The answer to this question cannot be given without a knowledge greater than I possess of the temper and views of the different States. Virginia seems, I thinks to have excellent dispositions towards the Confederacy, but her assent or dissent to such a proposition would probably depend on the chance of its having no opponent capable of rousing the prejudices and jealousies of the Assembly against innovations, particularly such as will derogate from their own power and importance. Should a view of the other States present no objections against the experiment, individually, I would wish none to be presupposed here.

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With great esteem and regard, I am, dear sir, your obt and hum servt.

To General Washington.

RICHMOND, January 1, 1785.

DEAR SIR,—I was yesterday honored with yours of the 28th ultimo, accompanying the Report of the Conferees, &c. &c. The latter has been laid before the House of Delegates, and a committee appointed to report a Bill and Resolutions corresponding with those of Maryland. The only danger of miscarriage arises from the impatience of the members to depart, and the bare competency of the present number. By great efforts only they have been detained thus long. I am not without hopes, however, that the business of the Potowmac at least will be provided for before the adjournment, and some provision now depending be compleated in favor of James River. Before the receipt of your dispatches a Bill had been passed by the House of Delegates for surveying the former as well as the latter river, on a plan which we shall endeavour, by concert with the Senate, to accommodate to the provisions of Maryland. A. Resolution has passed both Houses instructing the Commissioners, appointed in June last to settle with Maryland Commissioners the jurisdiction of the Potowmac, to join in a representation to Pennsylvania on the subject of the waters of the Ohio within her limits. This instruction ought rather to have been committed to the late conference; but when the Commission, under which you attended it, passed, I was confined to my room, and it did not occur to any other member. And, indeed, if I had been well, the haste which necessarily prevailed might have precluded me from comprehending the object within your mission, especially as I had not previously digested my ideas on the subject, nor accurately examined the text of the Confederation. It were to be wished too, I think, that the application to Pennsylvania on the subject of the road could have been blended with that of the River. As it is, it will, I think, be best to refer it, after the example of Maryland, to the Executive. I beg you, Sir, to excuse the brevity which our hurry has imposed upon me. As soon as I have leisure, I will endeavour to make amends by a fuller communication on this subject.

1785

To James Monroe.

RICHMOND, 8th January, 1785.

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DEAR SIR,—Yours of the 18th ultimo came to hand yesterday. The view which it gives of the operations of the Cabinet portends, I fear, a revival of those intrigues and contests of ambition which have more than once distracted and dishonoured the National. Councils. Foreign appointments have generally been the parents of those mischiefs, and ought for that reason, when no other reasons oppose, to be rendered as unfrequent as may be.

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The union between R. H. Lee and R. R. Livingston\* would have been among the last of my predictions, nor can I fathom the principle on which it is founded.

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The policy of healing the variance between the United States and Great Britain is no doubt obvious; but I cannot enter into the suspicions entertained of hostile designs in the latter. Her internal situation renders them extremely improbable, and the affairs of Ireland, as I conceive, absolutely incredible. What could she hope for or aim at? If the late war was folly, a new one for the same object would be downright phrensy. Her ill-humour is the natural consequence of disappointed and disarmed ambition, and her disregard of the Treaty may, if not be justified, at least be accounted for by what has passed in the United States. Let both parties do what neither can deny its obligation to do, and the difficulty is at an end.

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The contest with Spain has a more dangerous root. Not only the supposed interests, but the supposed rights of the parties are in direct opposition. I hope, however, that both parties will ponder the consequences before they suffer amicable negociation to become abortive. The use of the Mississippi is given by nature to our Western Country, and, no power on Earth can take it from them. Whilst we assert our title to it, therefore, with a becoming firmness, let us not forget that We cannot ultimately be deprived of it, and that, for the present, war is more than all things to be deprecated. Let us weigh well, also, the object and the price, not forgetting that the Atlantic States, &c., &c……. I join in your wish that we had a better Cypher, but Richmond yields as few resources for amending ours as Trenton. I have not leisure myself, and can command the assistance of no other person.

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[Here the writer gives the same detail of the circumstances which prevented the passage of the Bill respecting British debts as is contained in his letter of the following day to Mr. Jefferson.]

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It was unlucky that one of the two Bills thus lost should be that which will be most likely to involve our public character. Before this accident, we had passed the Bill for opening the Potomac and a similar .one for James River, together with a third, presenting to Genl Washington a handsome portion of shares in each of the companies, and had taken some other measures for opening the commercial channel to the Western Waters. As I shall nbt be in Richmond to receive any letters which may be written hereafter, you will be so good as to address your future favors to Orange.

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I am dear sir, with sincerity, your friend and servant.

To Thomas Jefferson.

RICHMOND, January 9th, 1785.

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DEAR SIR,—My last was dated in Philadelphia, October 17th. I reached this place on the 14th day after that fixed for the meeting of the Assembly, and was in time for the commencement of business. Yesterday put an end to the tedious session. According to my promise, I subjoin a brief review of its most material proceedings.

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An act for the establishment of Courts of Assize.

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This act was carried through the House of Delegates against much secret repugnance, but without any direct and open opposition. It luckily happened that the latent opposition wanted both a mouth and a head. Mr. Henry had been previously elected Governor, and was gone for his family. From his conversation since, I surmise that his presence might have been fatal. The act is formed precisely on the English pattern, and is nearly a transcript from the bill originally penned in 1776 by Mr. Pendleton, except that writs sent blank from the Clerk of General Court are to issue in the district, but returned to General Court. In the Senate it became a consideration whether the Assize Courts ought not to be turned into so many Courts of independent and complete jurisdiction, and admitting an . appeal only to the Court of Appeals. If the fear of endangering the bill had not checked the experiment, such a proposition would probably have been sent down to the House of Delegates, where it would have been better relished. by many than the Assize plan. The objections made to the latter were, that as it required the issues to be made up and the judgments to he awarded in the General Court, it was but a partial relief to suitors, and might render the service of double sets of lawyers necessary. The friends of the plan thought these inconveniences, as far as they were real, outweighed by the superior wisdom and uniformity of decisions incident to the plan; not to mention the difference in the frequency of appeals incident to the different plans. In order to leave as few handles as possible for cavil, the bill omitted all the little regulations which would follow of course, and will therefore need a supplement. To give time for this provision, as well as by way of collecting the mind of the public, the commencement of the law is made posterior to the next session of assembly. The places fixed for the Assize Courts are Northumberland Court House, Williamsburg, Accomack Court House, Suffolk, Richmond, Petersburg, Brunswick Court House, King and Queen Court House, Prince Edward Court House, Bedford Court House, Montgomery and Washington Ct Houses alternately, Staunton, Charlottesville, Fredericksburg, Dumfries, Winchester, and Monongalia Court House. Besides the judicial advantages hoped from this innovation, we consider it as a means of reconciling to our Government the discontented extremities of the State.

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An act for opening and extending the navigation of Potowmac river.

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An act for do. do. of James River.

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The subject of clearing these great rivers was brought forward early in the Session, under the auspices of General Washington, who had written an interesting private letter on it to Governor Harrison, which the latter communicated to the General Assembly. The conversation of the General, during a visit paid to Richmond in the course of the Session, still further impressed the magnitude of the object on sundry members. Shortly after his departure, a joint memorial from a number of Citizens of Virginia and Maryland, interested in the Potowmac, was presented to the Assembly, stating the practicability and importance of the work, and praying for an act of incorporation, and grant of perpetual toll to the undertakers of it. A bill had been prepared at the same meeting which produced the memorial, and was transmitted to Richmond at the same time. A like memorial and bill went to Annapolis, where the Legislature of Maryland were sitting.

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The assembly here lent a ready ear to the project; but a difficulty arose from the height of the tolls proposed, the danger of destroying the uniformity essential in the proceedings of the two States by altering them, and the scarcity of time for negociating Maryland a bill satisfactory to both States. Short as the time was, however, the attempt was decided on, and the negociation committed to General Washington himself. General Gates, who happened to be in the way, and Col. Blackburn, were associated with him. The latter did not act; the two former pushed immediately to Annapolis, where the sickness of General Gates threw the whole agency on General Washington. By his exertions, in concert with Committees of the two branches of the Legislature, an amendment of the plan was digested in a few days, passed through both houses in one day, with nine dissenting voices only, and despatched for Richmond, where it arrived just in time for the close of the Session. A corresponding act was immediately introduced, and passed without opposition.

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The scheme declares that the subscribers shall be an incorporated body; that there shall be 500 shares, amounting to about 220,000 dollars, of which the States of Virginia and Maryland are each to take 50 shares; that the tolls shall be collected in three portions, at the three principal falls, and with the works vest as real estate in the members of the Company; and that the works shall be begun within one year and finished within ten years, under the penalty of entire forfeiture.

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Previous to the receipt of the act from Annapolis, a bill on a different plan had been brought in and proceeded on for clearing James River. It proposed that subscriptions should be taken by Trustees, and, under their management, solemnly appropriated to the object in view; that they should be regarded as a loan to the State, should bear an interest of 10 per cent., and should entftle the subscriber to the double of the principal remaining undischargcd at the end of a moderate period; and that the tolls to be collected should stand inviolably pledged for both principal and interest. It was thought better for the public to present this exuberant harvest to the subscribers than to grant them a perpetuity in the tolls. In the case of the Potowmac, which depended on another authority as well as our own, we were less at liberty to consider what would be best in itself. Exuberant, however, as the harvest appeared, it was pronounced by good judges an inadequate bait for subscriptions, even from those otherwise interested in the work, and on the arrival and acceptance of the Potowmac plan, it was found advisable to pass a similar one in favor of James River. The circumstantial variations in the latter are: 1. The sum to be aimed at in the first instance is 100,000 Dollars only. 2. The shares, which are the same in number with those of Potowmac, are reduced to 200 dollars each, and the number of public shares raised to 100. 3. The tolls are reduced to half of the aggregate of the Potowmac tolls. 4. In case the falls at this place, where alone tolls are to be paid, shall be first opened, the Company are permitted to receive the tolls immediately, and continue to do so till the lapse of ten years, within which the whole river is to be made navigable. 5. A right of pre-emption is reserved to the public on all transfers of shares. These acts are very lengthy, and having passed in all the precipitancy which marks the concluding stages of a session, abound, I fear, with inaccuracies.

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In addition to these acts, joint resolutions have passed the Legislatures of Maryland and Virginia for clearing a road from the head of the Potowmac navigation to Cheat river, or if necessary to Monongalia, and 8,333 1/2 Dollars are voted for the york by each State.\* Pennsylvania is also to be applied to by the Governors of the two States for leave to clear a road through her jurisdiction, if it should be found necessary, from Potowmac to Yohogania; to which the Assembly here have added a proposition to unite with Maryland in representing to Pennsylvania the advantages which will accrue to a part of her citizens from opening the proposed communication with the Sea, and the reasonableness of her securing to those who are to be at the expence the use of her waters as a thoroughfare to and from the Country beyond her limits, free from all imposts and restrictions whatever, and as a channel of trade with her citizens, freefrom greater imposts than may be levied on any other channel of importation.\* This Resolution did not pass till it was too late to refer it to General Washington's negociations with Maryland. It now makes a part of the task allotted to the Commissioners who are to settle with Maryland the jurisdiction and navigation of Potowmac, below tide water. By another Resolution of this State, persons are to be forthwith appointed by the Executive to survey the upper parts of James River, the country through which a road must pass to the navigable waters of New River, and these waters down to the Ohio\* I am told by a member of the Assembly, who seems to be well acquainted both with the intermediate ground and with the western waters in question, that a road of 25 or 30 miles in length will link these waters with James River, and will strike a branch of the former which yields a fine navigation, and falls into the main stream of the Kenhawa below the only obstructions lying in this river down to the Ohio. If these be facts, James River will have a great superiority over Potowmac, the road from which to Cheat river is, indeed, computed by General Washington at 20 miles only, but he thinks the expence of making the latter navigable will require a continuation of the road to Monongalia, which will lengthen it to 40 miles. The road to Yohogania is computed by the General at 30 miles.

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By another resolution, Commissioners are to be appointed to survey the ground for a canal between the waters of Elizabeth river and those of North Carolina, and in case the best course for such a canal. shall require the concurrence of that State, to concert a joint plan and report the same to the next session of Assembly.\* Besides the trade which will flow through this channel from North Carolina to Norfolk, the large district of Virginia watered by the Roanoake will be doubled in its value by it.

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An act vesting in G. Washington a certain interest in the Companies for opening James and Potowmac rivers.

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The Treasurer is by this act\* directed to subscribe 50 shares in the Potowmac and 100 shares in the James River Companies, which shall vest in General Washington and his heirs. This mode of adding some substantial to the many honorary rewards bestowed on him was deemed least injurious to his delicacy, as well as least dangerous as a precedent. It was substituted in place of a direct pension, urged on the House by the indiscreet zeal of some of his friends. Though it will not be an equivalent succour in all respects, it will save the General from subscriptions which would have oppressed his finances; and if the schemes be executed within the period fixed, may yield a revenue for some years before the term of his.\* At all events, it will demonstrate the grateful wishes of his Country, and will promote the object which he has so much at heart. The earnestness with which he espouses the undertaking is hardly to be described, and shews that a mind like his, capable of great views,. and which has long been occupied with them, cannot bear a vacancy; and surely he could not have chosen an occupation more worthy of succeeding to that of establishing the political rights of his Country than the patronage of works for the extensive and lasting improvement of its natural advantages; works which will double the value of' half the lands within the Commonwealth, will extend its commerce, link with its interests those of the Western States, and lessen the emigration of its citizens by enhancing the profitablehess of situations which they now desert in search of better.

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An act to discharge the people of this Commonwealth from one half of the tax for the year 1785.

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Our successive postponements had thrown the whole tax of 1784 on the year 1785. The remission, therefore, still leaves three halves to be collected. The plentiful crops on hand both of Corn and Tobacco, and the price of the latter, which is vibrating on this river between 36s. and 40s., seem to enable the country to bear the burden. A few more plentiful years, with steadiness in our councils, will put our credit on a decent footing. The payments from this State to the Continental treasury between April, 1783, and November, 1784, amount to £123,202 11s. 1 1/2d., Virginia currency. The printed report herewith inclosed will give you a rude idea of our finances.

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An act giving James Rumsey the exclusive privilege of constructing and navigating certain boats for a limited time.

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J. Rumsey, by a memorial to the last session, represented that he had invented a mechanism by which a boat might be worked with little labor, at the rate of from 25 to 40 miles a day, against a stream running at the rate of 10 miles an hour, and prayed that the disclosure of his invention might be purchased by the public. The apparent extravagance of his pretensions brought a ridicule upon them, and nothing was done. In the recess of the Assembly, he exemplified his machinery to General Washington and a few other gentlemen, who gave a certificate of the reality and importance of the invention, which opened the ears of the Assembly to a second memorial. The act gives a monopoly for ten years, reserving a right to abolish it at any time by paying £10,000. The inventor is soliciting similar acts from other States, and will not, I suppose, publish the secret till he either obtains or despairs of them.

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An act for punishing certain offences injurious to the tranquility of this Commonwealth.

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This act authorises the surrender of a citizen to a foreign Sovereign within whose acknowledged jurisdiction the citizen shall commit a crime, of which satisfactory proof shall be exhibited to Congress, and. for which, in the judgment of Congress, the law of nations exacts such surrender. This measure was suggested by the danger of our being speedily embroiled with the nations contiguous to the United States, particularly the Spaniards, by the licentious and predatory spirit of some of our western people. In several instances gross outrages are said to have been already practiced. The measure was warmly patronized by Mr. Henry and most of the forensic members, and no less warmly opposed by the Speaker and some others. The opponents contended that such surrenders were unknown to the law of nations, and were interdicted by our declaration of rights. Vattel, however, is express as to the case of Robbers, murderers, and incendiaries. Grotius quotes various instances in which great offenders have been given up by their proper Sovereigns to be punished by the offended Sovereigns. Puffendorf only refers to Grotius. I have had no opportunity of consulting other authorities.

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With regard to the Bill of rights, it was alledged to be no more, or, rather, less violated by considering crimes committed against other laws as not falling under the notice of our own, and sending our citizens to be tried where the cause of trial arose, than to try them under our own laws without a jury of the vicinage, and without being confronted with their accusers or witnesses; as must be the case, if they be tried at all for such offences under our own laws. And to say that such offenders should neither be given up for punishment, nor be punished within their own Country, would amount to a licence for every aggression, and would sacrifice the peace of the whole community to the impunity of the worst members of it. The necessity of a qualified interpretation of the bill of rights was also inferred from the law of the Confederacy which requires the surrender of our citizens to the laws of other States, in cases of treason, felony, or other high misdemesnors. The act provides, however, for a domestic trial in cases where a surrender may not be justified or insisted upon, and in cases of aggressions on the Indians.

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An act for incorporating the Protestant Episcopal Church.

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This act declares the Ministers and Vestries, who are to be triennially chosen in each parish, a body corporate, enables them to hold property not exceeding the value of £800 per annum, and gives sanction to a Convention, which is to be composed of the clergy and a lay deputy from each parish, and is to regulate the affairs of the Church. It was understood by the House of Delegates that the Convention was to consist of two laymen for each clergyman, and an amendment was received for that express purpose. It so happened that the insertion of the amendment did not produce that effect, and the mistake was never discovered till the bill had passed and was in print. Another circumstance still more singular is, that the act is so construed as to deprive the vestries of the uncontrouled right of electing Clergymen, unless it be referred to them by the canons of the Convention, and that this usurpation actually escaped the eye both the friends and adversaries of the measure, both parties taking the contrary for granted throughout the whole progress of it. The former, as well as the latter, appear now to be dissatisfied with what has been done, and will probably concur in a revision, if not a repeal of the law. Independently of these oversights, the law is in various points of view exceptionable. But the necessity of some sort of incorporation for the purpose of holding and managing the property of the Church could not well be denied, nor a more harmless modification of it now obtained. A negative of the bill, too, would have doubled the eagerness and the pretexts for a much greater evil, a general Assessment, which, there is good ground to believe, was parried by this partial gratification of its warmest rotaries.

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A Resolution for a legal provision for the "teachers of the Christian Religion" had early in the session been proposed by Mr. Henry, and, in spite of all the opposition that could be mustered, carried by 47 against 32 votes. Many petitions from below the blue ridge had prayed for such a law; and though several from the Presbyterian laity beyond it were in a contrary stile, the Clergy of that sect favored it. The other sects seemed to be passive. The Resolution lay some weeks before a bill was brought in, and the bill some weeks before it was called for; after the passage of the incorporating act it was taken up, and, on the third reading, ordered by a small majority to be printed for consideration. The bill, in its present dress, proposes a tax of blank per cent. on all taxable property, for support of Teachers of the Christian Religion. Each person when he pays his tax is to name the society to which he dedicates it, and in case of refusal to do so, the tax is to be applied to the maintenance of a school in the County. As the bill stood for some time, the application in such cases was to be made by the Legislature to pious uses. In a committee of the whole it was determined, by a majority of 7 or 8, that the word "Christian" should be exchanged for the word "Religious." On the report to the House, the pathetic zeal of' the late Governor Harrison gained a like majority for reinstating discrimination. Should the bill pass into a law in its present form, it may and will be easily eluded. It is chiefly obnoxious on account of its dishonorable principle and dangerous tendency.

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The subject of the British debts underwent a reconsideration on the motion of Mr. Jones. Though no answer had been received from Congress to the Resolutions passed at the last session, a material change had evidenfiy taken place in the mind of the Assembly, proceeding in part from a more dispassionate view of the question, in part from the intervening exchange of the ratifications of the Treaty. Mr. Henry was out of the way. His previous conversation, I have been told, favored the reconsideration; the Speaker, the other champion at the last session against the Treaty, was at least half a proselyte. The proposition rejected interest during the period of blank, and left the periods of payment blank. In this form it was received with little opposition, and by a very great majority. After much discussion and several nice divisions, the first blank was filled up with the period between the 19 of April, 1775, and the 3d of March, 1783, the commencement and cessation of hostilities; and the second, with seven annual payments. Whilst the bill was depending, some proceedings of the Glasgow Merchants were submitted to the House of Delegates, in which they signified their readiness to receive their debts in four annual payments, with immediate security and summary recoveries at the successive periods, and were silent as to the point of interest. Shortly after were presented memorials from the Merchants of this Town and Petersburg, representing the advantage which a compliance with the Glasgow overtures would give the foreign over the domestic creditors. Very little attention seemed to be paid by the House to the overtures, tho', as the Treaty was not to be literally pursued, the shadow of assent from the other party was worthy of being attended to. In the Senate, the bill met with a diversity of opinions. By a majority of one voice only an attempt to put all our domestic debts on the same footing with British debts was lost. Whether this was sincere, or a side blow at the bill, I am unable to say. An attempt was next made to put on the same footing all those who left this Country and joined the other side, or who remained within the British territories for one year at any time since the 19th April, 1775, or who refused a tender of paper money before January, 1779. These discriminations were almost unanimouslydisagreed to by the House of Delegates. The Senate insisted. The former proposed a conference. The Senate concurred. The Conference produced a proposition from the House of Delegates, to which the Senate assented; but before the assent was notified, an incident happened which has left the bill in a very singular situation

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The delays attending this measure had spun it out to the day preceeding the one prefixed for a final adjournment. Several of the members went over to Manchester in the evening, with an intention, it is to be presumed, of returning the next morning. The severity of the night rendered their passage back the next morning impossible. Without them there was no house. The impatience of the members was such as might be supposed. Some were for stigmatizing the absentees and adjourning. The rest were some for one thing, some for another. At length it was agreed to wait until the next day. The next day presented the same obstructions in the river. A canoe was sent over for enquiry by the Manchester party, but they did not chuse to venture themselves. The impatience increased; warm resolutions were agitated. They ended, however, in an agreement to wait one day more. On the morning of the third day the prospect remained the same. Patience could hold out no longer, and an adjournment to the last day of March ensued. The question to be decided is, whether a bill which has passed the House of Delegates, and been assented to by the Senate, but not sent down to the House of Delegates, nor enrolled, nor examined, nor signed by the two Speakers, and consequently not of record, is or is not. a law? A bill for the better regulation of the customs is in the same situation.

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After the passage of the Bill for British debts through the House of Delegates, a bill was introduced for liquidating the depreciated payments into the Treasury, and making the debtors liable for the deficiency. A foresight of this consequential step had shewn itself in every stage of the first bill. It was opposed by Governor Harrison principally, and laid asleep by the refusal of interested members to vote on the question, and the want of a quorum without them.

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Among the abortive measures may be mentioned, also, a Proposition to authorise the collection of the impost by Congress as soon as the concurrence of twelve States should be obtained. Connecticut had set the example in this project. The proposition was made by the Speaker, and supported by the late Governor. It was disagreed to by a very large majority on the following grounds: 1. The appearance of a Schism in the Confederacy which it would present to foreign eyes. 2. Its tendency to combinations of smaller majorities of the States. 3. The channel it would open for smuggling; goods imported into Rhode Island in such case might not only be spread by Land through the adjacent States, but if slipped into any neighbouring port, might thence be carried, duty-free, to any part ot the associated States. 4. The greater improbability of a union of twelve States on such new ground than of the conversion of Rhode Island to the old one. 5. The want of harmony among the other States which would be betrayed by the miscarriage of such an experiment, and the fresh triumph and obstinacy which Rhode Island would derive from it.

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The French vice Consul in this State has complained to the Assembly that the want of legal power over our Sheriffs, Goalers, and prisons, both renders his decrees nugatory, and exposes his person to insults from dissatisfied litigants. The Assembly have taken no step whatever on the subject, being at a loss to know what ought to be done, in compliance either with general usage or that of France in particular. I have often wondered that the proposed Convention between France and the United States for regulating the consular functions has never been executed. The delay may prove unfriendly both to their mutual harmony and their commerce.

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Mr. Henry was elected successor to Mr. Harrison without competition or opposition. The victims to the article requiring a triennial removal of two counsellors were Merriwether Smith and General Christian. Young Mr. Roane and Mr. Miles Selden take their places. Mr. Short's place is filled by Mr. Joseph Jones.

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Nothing has passed during the session concerning an amendment of the State Constitution. The friends of the undertaking seem ot be multiplying rather than decreasing. Several Petitions from the Western side of the Blue ridge appeared in favor of it, as did some from the Western side of the Alleghany praying for a separate Government. The latter may be considered all of them as the children of Arthur Campbell's ambition. The Assize Courts and the opening of our rivers are the best answers to them.

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The Revisal has but just issued from the press. It consists of near 100 folio pages in a small type. I shall send you six copies by the first opportunity. £500 was voted at the Spring Session to each of the acting members of the Committee, but no fund having been provided for payment, no use could be made of the warrants. I drew yours, however, and carried them up to Orange, where they now lye. A vote of this Session has provided a fund which gives them immediate value. As soon as I get home I shall send the dead warrants to Mr. Nichs Lewis, who may exchange them for others, and draw the money from the Treasury.

To Edmund Randolph.

ORANGE, March 10th, 1785.

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MY DEAR SIR,—Your favor of the 12th ult. came safe to hand through the conveyance of Capt. Barber, together with the several articles inclosed. The letter from Mr. Jefferson speaks of the state of things on the 11th of November on the other side of the Atlantic as follows: "The lamp of war is kindled here, not to be extinguished but by torrents of blood. The firing of the Dutch on an Imperial vessel going down the Scheld has been followed by the departure of the Imperial Minister from the Hague without taking leave. Troops are in motion on both sides towards the Scheld, but probably nothing will be done till the Spring. This Court has been very silent as to the part they will act. Yet their late Treaty with Holland, as well as a certainty that Holland would not have proceeded so far without assurance of aid, furnish sufficient ground to conclude they will side actively with the Republic. The King of Prussia, it is believed, will do the same. He has patched up his little disputes with Holland and Dantzic. The prospect is, that Holland, France, Prussia, and the Porte, will be engaged against the two Imperial Courts. England, I think, will remain neutral. Their hostility has attained an incredible height. Notwithstanding this, they expect to keep our trade and cabotage to themselves by the virtue of their proclamation. They have no idea that we can so far act in concert as to establish retaliating measures. Their Irish affairs will puzzle them extremely. Should things get into confusion there, perhaps they will be more disposed to wish a friendly connection with us. The Congress which met on the 25th of October consisted of deputies from 8 Counties only. They came to resolutions on the reform of Parliament and adjourned to the 20th of January, recommending to the other Counties to send deputies then."

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I learn from an intelligent person lately from Kentucky, that the Convention there produced nothing but a statement of grievances and a claim of redress. The topic of independence was not regularly brought forward at all, and scarcely agitated without doors. It is supposed that the late extension of the tax on patents, which, as it stood before, is on the list of grievances, will turn the scale in favor of that measure.

To Marquis Fayette.

ORANGE, March 20th, 1785.

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MY DEAR SIR,—Your favour of the 15th, continued on the 17th of December, came very slowly, but finally safe to hand. The warm expressions of regard which it contains are extremely flattering to me; and the more so as they so entirely correspond with my own wishes for everything which may enter into your happiness.

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You have not erred in supposing me out of the number of those who have relaxed their anxiety concerning the navigation of the Mississippi. If there be any who really look on the use of:that river as an object not to be sought or desired by the United States, I cannot but think they frame their policy on both very narrow and very delusive foundations. It is true, if the States which are to be established on the waters of the Mississippi were to be viewed in the same relation to the Atlantic States as exists between the heterogeneous and hostile Societies of Europe, it might not appear strange that a distinction, or even an opposition of interests, should be set up. But is it true that they can be viewed in such a relation? Will the settlements which are beginning to take place on the branches of the Mississippi be so many distinct societies, or only an expansion of the same society? So many new bodies, or merely the growth of the old one? Will they consist of a hostile or a foreign people, or will they not be bone of our bone and flesh of our flesh? Besides the confederal band within which they will be comprehended, how much will the connection be strengthened by the ties of friendship, of marriage, and consanguinity? ties which, it may be remarked, will be even more numerous between the ultramontane and the Atlantic States than between any two of the latter. But viewing this subject through the medium least favorable to my ideas, it still presents to the United States sufficient inducements to insist on the navigation of the Mississippi. Upon this navigation depends essentially the value of that vast field of territory which is to be sold for the benefit of the common Treasury; and upon the value of this territory, when settled, will depend the portion of the public burdens of which the old States will be relieved by the new. Add to this the stake which a considerable proportion of those who remain in the old States will acquire in the new by adventures in land, either on their own immediate account or that of their descendants.

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Nature has given the use of the Mississippi to those who may settle on its waters, as she gave to the United States their independence. The impolicy of Spain may retard the former, as that of Great Britain did the latter. But as Great Britain could not defeat the latter, neither will Spain the former. Nature seems on all sides to be teassetting those rights which have so long been trampled on by tyranny and bigotry. Philosophy and Commerce are the auxiliaries to whom she is indebted for her triumphs. Will it be presumptuous to say, that those nations will shew most wisdom, as well as acquire most glory, who, instead of forcing her current into artificial channels, endeavour to ascertain its tendency and to anticipate its effects? If the United States were to become parties to the occlusion of the Mississippi,. they would be guilty of treason against tho very laws under which they obtained and hold their national existence.

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The repugnance of Spain to an amicable regulation of the use of the Mississippi is the natural offspring of a system which everybody but herself has long seen to be as destructive to her interest as it is dishonorable to her character. An extensive desert seems to have greater charms in her eye than a flourishing but limited empire; nay, than an extensive, flourishing empire. Humanity cannot suppress the wish that some of those gifts which she abuses were placed by just n/cans in hands that would turn them to a wiser account. What a metamorphosis would the liberal policy of France work in a little time on the Island of New Orleans? It would to her be a fund of as much. real wealth as Potosi has been of imaginary wealth to Spain. It would become the Grand Cairo of the new World.

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The folly of Spain is not less displayed in the means she employs than in the ends she prefers. She is afraid of the growth and neighbourhood of the United States, because it may endanger the tranquility of her American possessions; and to obviate this danger she proposes to shut up the Mississippi. If her prudence bore any proportion to her jealousy, she would see that if the experiment were to succeed it would only double the power of the United States to disturb her, at the same time that it provoked a disposition to exert it; she would see that the only offensive weapon which can render the United States truly formidable to her is a navy, and that if she could keep their inhabitants from crossing the Appalachian ridge, she would only drive to the Sea most of those swarms which would otherwise direct their course to the Western Wilderness. She should reflect, too, that as it is impossible for her to destroy the power which she dreads, she ought only to consult the means of preventing a future exertion of it. What are those means? Two, and two only. The first is a speedy concurrence in such a treaty with the United States as will produce a harmony, and remove all pretexts for interrupting it. The second, which would in fact result from the first, consists in favouring the extension of their settlements. As these become extended, the members of the Confederacy must be multiplied, and along with them the wills which are to direct the machine. And as the wills multiply, so will the chances against a dangerous union of them. We experience every day the difficulty of drawing thirteen States into the same plans. Let the number be doubled, and so will the difficulty. In the multitude of our Counsellors, Spain may be told, lies her safety.

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If the temper of Spain be unfriendly to the views of the United States, they may certainly calculate on the favorable sentiments of the other powers of Europe, at least of all such of them as favored our Independence. The chief advantages expected in Europe from that event center in the revolution it was to produce in the commerce between the new and the old World. The commerce of the United States is advantageous to Europe in two respects: first, by the unmanufactured produce which they export; secondly, by the manufactured imports which they consume. Shut up the Mississippi and discourage the settlements on its waters, and what will be the consequence? First, a greater quantity of subsistence must be raised within the ancient settlements, the culture of tobacco, indigo, and other articles for exportation, be proportionably diminished, and their price proportionably raised on the European consumer. Secondly, the hands without land at home being discouraged from seeking it where alone it could be found, must be turned in a great degree to manufacturing, our imports proportionably diminished, and a proportional loss fall on the European manufacturer. Establish the freedom of the Mississippi, and let our emigrations have free course, and. how favorably for Europe will the consequence be reversed? First, the culture of every article for exportation will be extended, and the price reduced in favor of her consumers. Secondly; our people will increase without an increase of our manufacturers, and in the same proportion will be increased the employment and profit of hers.

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These consequences would affect France, in common with the other commercial nations of Europe; but there are additional motives which promise the United States her friendly wishes and offices. Not to dwell on the philanthropy which reigns in the heart of her Monarch, and which has already adorned his head with a crown of laurels, he cannot be inattentive to the situation into which a controversy between his antient and new allies would throw him, nor to the use which would be made of it by his watchful adversary. Will not all his councils, then, be employed to prevent this controversy; will it not be seen, as the pretensions of the parties directly interfere, it can be prevented only by a dissuasive interposition on one side or the other; that on the side of the United States such an interposition must, from the nature of things, be unavailing; or if their pretensions for a moment be lulled, they would but awake with fresh energy, and, consequently, that the mediating influence of France ought to be turned wholly on the side of Spain? The influence of the French Court over that of Spain is known to be great. In America it is supposed to be greater than perhaps it really is. The same may be said of the intimacy of the Union between the two nations. If this influence should not be exerted, this intimacy may appear to be the cause. The United States consider Spain as the only favorite of their Ally of whom they have ground to be jealous; and whilst France continues to hold the first place in their affections, they must at least be mortified at any appearance that the predilection may not be reciprocal.

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The Mississippi has drawn me into such length, that I fear you will have little patience left for anything else. I will spare it as much as possible. I hear nothing from Congress except that Mr. Jay has accepted his appointment, and that no successor has yet been chosen to Doctor Franklin. Our Legislature made a decent provision for remittances due for 1785 from Virginia to the Treasury of the United States, and very extensive provision for opening our inland navigation. They have passed art act vesting in General Washington a considerable interest in each of the works on James River and Potowmac, but with an honorary rather than lucrative aspect. Whether he will aecopt it or not I cannot say. I meant to have sent you a copy of the Act, but have been disappointed in getting one from Richmond. They also passed an act for reforming our juridical System, which promises salutary effects; and did not pass the act for the corrupting our Religious system. Whether they passed an act for paying British debts or not they do not know themselves. Before the bill for that purpose had got through the last usual forms, the want of members broke up the House. It remains, therefore, in a situation which has no precedent, and without a precedent lawyers and legislators are as much at a loss as a mariner without his compass.

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The subjects in which you interested yourself were all referred to .the Executive with power to do, what I hope they will do better than. the Assembly. I understood before I left Richmond that you would receive officially from the Governor a copy of the Resolutions which I sent you: I received a letter a few days ago from Mr. Mercer, .written in the bosom of wedlock at Mr. Sprigg's; another at the same time from. Monroe, who was well at New York. I have nothing to say of myself but that I have exchanged Richmond for Orange, as you will have seen by the above date; that I enjoy a satisfactory share of health; that I spend the chief of my time in reading, and the chief of my reading? on Law; that I shall hear with the greatest pleasure of your being far better employed; and that I am, with most affectionate esteem, your obt friend and servt.

To James Monroe.

ORANGE, March 21St, 1785.

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DEAR SIR,—

Writings of Madison, Volume 1: 1769-1793, p.141

I do not wonder at the paragraph which you have copied from Mr. Jay's letter to Congress. His feelings are such as every one must possess who is worthy of the station which he holds. If the Office of foreign affairs be a proper one, and properly filled, a reference of all foreign despatches to it in the first instance is so obvious a course, that any other disposition of them by Congress seems to condemn their own establishment, to affront the Minister in office, and to put on him a label of caution against that respect and confidence of the Ministers of foreign powers which are essential to his usefulness. I have always conceived the several ministerial departments of Congress to be provisions for aiding their counsels as well as executing their resolutions, and that consequently, whilst they retain the fight of rejecting the advice which may come from either of them, they ought not to renounce the opportunity of making use of it. The foreign department is, I am sensible, in several respects the most difficult to be regulated, but I cannot think the question arising on Mr. Jay's letter is to be numbered among the difficulties. The practice of Congress during the administration of his predecessor was never fixed, and frequently improper, and I always suspected that his indifference to the place resulted, in part at least, from the mortifications to which this unsteadiness subjected him.

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You will not be disappointed at the barrenness which is hence to mark the correspondence on my part. In the recess of the Legislature few occurrences happen which can be interesting, and in my retired situation, few even of these fall within my The situation of Mr. Jones will probably make his correspondence a more productive one. He has probably already mentioned to you the advances which Kentucky was king towards an independent Government. It is certain that a Convention has been held, which might have been set on foot with an eye to such an event; but I learn from an intelligent person lately from that district, that its deliberations together on the pressure of certain acts of the General Assembly, and terminated in a vote of application for redress. He supposes, however, that the late extension of the tax on patents will give a successful handle to those who wish to accelerate a separation. This tax as it stood before was in the first class of their grievances.

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You will, I expect, receive this from the hands of Mr. Burnley, a young gentleman of my neighborhood, who has passed with reputation thro' Mr. Wythe's School, and has since taken out his forensic diploma. Your civilities to him will be well placed, and will confer an obligation on me. If Col. Grayson him recovered from the gout, which, I hear, arrested him in the moment of his intended departure, and is with you, be so kind as to make my best respects to him.

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I am, dear sir, with sincere regard and esteem, your obedient friend and serv.

To James Monroe.

ORANGE, April 12th, 1785.

Writings of Madison, Volume 1: 1769-1793, p.143

DEAR SIR,—

Writings of Madison, Volume 1: 1769-1793, p.143

The appointment of Mr. Adams to the Court of Great Britain is a circumstance which does not contradict my expectations; nor can I say that it displeases me. Upon Geographical considerations New England will always have one of the principal appointments, and I know of no individual from that quarter who possesses more of their confidence, or would possess more of that of the other States; nor do I think him so well fitted for any Court of equal rank as that of London. I hope it has removed all obstacles to the establishment of Mr. Jefferson at the Court of France.

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Will not Congress soon take up the subject of Consular arrangements ? I should suppose them at least of equal moment at present with some of the higher appointments which are likely to occupy them. Our friend Mr. Maury is waiting, with a very inconvenient suspension of his other plans, the event of the offer he has made of his services. I find he considers Ireland as the station next to be desired after that of England. He conceives, and I believe very justly, that the commercial intercourse between that Country and this will be very considerable, and merits our particular cultivation.

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I suppose, from your silence on the subject, that the Western posts are still in the hands of Great Britain. Has the subject of the vacant lands to be disposed of been revived? What other measures are on foot or in comtemplation for paying off the public debts ? What payments have been made of late into the public Treasury? It is said here that Massachusetts is taking measures for urging Rhode Island into the Impost, or rendering the Scheme practicable without her concurrence. Is it so?

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How many of the States have agreed to change the 8th Article of the Confederation? The Legislature of this State passed a law for complying with the provisional Act of Congress for executing that article as it now stands; the operation of which confirms the necessity of changing the article. The law requires, as the Act of Congress does among other things, a list of the Houses. If the list does not discriminate the several kinds of Houses, how can Congress collect from it the value of the improvements, how do justice to all their constituents? And how can a discrimination be made in this country, where the variety is so infinite and so unsusceptible of description? If Congress govern themselves by number alone, this Country will certainly appeal to a more accurate mode of carrying the present rule of the confederation into practice. The average value of the improvements in Virginia is not one-fourth, perhaps not one-tenth, of that of the improvements in Pennsylvania or New England. Compare this difference with the proportion between the value of improvements and that of the soil, and what an immense loss shall we be taxed with? The number of buildings will not be a less unjust rule than the number of acres for estimating the respective abilities of the States.

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The only proceeding of the late Session of Assembly which makes a noise through the Country is that which relates to a General Assessment. The Episcopal people are generally for it, though I think the zeal of some of them has cooled. The laity of the other sects are equally unanimous on the other side. So are all the Clergy, except the Presbyterian, who seem as ready to set up an establishment which is to take them in as they were to pull down that which shut them out. I do not know a more shameful contrast than might be found between their memorials on the latter and former occasion.

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In one of your letters received before I left Richmond you expressed a wish for a better cypher. Since my return to Orange I have been able to get one made out, which will answer every purpose. I will either enclose it herewith or send it by the gentleman who is already charged with a letter for you. I wish much to throw our correspondence into a more regular course. I would write regularly every week if I had a regular conveyance to Fredericksburg. As it is, I will write as often as I can find conveyances. The business of this neighborhood which used to go to Fredericksburg is in a great measure turned towards Richmond, which is too circuitous a channel. Opportunities in every direction, however, will be henceforward multiplied by the advance of the season. If you are not afraid of too much loading the mail, I could wish you to enclose in your letters the last N.Y. or Philadelphia paper.

Writings of Madison, Volume 1: 1769-1793, p.145

I am, dear Sir, yours most sincerely.

To Thomas Jefferson.

ORANGE, April 27th, 1785.

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DEAR SIR,—I have received your two favors of Novr 11th and December 8th. Along with the former I received the two pamphlets on animal magnetism and the last aeronautic expedition, together with the phosphoreric matches. These articles were a great treat to my curiosity. As I had left Richmond before they were brought thither by Col. Le Maire, I had no opportunity of attending myself to your wishes with regard to him; but I wrote immediately to Mr. Jones, and desired him to watch over' the necessities of Le Maire. He wrote me for answer that the Executive, though without regular proof of his claims, were so well satisfied from circumstances of the justice of them, that they had voted him £150 for his relief 'till the Assembly could take the whole into consideration. This information has made me easy on the subject, though I have not withdrawn from the hands of Mr. Jones the provisional resource.

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I thank you much for your attention to my literary wants. All the purchases you have made for me are such as I should have made for myself with the same opportunities. You will oblige me by adding to them the Dictionary, in 13 vol., 4°, by Felice and others. Also, de Thou, in French. If the utility of Moreri be not superseded by some better work, I should be glad to have him, too. I am afraid, if I were to attempt a catalogue of my wants, I should not, only trouble you beyond measure, but exceed the limits which other considerations ought to prescribe to inc. I cannot, however, abridge the commission you were so kind as to take on yourself in a former letter, of procuring me from time to time such books as may be either "old and curious, or new and useful." Under this description will fall those particularized in my former letters, to wit: Treatises on the ancient or modern Federal Republics, on the Law of Nations, and the History, natural and political, of the new World; to which I will add such of the Greek and Roman authors, where they can be got very cheap, as are worth having, and are not on the common list of school classics. Other books which particularly occur are the translation (French) of the history of the Roman Empire during its decline, by Pascal's provincial letters; Don Ulloa in the original; Linnæus' best edition; Ordonnauces Marines; Collection of Tracts in French on the economies of different nations, I forget the fttll title. It is much referred to by Smith on the Wealth of Nations. I am told a Mons' Amelot has lately published his travels into China, which, if they have any merit, must be very entertaining. Of Buffon, I have his original work of 31 vols., 10 v. ols. of supplement, and 16 vols. on birds. I shall be glad of the continuation as it may from time to time be published.

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I am so pleased with the new invented lamp that I shall not grudge two guineas for one of them. I have seen a pocket compass of somewhat larger diameter than a watch, and which may be carried in the same way. It has a spring for stopping the vibration of the needle when not in use. One of these would be very convenient ifi case of a ramble into the Western country. In my walks for exercise or amusement objects frequently present themselves which it might be matter of curiosity to inspect, but which it is difficult or impossible to approach. A portable glass would consequently be a source of many little gratifications. I have fancied that such an one might be fitted into a case without making it too heavy. On the outside of the tube might be engraved a scale of inches, &c. If such a project could be executed for a few guineas, I should be willing to submit to the price; if not, the best substitute, I suppose, will be a pocket telescope, composed of several tubes so constructed as to slide the lesser into .the greater.

Writings of Madison, Volume 1: 1769-1793, p.147

I should feel great remorse at troubling you with so many requests if your kind and repeated offers did not stifle it in some measure. Your proposal for my replacing here advances for me without regard to the exchange is liable to no objection, except that it will probably be too unequal in my favour. I beg that you will enable me as much as you can to keep these little matters balanced.

Writings of Madison, Volume 1: 1769-1793, p.147

The papers from Le Grand were sent, as soon as I .got them, to Mr. Jones, with a request that he would make the use of them which you wished me to do.

Writings of Madison, Volume 1: 1769-1793, p.147

Your remarks on the tax on transfers of land in a general view appear to me to be just, but there were two circumstances which gave a peculiarity to the case in which our law adopted it. One was, that the tax will fall much on those who are evading their quotas of other taxes by removing to Georgia and Kentucky; the other, that as such transfers are more frequent among those who do not remove in the Western than the Eastern part of the Country, it will fall heaviest where direct taxes are least collected. With regard to the tax in general on law proceedings, it cannot, perhaps, be justified, if tried by the strict rule which proportions the quota of every man to his ability; time, however, will gradually in some measure equalize it, and if it be applied to the support of the Judiciary establishment, as was the ultimate view of the periods of the tax, it seems to square very well with the Theory of taxation.

Writings of Madison, Volume 1: 1769-1793, p.147

The people of Kentucky had lately a Convention, which it was expected would be the mother of a separation. I am informed they proceeded no farther than to concert an address to the Legislature on some points in which they think the laws bear unequally upon them. They will be ripe for that event, at least as soon as their interest calls for it. There is no danger of a concert between them and the Counties West of the Alleghany, which we mean to retain. If the latter embark in a scheme for independence, it will be on their own bottom. They are more disunited in every respect from Kentucky than from Virginia.

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I have not learnt with certainty whether General Washington will accept or decline the shares voted him by the Assembly in the companies for opening our rivers. If he does not chuse to take to himself any benefit from the donation, he has, I think, a fine opportunity at once of testifying his disinterested purposes, of shewing his respect for the Assembly, and of rendering a service to his Country. He may accept the gift so far as to apply it to the scheme of opening the rivers, and may then apropriate the revenue which it is hereafter to produce to some patriotic establishment. I lately dropped a hint of this sort to one of his friends, and was told that such an idea had been suggested to him. The private subscriptions for Potowmac, I hear, mount to £10,000 Sterling. I cannot discover that those for James River deserve mention, or that the undertaking is pushed with any spirit. If those who are most interested in it let slip the present opportunity, their folly will probably be severely punished for the want of such another. It is said the undertaking on the Susquehannah by Maryland goes on with great spirit and expectations. I have heard nothing of Rumsey or his boats since he went into the Northern States. If his machinery for stemming the current operates on the water alone, as is given out, may it not supply the great desideratum for perfecting the balloons ?

Writings of Madison, Volume 1: 1769-1793, p.148

I understand that Chase and Jenifer on the part of Maryland, Mason and Henderson on the part of Virginia, have had a meeting on the proposition of Virginia for settling the navigation and jurisdiction of Potowmac below the falls, and have agreed to report to the two Assemblies the establishment of a concurrent jurisdiction on that river and Chesapeake. The most amicable spirit is said to have governed the negociation.

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The Bill for a general Assessment has produced some fermentation below the mountains, and a violent one beyond them. The contest at the next session on this question will be a warm and precarious one. The port bill will also undergo a fiery trial. I wish the Assize Courts may not partake of the danger. The elections, as far as they have come to my knowledge, are likely to produce a great proportion of new members. In Albemarle, young Mr. Fry has turned out Mr. Carter. The late Governor Harrison, I hear, has been baffled in his own county, but meant to be a Candidate in Surry, and in case of a rebuff there, to throw another die for the borough of Norfolk. I do not know how he construes the doctrine of residence. It is surmised that the machinations of Tyler, who fears a rivalship for the Chair, are at the bottom of his difficulties. Arthur Lee is elected in Prince William. He is said to have paved the way by promises to overset the port bill, which is obnoxious to Dumfries, and to prevent the removal of the Assize Court from this town to Alexandria.

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I received a letter from the Marquis Fayette, dated on the eve of his embarcation, which has the following paragraph: "I have much conferred with the General upon the Potowmac system. Many people think the navigation of the Mississippi is not an advantage, but it may be the excess of a very good thing, viz: the opening of your rivers. I fancy it has not changed your opinion, but beg you will write me on the subject; in the meanwhile I hope Congress will act coolly and prudently by Spain, who is such a fool that allowances must be made." It is unlucky that he should have left America with such an idea as to the Mississippi. It may be of the worst consequence, as it is not wholly imaginary, the prospect of extending the Commerce of the Atlantic States to the Western waters having given birth to it. I cannot believe that many minds are tainted with so illiberal and short-sighted a policy. I have thought it not amiss to write the Marquis according to the request of his letter, and have stated to him the motives and obligations which must render the United States inflexible on the subject of the Mississippi, the folly of Spain in contesting it, and our expectations from the known influence of France over Spain, and her friendly dispositions toward the United States. It is but justice to the Marquis to observe that, in all our conversations on the Mississippi, he expressed with every mark of sincerity a zeal for our claims and a pointed dislike to the National Character and policy of Spain; and that if his zeal should be found to abate, I should construe it to be the effect of a supposed revolution in the sentiments of America.

Writings of Madison, Volume 1: 1769-1793, p.150

This would have been of somewhat earlier date, but I postponed it that I might be able to include some information relative to your Nephews. My last informed you that your eldest was then with Mr. Maury. I was so assured by Mr. Underwood, from his neighborhood, who I supposed could not be mistaken; I afterwards discovered that he was so, but could get no precise information 'till within a few days. One of my brothers being called into that part of country by business, I wrote to Mrs. Carr, and got him to wait on her. The answer with which I have been favored imports that "her eldest son was taken last fall with a fever, which, with repeated relapses, kept him extremely weak and low 'till about the 1st of January, from which time he was detained at home by delays in equipping him for Williamsburg 'till the 1st of April, when he set out with promises to make up his lost time; that her youngest son had also been detained at home by ill health till very lately, but that he would certainly go to the academy as soon as a vacation on hand was over; that his time had not been entirely lost, as his brother was capable of instructing him whenever his health would admit." Mr. Maury's school is said to be very flourishing. Mr. Wythe and the other gentlemen of the University have examined it from time to time, and published their approbation of its management. I cannot speak with the same authority as to the Academy in Prince Edward. The information which I have received has been favorable to it. In the recommendation of these seminaries I was much governed by the probable permanency of them; nothing being more ruinous to education than the frequent interruptions and change of masters and methods incident to the private schools of this country.

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Our winter has been full of vicissitudes, but, on the whole, far from being a severe one. The spring has been uncommonly cold and wet, and vegetation, of course, very backward, till within a few days, during which it has been accelerated by very uncommen heat. A pocket thermometer which stands on the second floor and the N. W. side of the house was, on the 24th inst., at 4 o'clock, at 77°; on the 25th, at 78; on the 26th, at 81 1/2; to-day, the 27th, at 82. The weather during this period has been fair, and the wind S; the atmosphere thick N. W.; our wheat in the ground is very unpromising throughout the country. The price of that article on tide-water is about 6s. Corn sells in this part of the country at 10s. and under; below, at 15s.; and where the insect prevailed, as high as 20s. It is said to have been raised by a demand for exportation. Tobacco is selling on Rappahanneck at 32s., and Richmond at 37s. 6d. It is generally expected that it will at least get up to 40s. Some of our peaches are killed, and most of our cherries; our apples are as yet safe. I cannot say how it is with the fruit in other parts of the country. The mischief to the cherries, &c., was done on the night of the 20th, when we had a severe black frost.

Writings of Madison, Volume 1: 1769-1793, p.151

I cannot take my leave of you without making my acknowledgements for the very friendly invitation contained in your last. If I should ever visit Europe, I should wish to do it less stinted in time than your plan proposes. This crisis, too, would be particularly inconvenient, as it would break in upon a course of reading which, if I neglect now, I shall probably never resume. I have some reason, also, to suspect that crossing the sea would be unfriendly to a singular disease of my constitution. The other part of your invitation has the strongest bias of my mind on its side, but my situation is as yet too dependent on circumstances to permit my embracing it absolutely. It gives me great satisfaction to find that you are looking forward to the moment which is to restore you to your native country, though considerations of a public nature check my wishes that such an event may be expedited.

Writings of Madison, Volume 1: 1769-1793, p.151

Present my best respects to Mr. Short and Miss Patsy, and accept of the affectionate regards of, Dear Sir, your sincere friend.

Writings of Madison, Volume 1: 1769-1793, p.151

What has become of the subterraneous city discovered in Siberia ?

Writings of Madison, Volume 1: 1769-1793, p.152

Deaths:—Thompson Mason, Bartholomew Dandridge, Ryland Randolph, Joseph Reed of Philadela.

To James Monroe.

ORANGE, April 28th, 1785.

Writings of Madison, Volume 1: 1769-1793, p.152

DEAR SIR,—I have written several letters within a little time past, which were sent to you partly by the post, partly by Mr. Burnley, a young gentleman of this county. In one of the letters I enclosed a cypher, which will serve all the purposes of our future correspondence This covers a letter from Mr. Jefferson, which you will be so good as to forward by the first packet or other equally eligible conveyance. Our elections, as far as I hear, are likely to produce a great proportion of new members. In some counties they are influenced by the Bill for a general assessment. In Culpeper, Mr. Pendleton, a worthy man, and acceptable in his general character to the people, was laid aside in consequence of his vote for the Bill, in favor of an adversary to it. The delegates from Albemarle are your friend Mr. W. C. Nicholas and Mr. Fry. Mr. Carter stood a poll, but fell into the rear. The late Governor Harrison, I am told, has been baffled in his own County, meant to be a candidate for Surry, and in case of a rebuff there to throw another die for the Berough of Norfolk. I do not know how he proposes to satisfy the doctrine of residence.

Writings of Madison, Volume 1: 1769-1793, p.152

I hear frequent complaints of the disorders of our coin, and the want of uniformity in the denominations of the States. Do not Congress think of a remedy for these evils ? The regulation of weights and measure seem also to call for their attention. Every day will add to the difficulty of executing these works. If a m'mt be not established and a recoinage effected while the federal debts carry the money through the hands of Congress, I question much whether their limited powers will ever be able to render this branch of their prerogative effectual. With regard to the regulation of weights and measures, would it not be highly expedient, as well as honorable to the federal administration, to pursue the hint which has been suggested by ingenious and philosophical men, to wit: that the standard of measure should be first fixed by the length of a pendulum vibrating seconds at the Equator or any given latitude; and that the standard of weights should be a cubical piece of gold, or other homogeneous body, of dimensions fixed by the standard of,: measure? Such a scheme appears to be easily reducible to practice; and as it is founded on the division of time, which is the same at all times and in all places, and proceeds on other data which are equally so, it would not only secure a perpetual uniformity throughout the United States, but might lead to universal standards in these matters among nations. Next to the inconveniency of speaking different languages, is that of using different and arbitrary weights and measures.

Writings of Madison, Volume 1: 1769-1793, p.153

I am, dear sir, your affectionate friend.

To James Monroe.

ORANGE, May 29th, 1785.

Writings of Madison, Volume 1: 1769-1793, p.153

DEAR SIR,—Your favor of May—came to hand a few days ago. It is fortunate that the variant ideas have been so easily accommodated touching the mode of surveying and Selling the territorial fund. It will be equally so, I think, if you can dispossess the British of the Western posts before the land office is opened. On this event and the navigation of the Mississippi will much depend the fiscal importance of the back country to the United States. The amount of the proposed requisition will, I fear, startle those to whom it will be addressed. The use of certificates as a medium for discharging the interest of the home debt is a great evil, though I suppose a necessary one. The advantage it gives to Sharpers and Collectors can scarcely be described, and what is more noxious, it provokes violations of public faith more than the weight of the Burden itself. The 1,000,000 dollars to be paid in specie, and the greatest part of it to be sent abroad, will equally try the virtue of the States. If they do not flinch, however, they will have the satisfaction of coming out of the trial with more honor, though with less money.

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I have lately heard that the Kentucky Delegates will be instructed to propose to the next session the separation of that Country from this, and its being handed over to Congress for admission into the Confederacy. If they pursue their object through this channel, they will not only accomplish it without difficulty, but set a useful example to other Western settlements which may chuse to be lopped off from other States. My information as to this matter is not authentic, but such as I am inclined to believe true. I hear, also, that a State is actually set up in the back country of North Carolina, that it is organized, named, and has deputed representatives to Congress.

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It gives me much pleasure to observe by 2 printed reports sent me by Col. Grayson, that, in the latter, Congress had expunged a clause contained in the first, for setting apart a district of land in each Township for supporting the Religion of the majority of inhabitants. How a regulation so unjust in itself, so foreign to the authority of Congress, so hurtful to the sale of the public land, and smelling so strongly of an antiquated Bigotry, could have received the countenance of a Committee, is truly matter of astonishment. In one view it might have been no disadvantage to this State, in case the General Assessment should take place, as it would have given a repellent quality to the new Country in the estimation of those whom our own encroachments on Religious liberty would be calculated to banish to it. But the adversaries to the assessment begin to think the prospect here flattering to their wishes. The printed bill has excited great discussion, and is likely to prove the sense of the community to be in favor of the liberty now enjoyed. I have heard of several Counties where the late representatives have been laid aside for voting for the Bill, and not of a single one where the reverse has happened. The Presbyterian Clergy, too, who were in general friends to the scheme, are already in another tone, either compelled by the laity of that sect, or alarmed at the probability of further interferences of the Legislature if they once begin to dictate in matters of Religion.

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I am, dear sir, your's affectionately.

To James Monroe.

ORANGE, 21 June, 1785.

Writings of Madison, Volume 1: 1769-1793, p.155

DSAR SIR,—Finding from a letter of Mr. Mazzei that you have never been furnished with a copy of the Bill for establishing the Christian Religion in this State, I now inclose one, regretting that I had taken it for granted that you must have been supplied through some other channel. A very warm opposition will be made to this innovation by the people of the middle and back Counties, particularly the latter. They do not scruple to declare it an alarming usurpation on their fundamental rights, and that though the General Assembly should give it the form, they will not give it the validity of a law. If there be any limitation to the power of the Legislature, particularly if this limitation is to be sought in our Declaration of Rights or form of Government, I own the Bill appears to me to warrant this language of the people.

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A gentleman of credit lately from Kentucky tells me that he fell in with two persons on the Ohio, who were going down the River in the character of Commissioners from Georgia, authorized to demand from the Spanish Governor of New Orleans the posts within the limits of that State, and a settlement of the boundary in general between it and the Spanish possessions. The Gentleman did not see their Commission, but entertains no doubt of their having one. He was informed that two others were joined in it, who had taken a different route. Should there be no mistake in this case, you will no doubt be able to get a full account of the Embassy. I would willingly suppose that no State could be guilty either of so flagrant an outrage on the federal Constitution, or of so imprudent a mode of pursuing their claims against a foreign nation.

Writings of Madison, Volume 1: 1769-1793, p.156

I observe in a late Newspaper that the commercial discontents of Boston are spreading to New York and Philadelphia. Whether they will reach Virginia or not, I am unable to say: If they should, they must proceed from a different interest; from that of the planters, not that of the Merchants. The present system here is as favorable to the latter as it is ruinous to the former. Our trade was never more compleatly monopolized by Great Britain, when it was under the direction of the British Parliament, than it is at this moment. But as our Merchants are almost all connected with that Country, and that only, and as we have neither ships nor seamen of our own, nor likely to have :any in the present course of things, no mercantile complaints are heard. The planters are dissatisfied, and with reasony;but they enter little into the science of commerce, and rarely of themselves combine in defence of their interests. If any thing could rouse them to a proper view of their situation, one might expect it from the contrast of the market here with that of other States. Our staple has of late been as low as a guinea per hundred on Rappahannock, and not above 32 or 33 Shillings on James River. The current prices in Philadelphia during the same period have been 44 shillings of this currency for tobacco of the latter inspections, and in like proportion for that of the former.

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The prices of imports of every. kind in those two markets furnish a contrast equally mortifying to us. I have not had the same information from other States northward of us, but I have little doubt that it would teach us the same lesson. Our planters cannot suffer a loss of less than fifty per cent. on the staple of the country, if to the direct loss in the price of the staple be added their indirect loss in the price of what they purchase with their staple. It is difficult, notwithstanding, to make them sensible of the utility of establishing a Philadelphia or\* a Baltimore among ourselves, as one indispensable step towards relief; and the difficulty is not a little increased by the pains taken by the merchants to prevent such a reformation, and by the opposition arising from local views. I have been told that Arthur Lee paved the way to his election in Prince William by promising that, among other things, he would overset the Port bill. Mr. Jefferson writes me that the Port Bill has been published in all the Gazettes in Europe, with the highest approbation every where except in Great Britain. It would indeed be as surprising if she should be in favor of it, as it is that any among ourselves should be against it. I see no possibility of engaging other nations in a rivalship with her without some such regulation of our commerce.

To R. H. Lee.

ORANGE, July 7th, 1785.

Writings of Madison, Volume 1: 1769-1793, p.157

DEAR SIR,—Your favour of the 30th of May came to hand yesterday only, having lain some time in Fredericksburg, and finally came to Orange, via Albemarle.

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I agree perfectly with you in thinking it the interest of this country to embrace the first decent opportunity of parting with Kentucky, and to refuse with firmness to part with any more of our settlements beyond the Alleghany. It seems necessary, however, that this first instance of a voluntary dismemberment of a State should be conducted in such a manner as to form a salutary precedent. As it is an event which will indirectly affect the whole Confederacy, Congress ought clearly to be made a party to it, either immediately, or by a proviso that the partition act shall not take effect till the actual admission of the new State into the Union. No interval whatever should be suffered between the release of our hold on that Country and its taking on itself the obligations of a member of the federal body. Should it be made a separate State without this precaution, it might possibly be tempted to remain so, as well with regard to the U. S. as to Virginia, by two considerations: 1. The evasion of its share of the general debt. 2. The allurement which an exemption from taxes would prove to the citizens of States groaning under them. It is very possible that such a policy might in the end prove a disadvantageous one, but the charms of ambition, and, at present, interest, too, often prevail against the cool remonstrances of true policy. May we not, also, with justice, require that a reasonable portion of the particular debt of Virginia should be assumed by that part of Virginia which is to set up for itself?

Writings of Madison, Volume 1: 1769-1793, p.158

The arrival of Mr. Gardoqui will turn out, I hope, an auspicious step towards conciliating explanations and overtures with regard to the Mississippi. Besides the general motives for expediting an adjustment of this matter, the prodigious effect of it on the sale of the back lands makes it of peculiar importance. The same consideration presses for such arrangements with G. B. as will give us speedy possession of the Western posts. As to the commercial arrangements which we wish from her, I own my expectations are far from being sanguine. In fact, what could she get from us by concessions, which she is unwilling to make, which she does not now enjoy?

Writings of Madison, Volume 1: 1769-1793, p.158

I cannot speak with certainty as to all the States, but sure I am that the trade of this was never more completely monopolized by her when it was under the direction of her own laws than it is at this moment. Our present situation, therefore, precisely verities the doctrine held out in Deane's intercepted letters. The revolution has robbed us of our trade with the West Indies, the only one which yielded us a favorable balance, without opening any other channels to compensate for it. What makes the British monopoly the more mortifying, is the abuse which they make of it. Not only the private planters, who have resumed the practice of shipping their own Tobacco, but many of the merchants, particularly the natives of the country, who have no connections with G. B., have received accts of sales this season, which carry the most visible and shameful frauds in every article.

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In every point of view, indeed, the trade of this country is in a deplorable condition. A comparison of current prices here with those in the Northern States, either at this time or at any time since the peace, will shew that the loss direct on our produce, and indirect on our imports, is not less than fifty per cent. Till very lately the price of our staple has been down at 32 and 33s on James River; at 28s. on Rappahannock. During the same period, the former was selling in Philadelphia, and I suppose in other Northern ports, at 44s. of this currency, and the latter in proportion; though it cannot be denied that Tobacco in the Northern ports is intrinsically worth less than it is here, being at the same distance from its ultimate market, and burdened with the freight from this to the other States. The price of merchandize here is at least as much above as that of Tobacco is below the Northern standard.

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We have had throughout the month of June, and until this time, very hot and very wet weather. The effect of it on upland corn has been favorable, but much the reverse on that of the fiats. It has given full opportunity to the planters to pitch their crops of Tobacco, but though many of them have repeated this operation several times, the grasshoppers and other noxious insects have been so uncommonly troublesome that in many places the prospect is likely to be much abridged. Should this not be the case, the efforts of the country must produce the greatest crop that has been seen since the peace. Our Wheat in this part of the country is very indifferent. How it may be in others I cannot say, but believe the complaints are pretty general.

Writings of Madison, Volume 1: 1769-1793, p.159

With the highest esteem and regard, Dear Sir, your obt and very humble serv.

To Edmund Raivdolph.

ORANGE, July 26th, 1785.

Writings of Madison, Volume 1: 1769-1793, p.159

MY DEAR FRIEND,—Your favour of the 17th inst., inclosing a letter from Mr. Jones and a copy of the ecclesiastical Journal, came safe to hand. If I do not dislike the contents of the latter, it is because they furnish, as I conceive, fresh and forcible arguments against the General Assessment. It may be of little consequence what tribunal is to judge of clerical misdemesnors or how firmly the incumbent may be fastened on the parish, whilst the vestry and people may hear and pay him or not, as they like. But should a legal salary be annexed to the title, this phantom of power would be substantiated into a real monster of oppression. Indeed, it appears to be so at present as far as the Glebes and donations extend. I had seen some parcels of these proceedings before I received your letter, and had remarked the sprinklings of liberality to which you allude. My conjectures, I believe, did not err as to the quarter from which they came.

Writings of Madison, Volume 1: 1769-1793, p.160

The urgency of General Washington in the late negociation with Maryland makes it probable, I think, that he will feel some chagrin at the inattention to that with Pennsylvania, which has a much nearer connection with his favorite object, and was, moreover, suggested by himselfi Shortly after the date of my last I dropped a few lines to Col. Mason, reminding him that some report will be expected from the Commissioners by the Assembly, as well as of the real importance of the business. I have not yet received any answer, and begin to suspect that my letter may have miscarried. Your information leads me to doubt whether he has ever been furnished with a copy of the Resolution under which he is to proceed. I will write to him again, and inclose one which Mr. Jones sent me.

Writings of Madison, Volume 1: 1769-1793, p.160

I have a letter from the Marquis, but dated as far back as March. It was accompanied with a Copy of a French memorial to the Emperor, which seems to have stifled the War in its birth; and an Extract from a late work of Mr. Neckar, which has made him the idol of one party in France and the execration of the other. To avoid the trouble of transcribing, I send them as they came to me. You can peruse and return them by my brother, who is the bearer of this, or by any future opportunity. The Marquis says he is doing all he can to forward our claim to the Mississippi; that the French Ministry understand the matter and are well disposed; but that they are apprehensive "Spain knows not how to give up what she once has."

Writings of Madison, Volume 1: 1769-1793, p.160

I had heard of the strictures on the incorporating Act, but without being able to pick up any of the papers in which they are published. I have desired my brother to search them out if he can. Perhaps you can refer him to the proper press and numbers.

Writings of Madison, Volume 1: 1769-1793, p.161

At the instance of Col. Nicholas, of Albemarle, I undertook the draught of the inclosed remonstrance against the General Assessment. Subscriptions to it are on foot, I believe, in sundry Counties, and will be extended to others. My choice is, that my name may not be associated with it. I am not sure that I know precisely your ideas on this subject; but were they more variant from mine than I take them to be, I should not be restrained from a confidential communication.

Writings of Madison, Volume 1: 1769-1793, p.161

I keep up my attention, as far as I can command my time, to the course of reading which I have of late pursued, and shall continue to do so. I am, however, far from being determined ever to make a professional use of it. My wish is, if possible, to provide a decent and independent subsistence, without encountering the difficulties which I foresee in that line. Another of my wishes is to depend as little as possible on the labour of slaves. The difficulty of reconciling these views has brought into my thoughts several projects from which advantage seemed attainable. I have, in concert with a friend here, one at present on the anvil, which we think cannot fail to yield a decent reward for our trouble. Should we persist in it, it will cost me a ride to Philadelphia, after which it will go on without my being ostensibly concerned. I forbear to particularize till I can do it ore tenus. Should I take this ride I may possibly continue it into the Eastern States; Col. Monroe having given me an invitation to take a ramble of curiosity this fall, which I have half a mind to accept, and among outher routes named this. I recollect that you talked yourself of a trip last spring as far as Lancaster. Have you laid it aside totally ? Or will your domestic endearments forbid even the trip to Bath, from which I promised myself the happiness of taking you by the hand in Orange? Give my warmest respects to Mrs. Randolph, and be assured that I remain, with sincere affection, your friend.

Writings of Madison, Volume 1: 1769-1793, p.162

Was the Royal assent ever given to the act of 1769, entitled "an act to amend an act entitled, an act declaring the law concerning Executions and for relief of insolvent debtors."

To the Honorable the General Assembly of the Commonwealth of Virginia:

A MEMORIAL AND REMONSTRANCE

Writings of Madison, Volume 1: 1769-1793, p.162

We, the subscribers, citizens of the said Commonwealth, having taken into serious consideration a Bill printed by order of the last session of General Assembly, entitled "A Bill establishing a provision for Teachers of the Christian Religion," and conceiving that the same, if finally armed with the sanctions of a law, will be a dangerous abuse of power, are bound as faithful members of a free State to remonstrate against it, and to declare the reasons by which we are determined. We remonstrate against the said Bill—

Writings of Madison, Volume 1: 1769-1793, p.162

1. Because we hold it for a fundamental and undeniable truth, "that Religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence."\* The Religion, then, of every man must be left to the conviction and conscience of every man; and it ii the right of every man to exercise it, as these may dictate. This right is in its nature an unalienable right. It is unalienable, because the opinions of men, depending only on the evidence contemplated by their own minds, cannot follow the dictates of other men. It is unalienable, also, because what is here a right towards men is a duty towards the Creator. It is the duty of every man to render to the Creator such homage, and such only, as he believes to be acceptable to him. This duty is precedent, both in order of time and in degree of obligation, to the claims of Civil society. Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governor of the Universe; and if a member of Civil Society who enters into any subordinate Association must always do it with a reservation of his duty to the General Authority, much more must every man who becomes a member of any particular Civil Society do it with a saving of his allegiance to the Universal Sovereign. We maintain, therefore, that in matters of Religion no man's right is abridged by the institution of Civil Society, and that Religion is wholly exempt from its cognizance. True it is, that no other rule exists by which any question which may divide a Society can be ultimately determined than the will of the majority; but it is also true that the majority may trespass on the rights of the minority.

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2. Because, if Religion be exempt from the authority of the Society at large, still less can it be subject to that of the Legislative Body. The latter are but the creatures and vicegerents of the former. Their jurisdiction is both derivative and limited. It is limited with regard to the co-ordinate departments; more necessarily is it limited with regard to the constituents. The preservation of a free Government requires, not merely that the metes and bounds which separate each department of power be invariably maintained, but more especially that neither of them be suffered to overleap the great Barrier which defends the rights of the people. The rulers who are guilty of such an encroachment exceed the commission from which they derive their authority, and are Tyrants. The people who submit to it are governed by laws made neither by themselves nor by an authority derived from them, and are slaves.

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3. Because it is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens, and one of the noblest characteristics of the late Revolution. The freemen of America did not wait till usurped power had strengthened itself by exercise, and entangled the question in precedents. They saw all the consequences in the principle, and they avoided the consequences by denying the principle. We revere this lesson too much soon to forget it. Who does not see that the same authority which can establish Christianity, in exclusion of all other Religions, may establish, with the same ease, any particular sect of Christians, in exclusion of all other sects? that the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment, may force him to conform to any other establishment in all cases whatsoever ?

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4. Because the Bill violates that equality which ought to be the basis of every law, and which is more indispensable in proportion as the validity or expediency of any law is more liable to be impeached. "If all men are by nature equally free and independent,"\* all men are to be considered as entering into Society on equal conditions; as relinquishing no more, and therefore retaining no less, one than another, of their natural rights, above all, are they to be considered as retaining an "equal title to the free exercise of Religion according to the dictates of conscience."\* Whilst we assert for ourselves a freedom to embrace, to profess, and to observe, the Religion which we believe to be of divine origin, we cannot deny an equal freedom to them whose minds have not yet yielded to the evidence which has convinced us. If this freedom be abused, it is an offence against God, not against man. To God, therefore, not to man, must an account of it be rendered. As the bill violates equality by subjecting some to peculiar burdens, so it violates the same principle by granting to others peculiar exemptions. Are the Quakers and Menonists the only Sects who think a compulsive sdpport of their Religious unnecessary and unwarrantable? Can their piety alone be entrusted with the care of public worship? Ought their Religions to be endowed above all others with extraordinary privileges, by which proselytes may be enticed from all others? We think too favourably of the justice and good sense of these denominations to believe that they either covet pre-eminences over their fellow-citizens, or that they will be seduced by them from the common opposition to the measure.

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5. Because the Bill implies, either that the civil Magistrate is a competent Judge of Religious truths, or that he may employ Religion as an engine of civil policy. The first is an arrogant pretension, falsified by the contradictory opinions of Rulers in all ages, and throughout the world; the second, an unhallowed perversion of the means of salvation.

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6. Because the establishment proposed by the Bill is not requisite for the support of the Christian Religion. To say that it is, is a contradiction to the Christian Religion itself, for every page of it disavows a dependence on the powers of this world. It is a contradiction to fact, for it is known that this Religion both existed and flourished, nbt only without the support of human laws, but in spite of every opposition from them; and not only during the period of miraculous aid, but long after it had been left to its own evidence and the ordinary care of providence. Nay, it is a contradiction in terms; for a Religion not invented by human policy must have pre-existed and been supported before it was established by human policy. It is, moreover, to weaken in those who profess this Religion a pious confidence in its innate excellence and the patronage of its Author; and to foster in those who still reject it a suspicion that its friends are too conscious of its fallacies to trust it to its own merits.

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7. Because experience witnesseth that ecclesiastical establishments, instead of maintaining the purity and efficacy of Religion, have had a contrary operation. During almost fifteen Centuries has the legal establishment of Christianity been on trial. What have been its fruits? More or less, in all places, pride and indolence in the Clergy; ignorance and servility in the laity; in both, superstition, bigotry, and persecution. Enquire of the Teachers of Christianity for the ages in which it appeared in its greatest lustre; those of every Sect point to the ages prior to its incorporation with civil policy. Propose a restoration of this primitive state, in which its Teachers depended on the voluntary rewards of their flocks; many of them predict its downfall. On which side ought their testimony to have greatest weight; when for or when against their interest?

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8. Because the establishment in question is not necessary for the support of Civil Government. If it be urged as necessary for the support of Civil Government only as it is a means of supporting Religion, and it be not necessary for the latter purpose, it cannot be necessary for the former. If Religion be not within the cognizance of Civil Government, how can its legal establishment be necessary to Civil Government? What influence, in fact, have ecclesiastical establishments had on Civil Society? In some instances they have been seen to erect a spiritual tyranny on the ruins of the civil authority; in many instances they have been seen upholding the thrones of political tyranny; in no instance have they been seen the guardians of the liberties of the people. Rulers who wished to subvert the public liberty may have found an established Clergy convenient auxiliaries. A just Government, instituted to secure and perpetuate it, needs them not. Such a Government will be best supported by protecting every citizen in the enjoyment of his Religion with the same equal hand which protects his person and his property; by neither invading the equal rights of any Sect, nor suffering any sect to invade those of another.

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Because the proposed establishment is a departure from that generous policy which, offering an Asylum to the persecuted and oppressed of every Nation and Religion, promised a lustre to our country, and an accession to the number of its citizens. What a melancholy mark is the Bill of sudden degeneracy! Instead of holding forth an Asylum to the persecuted, it is itself a Signal of persecution. It degrades from the equal rank of Citizens all those whose opinions in Religion do not bend to those of the Legislative authority. Distant as it may be in its present form from the Inquisition, it differs from it only in degree. The one is the first step, the other the last, in the career of intolerance The magnanimous sufferer under this cruel scourge in foreign Regions must view the Bill as a Beacon on our Coast warning him to seek some other haven, where liberty and philanthropy, in their due extent, may offer a more certain repose from his troubles.

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Because it will have a like tendency to banish our citizens. The allurements presented by other situations are every day thinning their number. To superadd a fresh motive to emigration by revoking the liberty which they now enjoy would be the same species of folly which has dishonoured and depopulated flourishing kingdoms.

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Because it will destroy that moderation and harmony which the forbearance of our laws to intermeddle with Religion has produced among its several Sects. Torrents of blood have been spilt in the old world in consequence of vain attempts of the secular arm to extinguish Religious discord by proscribing all differences in Religious opinion. Time has at length revealed the true remedy. Every relaxation of narrow and rigorous policy, wherever it has been tried, has been found to assuage the disease. The American theatre has exhibited proofs that equal and complete liberty, if it does not wholly eradicate it, sufllciently destroys its malignant influence on the health and prosperity of the State. If, with the salutary effects of this system under our own eyes, we begin to contract the bounds of Religious freedom, we know no name which will too severely reproach our folly. At least, let warning be taken at the first fruits of the threatened innovation. The very appearance of the Bill has transformed "that christian forbearance, love, and charity,"\* which of late mutually prevailed, into animosities and jealousies, which may not soon be appeased. What mischiefs may not be dreaded, should this enemy to the public quiet be armed with the force of a law?

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Because the policy of the Bill is adverse to the diffusion of the light of Christianity. The first wish of those who enjoy this precious gift ought to be, that it may be imparted to the whole race of mankind. Compare the number of those who have as yet received it with the number still remaining under the dominion of false Religions, and how small is the former! Does the policy of the Bill tend to lessen the disproportion? No; it at once discourages those who are strangers to the light of revelation from coming into the Region of it, and countenances by example the nations who continue in darkness in shutting out those who might convey it to them. Instead of levelling, as far as possible, every obstacle to the victorious progress of truth, the Bill, with an ignoble and unchristian timidity, would circumscribe it with a wall of defence against the encroachments of error.

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Because attempts to enforce, by legal sanctions, acts obnoxious to so great a proportion of citizens, tend to enervate the laws in general, and to slacken the bands of Society. If it be difficult to execute any law which is not generally deemed necessary or salutary, what must be the case where it is deemed invalid and dangerous? And what may be the effect of so striking an example of impotency in the Government on its general ,authority ?

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Because a measure of such singular magnitude and delicacy ought not to be imposed without the clearest evidence that it is called for by a majority of citizens; and no satisfactory method is yet proposed by which the voice of the majority in this case may be determined, or its influence secured. "The people of the respective Counties are, indeed, requested to signify their opinion respecting the adoption of the Bill to the next Session of the Assembly." But the representation must be made equal before the voice either of the Representatives or of the Counties will be that of the people. Our hope is, that neither of the former will, after due consideration, espouse the dangerous principle of the Bill. Should the event disappoint us, it will still leave us in full confidence that a fair appeal to the latter will reverse the sentence against our liberties.

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Because, finally, "the equal right of every Citizen to the free exercise of his Religion, according to the dictates of conscience," is held by the same tenure with all our other rights. If we recur to its origin, it is equally the gift of nature; if we weigh its importance, it cannot be less .dear to us; if we consult the Declaration of those rights "which pertain to the good people of Virginia as the basis and foundation of Government,"\* it is enumerated with equal solemnity, or rather with studied emphasis. Either, then, we must say, that the will of the Legislature is the only measure of their authority, and that in the plenitude of that authority they may sweep away all our fundamental rights, or that they are bound to leave this particular right untouched and sacred. Either we must say, that they may controul the freedom of the press, may abolish the trial by jury, may swallow 'up the Executive and Judiciary powers of the State; nay, that they may despoil us of our very right of suffrage, and erect themselves into an independent and hereditary Assembly; or we must say, that they have no authority to enact into a law the Bill under consideration.

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We, the subscribers, say that the General Assembly of this Commonwealth have no such authority. And in order that no effort may be omitted on our part against so dangerous an usurpation, we oppose to it this remonstrance; earnestly praying, as we are in duty bound, that the Supreme Lawgiver of the Universe, by illuminating those to whom it is addressed, may, on the one hand, turn their councils from every act which would affront his holy prerogative, or violate the trust committed to them; and on the other, guide them into every measure which may be worthy of his blessing, redound to their own praise, and establish more firmly the liberties, the prosperity, and the happiness of the Commonwealth.

To James Monroe.

ORANGE, August 7th, 1785.

Writings of Madison, Volume 1: 1769-1793, p.169

DEAR SIR,—I received the day before yesterday your favour of the 26th July. I had previously received the Report on the proposed change of the 9th article of the Confederation, transmitted by Col. Grayson; and in my answer to him offered such ideas on the subject as then occurred.

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I still think the probability of success or failure ought to weigh much with Congress in every recommendation to the States; of which probability Congress, in whom information from every State centers, can alone properly judge. Viewing in the abstract the question whether the power of regulating trade, to a certain degree at least, ought to be vested in Congress, it appears to me not to admit of a doubt but that it should be decided in the affirmative. If it be necessary to regulate trade at all, it surely is necessary to lodge the power where trade can be regulated with effect; and experience has confirmed what reason foresaw, that it can never be so regulated by the States acting in their separate capacities. They Can no more exercise this power separately than they could separately carry on war, or separately form treaties of alliance or commerce. The nature of the thing, therefore, proves the former power, no less than the latter, to be within the reason of the federal Constitution.

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Much, indeed, is it to be wished, as I conceive, that no regulations of trade, that is to say, no restrictions on imposts whatever, were necessary. A perfect freedom is the system which would be my choice. But before such a system will be eligible, perhaps, for the United States, they must be out of debt; before it will be attainable, all other nations must concur in it. Whilst any one of these imposes on our vessels, seamen, &c., in their ports, clogs from which they exempt their own, we must either retort the distinction, or renounce, not merely a just profit, but our only defence against the danger which may most easily beset us. Are we not at this moment under this very alternative? The policy of Great Britain (to say nothing of other nations) has shut against us the channels without which our trade with her must be a losing one; and she has consequently the triumph, as we have the chagrin, of seeing accomplished her prophetic threats, that our independence should forfeit commercial advantages for which it would not recompence us with any new channels of trade.

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What is to be done? Must we remain passive victims to foreign politics, or shall we exert the lawful means which our independence has put into our hands of extorting redress ? The very question would be an affront to every citizen who loves his country. What, then, are these means ? Retaliating regulations of trade only. How are these to be effectuated ? Only by harmony in the measures of the States. How is this harmony to be obtained? Only by an acquiescence of all the States in the opinion of a reasonable majority. If Congress, as they are now constituted, cannot be trusted with the power of digesting and enforcing this opinion, let them be otherwise constituted; let their numbers be increased, let them be chosen oftener, and let their period of service be shortened; or if any better medium than Congress can be proposed by which the wills of the States may be concentered, let it be substituted; or lastly, let no regulation of trade adopted by Congress be in force until it shall have been ratified by a certain proportion of the States. But let us not sacrifice the end to the means; let us not rush on certain ruin in order to avoid a possible danger.

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I conceive it to be of great importance that the defects of the federal system should be amended, not only because such amendments will make it better answer the purpose for which it was instituted, but because I apprehend danger to its very existence from a continuance of defects which expose a part, if not the whole, of the empire to severe distress. The suffering part, even when the minor part, cannot long respect a Government which is too feeble to protect their interests; but when the suffering part comes to be the major part, and they despair of seeing a protecting energy given to the General Government, from what motives is their allegiance to be any longer expected? Should Great Britain persist in the machinations which distress us, and seven or eight of the States be hindered by the others from obtaining relief by federal means, I own I tremble at the anti-federal expedients into which the former may be tempted.

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As to the objection against entrusttug Congress with a power over trade, drawn from the diversity of interests in the States, it may be answered: 1. That if this objection had been listened to, no confederation could have ever taken place among the States. 2. That if it ought now to be listened to, the power held by Congress of forming commercial treaties, by which 9 States may indirectly dispose of the Commerce of the residue, ought to be immediately revoked. 3. That the fact is, that a case can scarcely be imagined in which it would be the interest of any two-thirds of the States to oppress the remaining one-third. 4. That the true question is, whether the commercial interests of the States do not meet in more points than they differ. To me it is clear that they do; and if they do, there are so many more reasons for than against submitting the commercial interest of each State to the direction and care of the majority.

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Put the West India trade alone, in which the interest. of every State is involved, into the scale against all the inequalities which may result from any probable regulation by nine States, and who will say that the latter ought to preponderate? I have heard the different interest which the Eastern States have as carriers pointed out as a ground of caution to the Southern States, who have no bottoms of their own, against their concurring hastily in retaliations on Great Britain. But will the present system of Great Britain ever give the Southern States bottoms? and if they are not their own carriers, I should suppose it no mark either of folly or incivility to give our custom to our brethren, rather than to those who have not yet entitled themselves to the name of friends.

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In detailing these sentiments, I have nothing more in view than to prove the readiness with which I obey your request. As far as they are just, they must have been often suggested in the discussions of Congress on the subject. I cannot even give them weight by saying that I have reason to believe they would be relished in the public Councils of this State. From the trials of which I have been a witness, I augur that great difficulties will be encountered in every attempt to prevail on the Legislature to part with power. The thing itself is not only unpalatable, but the arguments which plead for it have not their full force on minds unaccustomed to consider the interests of the State as they are interwoven with those of the Confederacy, much less as they may be affected by foreign politics; whilst those which plead against it are not only specious, but in their nature popular, and for that reason sure of finding patrons.

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Add to all this, that the Mercantile interest, which has taken the lead in rousing the public attention of other States, is in this so exclusively. occupied in British Commerce, that what little weight they have will be most likely to fall into the opposite scale. The only circumstance which promises a favorable hearing to the meditated proposition of Congress is, that the power which it asks is to be exerted against Great Britain, and the proposition will consequently be seconded by the animosities which still prevail in a strong degree against her.

Writings of Madison, Volume 1: 1769-1793, p.173

I am, my dear sir, very sincerely, your friend and serv.

To Thomas Jefferson.

ORANGE, August 20th, 1785.

Writings of Madison, Volume 1: 1769-1793, p.173

DEAR SIR,—Yours of the 18th of March never reached me till the 4th instant. It came by post from New York, which it did not leave till the 21 of July. My last was dated in April, and went by Mr. Mazzei, who picked it up at New York and promised to deliver it with his own hand.

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The machinations of Great Britain, with regard to commerce, have produced much distress and noise in the Northern States, particularly in Boston, from whence the alarm has spread to New York and Philadelphia. Your correspondence with Congress will no doubt have furnished you with full information on this head. I only know the general fact, and that the sufferers are everywhere calling for such augmentation of the power of Congress as may effect relief. How far the Southern States, and Virginia in particular, will join in this proposition, cannot be foreseen. It is easy to foresee that the circumstances which, in a confined view, distinguish our situation from that of our brethren, will be laid hold of by the partizans of Great Britain, by those who are or affect to be jealous of Congress, and those who are interested in the present course of business, to give a wrong bias to our councils. If anything should reconcile Virginia to the idea of giving Congress a power over her trade, it will be that this power is likely to annoy Great Britain, against whom the animosities of our citizens are still strong. They seem to have less sensibility to their commercial interests, which they very little understand, and which the mercantile class here have not the same motives, if they had the same capacity, to lay open to the public, as that class have in the States North of us.

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The price of our Staple since the peace is another cause of inattention in the planters to the dark side of our commercial affairs. Should these or any other causes prevail in frustrating the scheme of the Eastern and Middle States of a general retaliation on Great Britain, I tremble for the event. A majority of the States, deprived of a regular remedy for their distresses by the want of a federal spirit in the minority, must feel the strongest motives to some irregular experiments. The danger of such a crisis makes me surmise that the policy of Great Britain results as much from the hope of effecting a breach in our Confederacy as of monopolizing our trade.

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Our internal trade is taking an arrangement from which I hope good consequences. Retail Stores are spreading all over the Country; many of them carried on by native adventurers, some of them branched out from the principal Stores at the heads of navigation. The distribution of the business, however, into the importing and the retail departments, has not yet taken place. Should the port bill be established, it will, I think, quickly add this amendment, which indeed must in a little time follow of itself. It is the more to be wished for, as it is the only radical cure for credit to the consumer, which continues to be given to a degree which, if not checked, will turn the diffusive retail of Merchandize into a nuisance. When the Shopkeeper buys his goods of the wholesale Merchant, he must buy at so short a credit that he can venture to give none st all.

Writings of Madison, Volume 1: 1769-1793, p.174

You ask me to unriddle the dissolution of the Committee of the States at Annapolis. I am not sure that I am myself possessed fully of the causes, different members of Congress having differed in their accounts of the matter. My conception of it is, that the abrupt departure of some of the Eastern delegates, which destroyed the quorum, and which Dana is said to have been at the bottom of, proceeded partly from irritations among the committee, partly from dislike to the place of their session, and partly from an impatience to get home, which prevailed over their regard for their private characters, as well as for their public duty.

Writings of Madison, Volume 1: 1769-1793, p.175

Subsequent to the date of mine in which I gave my idea of Fayette, I had further opportunities of penetrating his character. Though his foibles did not disappear, all the favorable traits presented themselves in a stronger light on closer inspection. He certainly possesses talents which might figure in any line. If he is ambitious, it is rather of the praise which virtue dedicates to merit, than of the homage which fear renders to power; his disposition is naturally warm and affectionate, and his attachment to the United States unquestionable. Unless I am grossly deceived, you will find his zeal sincere and useful, whenever it can be employed in behalf of the United States without opposition to the essential interests of France.

Writings of Madison, Volume 1: 1769-1793, p.175

The opposition to the General Assessment gains ground. At the instance of some of its adversaries, I drew up the remonstrance herewith inclosed. It has been sent through the medium of confidential persons in a number of the upper Counties, and I am told will be pretty extensively signed. The Presbyterian clergy have at length espoused the side of the opposition, being moved either by a fear of their laity or a jealousy of the Episcopalians. The mutual hatred of these sects has been much inflamed by the late act incorporating the latter. I am far from being sorry for it, as a coalition between them could alone endanger our religious rights, and a tendency to such an event had been suspected. The fate of the Circuit Courts is uncertain. They are threatened with no small danger from the diversity of opinions entertained among the friends of some reform in that department. But the greatest danger is to be feared from those who mask a secret aversion to any reform under a zeal for such a one as they know will be rejected. The Potowmac Company are going on with very flattering prospects. Their subscriptions some time ago amounted to upward of four-fifths of the whole sum. I have the pleasure, also, to find, by an advertisement from the managers for James River, that more than half the sam is subscribed for that undertaking, and that the subscribers are to meet shortly for the purpose of organizing themselves and going to work. I despair of seeing the Revisal taken up at the ensuing session. The number of copies struck are so deficient, (there being not above three for each County,) and there has been such delay in distributing them, (none of the Counties having received them till very lately, and some probably not yet, though they were ready long ago,) that the principal end of their being printed has been frustrated.

Writings of Madison, Volume 1: 1769-1793, p.176

Our fields promise very short crops both of corn and Tobacco. The latter was much injured by the grasshopper and other insects; the former, somewhat by the bug in the southern parts of the State; but both have suffered most from dry weather, which prevails at present in this part of the country, and has generally prevailed, I understand, in most other parts. It seems certain that no future weather can make a great crop of either, particularly of Tobacco, so great a proportion of the hills being without plants in them, and so many more with plants in them which must come to nothing. Notwithstanding this prospect, its price has fallen from 36s. to 30s. on James River, and 28s. on Rappahannock. The scarcity of cash is one cause.

Writings of Madison, Volume 1: 1769-1793, p.176

Harrison, late Governor, was elected in Surrey, whither he previously removed with his family. i contest for the chair will no doubt ensue; should he fail, he will be for Congress.

Writings of Madison, Volume 1: 1769-1793, p.176

I have not yet received any of the books which you have been so kind as to pick up for me, but expect their arrival daily, as you were probably soon after the date of your last apprised that I was withdrawn from the nomination, which led you to suspend the forwarding them. I am invited by Col. Monroe to an option of rambles this fall, one of which is into the Eastern States. I wish much to accept so favorable an opportunity of executing the plan from which I was diverted last fall, but cannot decide with certainty whether it will be practicable or not.

Writings of Madison, Volume 1: 1769-1793, p.176

I have, in conjunction with a friend here, a project of interest on the anvil, which will carry me at least as far as Phila or New York, where I shall be able to take my final resolution.

Writings of Madison, Volume 1: 1769-1793, p.176

Adieu. Yrs sincerely.

To John Brown, (Kentucky.)

ORANGE, August 23, 1785.

Writings of Madison, Volume 1: 1769-1793, p.177

DEAR SIR,—Your favour of the 12th of July was safely delivered to me by Mr. Craig. I accept with pleasure your proposed exchange of Western for Eastern intelligence, and though I am a stranger to parental ties, can sufficiently conceive the happiness of which they are a source to congratulate you on your possession of two fine sons and a daughter. I do not smile at the idea of transplanting myself into your wilderness. Such a change of my abode is not, indeed, probable, yet I have no local partialities which can keep me from any place which promises the greatest real advantages. But if such a removal was not even possible, I should nevertheless be ready to communicate, as you desire, my Ideas towards a constitution of Government for the State in embryo.

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I pass over the general policy of the measure which calls for such a provision. It has been unanimously embraced by those who, being most interested in it, must have best considered it, and will, I dare say, be with equal unanimity acceded to by the other party, [Congress,] which is to be consulted. I will first offer some general remarks on the subject, and then answer your several queries.

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1. The Legielative Department ought by all means, as I think, to include a Senate, constituted on such principles as will give wisdom and steadiness to legislation. The want of these qualities is the grievance complained of in all our republics. The want of fidelity in the administration of power having been the grievance felt under most governments, and by the American States themselves under the British government, it was natural for them to give too exclusive an attention to this primary attribute. The Senate of Maryland, with a few amendments, is a good model. Trial has, I am told, verified the expectations from it. A similar one made a part of our Constitution as it was originally proposed, but the inexperience and jealousy of our then Councils rejected it in favor of our present Senate; a worse could hardly have been substitutedi and yet, bad as it is, it is often a useful bit in the mouth of the House of Delegates. Not a single Session passes without instances of sudden resolutions by the latter, of which they repent in time to intercede privately with the Senate for their negative. For the other branch, models enough may be found; care ought, however, to be taken against its becoming too numerous, by fixing the number which it is never to exceed. The quorum, wages, and privileges, of both branches, ought also to be fixed. A majority seems to be the natural quorum. The wages of the members may be made payable for years to come, in the medium value of wheat foryears preceding, as the same shall from period to period be rated by a respectable jury appointed for that purpose by the Supreme Court. The privileges of the members ought not, in my opinion, to extend beyond an exemption of their persons and equipage from arrests during the time of their actual service. If it were possible, it would be well to define the extent of the Legislative power; but the nature of it seems in many respects to be indefinite. It is very practicable, however, to enumerate the essential exceptions. The Constitution may expressly restrain them from meddling with religion; from abolishing Juries; from taking away the Habeas Corpus; from forcing a citizen to give evidence against himself; from controuling the press; from enacting retrospective laws, at least in criminal cases; from abridging the right of suffrage; from taking private property for public use without paying its full value; from licensing the importation of slaves; from infringing the confederation, &c., &c.

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As a further security against fluctuating and indigested laws, the Constitution of New York has provided a Council of Revision. I approve much of such an institution, and believe it is considered by the most intelligent citizens of that State as a valuable safeguard both to public .interests and to private rights. Another provision has been suggested for preserving system in Legislative proceedings, which to some may appear still better. It is that a standing committee, composed of a few select and and skilful individuals, should be appointed to prepare bills on all subjects which they may judge proper to be submitted to the Legislature at their meetings, and to draw bills for them during their Sessions. As an antidote both to the jealousy and danger of their acquiring an improper influence, they might be made incapable of holding any other office, Legislative, Executive, or Judiciary. I like this suggestion so much that I have had thoughts of proposing it to our Assembly, who give almost as many proofs as they pass laws of their need of some such assistance.

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2. The Executive Department. Though it claims the second place, it is not in my estimation entitled to it by its importance, all the great powers which are properly executive being transferred to the Federal Government. I have made up no final opinion whether the first Magistrate should be chosen by the Legislature or the people at large, or whether the power should be vested in one man, assisted by a Council, or in a Council, of which the President shall be only primus inter pares. There are examples of each in the United States; and probably advantages and disadvantages attending each. It is material, I think, that the number of members should be small, and that their Salaries should be either unalterable by the Legislature, or alterable only in such manner as will not affect any individual in place. Our Executive is the worst part of a bad Constitution. The members of it are dependent on the Legislature not only for their wages, but for their reputation, and therefore are not likely to withstand usurpations of that branch; they are, besides, too numerous and expensive; their organization vague and perplexed; and to crown the absurdity, some of the members may, without any new appointment, continue in Office for life, contrary to one of the Articles of the Declaration of Rights.

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3. The Judiciary Department merits every care. Its efficacy is demonstrated in Great Britain, where it maintains private right against all the corruptions of the two other Departments, and gives a reputation to the whole government which it is not in itself entitled to. The main points to be attended to are: 1. That the Judges should hold their places during good behaviour. 2. That their Salaries should be either fixed like the wages of the Representatives, or not be alterable so as to affect the Individuals in Office. 3. That their Salaries be liberal. The first point is obvious; without the second, the independence aimed at by the first will be ideal only; without the third, the bar will be superibr to the bench, which destroys all security for a systematic administration of justice. After securing these essential points, I should think it unadvisable to descend so far into detail as to bar any future modification of this department which experience may recommend. An enumeration of the principal Courts, with power to the Legislature to institute inferior Courts, may suffice. The Admiralty business can never .be extensive in your situation, and may be referred to one of the other Courts. With regard to a Court of Chancery, as distinct from a Court of Law, the reasons of Lord Bacon on the affirmative side outweigh, in my judgment, those of Lord Kaimes on the other side; yet I should think it best to leave this important question to be decided by future lights, without tying the tands of the Legislature one way or the other. I consider our County Courts as on a bad footing, and would never, myself, consent to copy them into another Constitution.

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All the States seem to have seen the necessity of providing for Impeachments, but none of them to have hit on an unexceptionable tribunal. In some the trial is referred to the Senate, in others to the Executive, in others to the Judiciary department. It has been suggested that a tribunal composed of members from each department. would be better than either, and I entirely concur in that opinion. I proceed next to your queries.

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1. "Whether is a representation according to numbers, or "property, or in a joint proportion to both, the most safe? Or "is a representation by Counties preferable to a more equitable "mode that will be difficult to adjust?" Under this question may be considered: 1. The right of suffrage. 2. The mode of suffrage. B. The plan of representation. As to the first, I think the extent which ought to be given to this right a matter of great delicacy and of critical importance. To restrain it to the land holders will in time exclude too great a proportion of citizens; to extend it to all citizens without regard to property, or even to all who possess a pittance, may throw too much power into hands which will either abuse it themselves or sell it to the rich who will abuse it. I have thought it might be a good middle course to narrow this right in the choice of the least popular, and to enlarge it in that of the more popular branch of the Legislature. There is an example of this distinction in North Carolina, if in none of the other States. How it operates or is relished by the people I cannot say. It would not be surprising if in the outset, at least, it should offend the sense of equality which reigns in a free country. In a general view, I see no reason why the rights of property, which chiefly bears the burden of Government, and is so much an object of Legislation, should not be respected as well as personal rights in the choice of Rulers. It must be owned, indeed, that property will give influence to the holder, though it should give him no legal privileges, and will in general be safe on that as well as on other accounts, especially if the business of legislation be guarded with the provisions hinted at. 2. As to the mode of suffrage, I lean strongly to that of the ballot, notwithstanding the objections which lie against it. It appears to me to be the only radical cure for those arts of electioneering which poison the very fountain of Liberty. The States in which the ballot has been the standing mode are the only instances in which elections are tolerably chaste and those arts in disgrace. If it should be thought improper to fix this mode by the Constitution, I should think it at least necessary to avoid any constitutional bar to a future adoption of it.\* 3. By the plan of representation I mean: 1. The classing of the electors. 2. The proportioning of the representatives to each class. The first cannot be otherwise done than by geographical description, as by Counties. The second may easily be done, in the first instance, either by comprising within each County an equal number of Electors, or by proportioning the number of representatives of each County to its number of Electors. The difficulty arises from the disproportionate increase of electors in different Counties. There seem to be two methods only by which the representation can be equalized from time to time. The first is to change the bounds of the Counties; the second, to change the number of representatives allotted to them, respectively. As the former would not only be most troublesome and expensive, but would involve a variety of other adjustments, the latter method is evidently the best. Examples of a Constitutional provision for it exists in several of the States. In some it is to be executed periodically; in others, pro re nata. The latter seems most accurate and very practicable. I have already intimated the propriety of fixing the number of representatives, which ought never to be exceeded; I should suppose one hundred and fifty, or even one hundred, might safely be made the ne plus ultra for Kentucky.

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2. "Which is to be preferred; an annual, triennial, or septennial succession to offices, or frequent elections without limitations in choice, or that officers when chosen should continue "quamdiu se bene gesserint?" The rule ought no doubt to be different in the different departments of power. For one part of the Legislature annual elections will, I suppose, be held indispensable; though some of the ablest Statesmen and soundest Republicans in the United States are in favor of triennial. The great danger in departing from annual elections in this case lies in the want of some other natural term to limit the departure. For the other branch, four or five years may be the period. For neither branch does it seem necessary or proper to prohibit an indefinite re-eligibility. With regard to the Executive, if the elections be frequent, and particularly if made as to any member of it by the people at large, a re-eligibility cannot, I think, be objected to. If they be unfrequent, a temporary or perpetual incapacitation, according to the degree of unfreqency, at least in the case of the first Magistrate, may not be amiss. As to the Judiciary department, enough has been said; and as to the subordinate officers, civil and military, nothing need be said more than that a regulation of their appointments may, under a few restrictions, be safely trusted to the Legislature.

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3. "How far may the same person with propriety be era" ployed in the different departments of Government in an in'' fant country, where the counsel of every individual may be "needed?" Temporary deviations from fundamental principles are always more or less dangerous. When the first pretext fails, those who become interested in prolonging the evil will rarely be at a loss for other pretexts. The first precedent, too, familiarises the people to the irregularity, lessens their veneration for those fundamental principles, and makes them a more easy prey to ambition and self interest. Hence it is that abuses of every kind, when once established, have been so often found to perpetuate themselves. In this caution, I refer chiefly to an improper mixture of the three great Departments within the State. A delegation to Congress is, I conceive, compatible with either.

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4. "Should there be a periodical review of the Constitution?" Nothing appears more eligible in theory, nor has sufficient trial, perhaps, been yet made to condemn it in practice. Pennsylvania has alone adopted the expedient. Her citizens are much divided on the subject of their Constitution in general, and probably on this part of it in particular. I am inclined to think, though am far from being certain, that it is not a favorite part even with those who are fondest of their Constitution. Another plan has been thought of, which might, perhaps, succeed better, and would at the same time be a safeguard to the equilibrium of the constituent departments of Government. This is, that a majority of any two of the three departments should have authority to call a plenipotentiary convention whenever they may think their constitutional powers have been violated by the other department, or that any material part of the Constitution needs amendment. In your situation, I should think it both imprudent and indecent not to leave a door open for at least one revision of your first establishment—imprudent, because you have neither the same resources for supporting nor the same lights for framing a good establishment now as you will have fifteen or twenty years hence—indecent, because an handful of early settlers ought not to preclude a populous country from a choice of the Government under which they and their posterity are to live. Should your first Constitution be made thus temporary, the objections against an intermediate union of offices will be proportionably lessened. Should a revision of it not be made thus necessary and certain, there will be little probability of its being ever revised. Faulty as our Constitution is, as well with regard to the authority which formed it as to the manner in which it is formed, the issue of an experiment has taught us the difficulty of amending it. And although the issue might have proceeded from the unseasonableness of the time, yet it may be questioned whether, at any future time, the greater depth to which it will have stricken its roots will not counterbalance any more auspicious circumstances for overturning it.

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5 & 6. "Or will it be better unalterably to fix some leading principles in government, and make it consistent for the Legislature to introduce such changes in lesser matters as may become expedient? Can Censors be provided that will impartially point out deficiences in the Constitution and the violations that may happen?"

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Answers on these points may be gathered from what has been already said.

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I have been led to offer my sentiments in this loose form rather than to attempt a delineation of such a plan of government as would please myself, not only by my ignorance of many local circumstances and opinions which must be consulted in such a work, but also by the want of sufficient time for it. At the receipt of your letter I had other employment, and what I now write is in the midst of preparations for a journey of business, which will carry me as far as Philadelphia at least, and on which I shall set out in a day or two.

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I am sorry that it is not in my power to give you some satisfactory information concerning the Mississippi. A Minister from Spain has been with Congress for some time, and is authorised, as I understand, to treat on whatever subjects may concern the two nations. If any explanations or propositions have passed between him and the Minister of Congress, they are as yet in the list of Cabinet secrets. As soon as any such shall be made public and come to my knowledge, I shall take the first opportunity of transmitting them. Wishing you and your family all happiness,

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I am, Dr Sir, your friend and servant.

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The Constitutions of the several States were printed in a small volume a year or two ago, by order of Congress. A perusal of them need not be recommended to you. Having but a single copy, I cannot supply you. It is not improbable that you may be already possessed of one. The revisal of our laws by Jefferson, Wythe, and Pendleton, beside their value in improving the legal code, may suggest something worthy of being attended to in framing a Constitution.

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[Remarks on Mr. Jefferson's "Draught of a Constitution for Virginia"\* sent from New York to Mr. John Brown, Kentucky, October 1788 :]

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Senate.

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The term of two years is too short. Six years are not more than sufficient. A Senate is to withstand the occasional impetuosities of the more numerous branch. The members ought, therefore, to derive a firmness from the tenure of their places. It ought to supply the defect of knowledge and experience incident to the other branch; there ought to be time given, therefore, for attaining the qualifications necessary for that purpose. It ought, finally, to maintain that system and steadiness in public affairs without which no government can prosper or be respectable. This cannot be done by a body undergoing a frequent change of its members. A Senate for six years will not be dangerous to liberty; on the contrary, it will be one of its best guardians. By correcting the infirmities of popular government, it will prevent that disgust against that form which may otherwise produce a sudden transition to some very different one. It is no secret to any attentive and dispassionate observer of the political situation of the United States, that the real danger to republican liberty has lurked in that cause.

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The appointment of Senators by districts seems to be objectionable. A spirit of locality is inseparable from that mode. The evil is fully displayed in the County representations, the members of which are everywhere observed to lose sight of the aggregate interests of the community, and even to sacrifice them to the interests or prejudices of their respective constituents. In general, these local interests are miscalculated. But it is not impossible for a measure to be accommodated to the particular interests of every County or district, when considered by itself, and not so, when considered in relation to each other and to the whole State; in the same manner as the interests of individuals may be very different in a state of nature and in a political union. The most effectual remedy for the local bias is to impress on the minds of the Senators an attention to the interest of the whole society, by making them the choice of file whole Society, each citizen voting for every Senator. The objection here is, that the fittest characters would not be sufficiently known to the people at large. But, in free governments, merit and notoriety of character are rarely separated; and such a regulation would connect them more and more together. Should this mode of election be on the whole not approved, that established in Maryland presents a valuable alternative. The latter affords, perhaps, a greater security for the selection of merit. The inconveniences chargeable on it are two: first, that the Council of electors favors cabal. Against this, the shortness of its existence is a good antidote. Secondly, that in a large State the meeting of the electors must be expensive if they be paid, or badly attended if the service is onerous. To this it may be answered that, in a case of such vast importance, the expense, which could not be great, ought to be disregarded. Whichever of these modes may be preferred, it cannot be amiss so far to admit the plan of districts as to restrain the choice to persons residing in different parts of the State. Such a regulation will produce a diffusive confidence in the body, which is not less necessary than the other means of rendering it useful. In a State having large towns which can easily unite their votes, the precaution would be essential to an immediate choice by the people at large. In Maryland no regard is paid to residence, and, what is remarkable, vacancies are filled by the Senate itself. This last is an obnoxious expedient, and cannot in any point of view have much effect. It was probably meant to obviate the trouble of occasional meetings of the electors. But the purpose might have been otherwise answered by allowing the unsuccessful candidates to supply vacancies according to the order of their standing on the list of votes, or by requiring provisional appointments to be made along with the positive ones. If an election by districts be unavoidable, and the ideas here suggested be sound, the evil will be diminished in proportion to the extent given to the districts, taking two or more Senators from each district.

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Electors.

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The first question arising here is how far property ought to be made a qualification. There is a middle way to be taken, which corresponds at once with the theory of free government and the lessons of experience. A freehold or equivalent of a certain value may be annexed to the right of voting for Senators, and the right left more at large in the election of the other House. Examples of this distinction may be found in the Constitutions of several States, particularly, if I mistake not, of North Carolina and New York. This middle mode reconciles and secures the two cardinal objects of government, the rights of persons and the rights of property. The former will be sufficiently guarded by one branch, the latter more particularly by the other. Give all power to property, and the indigent will be oppressed. Give it to the latter, and the effect may be transposed. Give a defensive share to each, and each will be secure. The necessity of thus guarding the rights of property was, for obvious reasons, unattended to in the commencement of the Revolution. In all the governments which were considered as beacons to republican patriots and lawgivers, the rights of persons were subjected to those of property. The poor were sacrificed to the rich. In the existing state of American population and of American property, the two classes of rights were so little discriminated, that a provision for the rights of persons was supposed to include of itself those of property; and it was natural to infer, from the tendency of republican laws, that these different interests would be more and more identified. Experience and investigation have, however, produced more correct ideas on this subject. It is now observed that in all populous countries the smaller part only can be interested in preserving the rights of property. It must be foreseen that America, and Kentucky itself, will by degrees arrive at this state of society; that in some parts of the Union a very great advance is already made towards it. It is well understood that interest leads to injustice, as well where the opportunity is presented to bodies of men as to individuals; to an interested majority in a Republic, as to the interested minority in any other form of government. The time to guard against this danger is at the first forming of the Constitution, and in the present state of population, when the bulk of the people have a sufficient interest in possession or in prospect to be attached to the rights of property, without being insufficiently attached to the rights of persons. Liberty, not less than justice, pleads for the policy here recommended. If all power be suffered to slide into hands not interested in the rights of property, which must be the case whenever a majority fall under that description, one of two things cannot fail to happen; either they will unite against the other description and become the dupes and instruments of ambition, or their poverty and dependence will render them the mercenary instruments of wealth. In either case liberty will be subverted: in the first, by a despotism growing out of anarchy; in the second, by an oligarchy rounded on corruption.

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The second question under this head is, whether the ballot be not a better mode than that of voting viva voce. The comparative experience of the States pursuing the different modes is in favor of the first. It is found less difficult to guard against fraud in that than against bribery in the other.

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Exclusions.

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Does not the exclusion of Ministers of the Gospel, as such, violate a fundamental principle of liberty, by punishing a religious profession with the privation of a civil right? Does it not violate another article of the plan itself, which exempts religion from the cognizance of Civil power? Does it not violate justice, by at once taking away a right and prohibiting a compensation for it? Does it not, in fine, violate impartiality, by shutting the door against the Ministers of one religion and leaving it open for those of every other ?

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The re-eligibility of members after accepting offices of profit is so much opposed to the present way of thinking in America, that any discussion of the subject would probably be a waste of time.

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Limits of power.

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It is at least questionable whether death ought to be confined to "treason and murder." It would not, therefore, be prudent to tie the hands of government in the manner here proposed. The prohibition of pardon, however specious in theory, would have practical consequences which render it inadmissible. A single instance is a sufficient proof. The crime of treason is generally shared by a number, and often a very great number. It would be politically if not morally wrong to take away the lives of all, even if every individual were equally guilty. What name would be given to a severity which made no distinction between the legal and the moral offence; between the deluded multitude and their wicked leaders? A second trial Would not avoid the difficulty; because the oaths of the jury would not permit them to hearken to any voice but the inexorable voice of the law.

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The power of the Legislature to appoint any other than their own officers departs too far from the theory which requires a separation of the great departments of government. One of the best securities against the creation of unnecessary offices or tyrannical! powers is an exclusion of the authors from all share in filling the one, or influence in the execution of the other. The proper mode of appointing to offices will fall under another head.

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Executive Governor.

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An election by the Legislature is liable to insuperable objections. It not only tends to faction, intrigue, and corruption, but leaves the Executive under the influence of an improper obligation to that Department. An election by the people at large, as in this\* and several other States, or by electors, as in the appointment of the Senate in Maryland, or, indeed, by the people, thro' any other channel than their legislative representatives, seems to be far preferable. The ineligibility a second time, tho' not perhaps without advantages, is also liable to a variety of strong objections. It takes away one powerful motive to a faithful and useful administration, the desire of acquiring that title to a re-appointment. By rendering a periodical change of men necessary, it discourages beneficial undertakings, which require perseverance and system, or, as frequently happened in the Roman Consulate, either precipitates or prevents the execution of them. It may inspire desperate enterprises for the attainment of what is not attainable by legitimate means. It fetters the judgment and inclination of the community; and in critical moments would either produce a violation of the Constitution or exclude a choice which might be essential to the public safety. Add to the whole, that by putting the Executive Magistrate in the situation of the tenant of an unrenewable lease, it would tempt him to neglect the constitutional rights of his department, and to connive at usurpations by the Legislative departmentt with which he may connect his future ambition or interest.

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The clause restraining the first magistrate from the immediate command of the military force would be made better by excepting cases in which he should receive the sanction of the two branches of the Legislature.

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Council of State.

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The following variations are suggested:

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1. The election to be made by the people immediately, or thro' some other medium than the Legislature. 2. A distributive choice should perhaps be secured, as in the case of the Senate. 3. Instead of an ineligibility a second time, a rotation in the Federal Senate, with an abridgment of the term, to be substituted.

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The appointment to offices is, of all the functions of Republican, and perhaps every other form of government, the most difficult to guard against abuse. Give it to a numerous body, and you at once destroy all responsibility, and create a perpetual source of faction and corruption. Give it to the Executive wholly, and it may be made an engine of improper influence and favoritism. Suppose the power were divided thus: let the Executive alone make all the subordinate appointments, and the Governor and Senate, as in the Federal Constitution, those of the superior order. It seems particularly fit that the Judges, who are to form a distinct department, should owe their offices partly to each of the other departments, rather than wholly to either.

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Judiciary.

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Much detail ought to be avoided in the Constitutional regulation of this Department, that there may be room for changes which may be demanded by the progressive changes in the state of our population. It is at least doubtful whether the number of courts, the number of Judges, or even the boundaries of jurisdiction, ought to be made unalterable but by a revisal of the Constitution. The precaution seems no otherwise necessary than as it may prevent sudden modifications of the establishment, or addition of obsequious judges, for the purpose of evading the checks of the Constitution and giving effect to some sinister policy of the Legislature. But might not the same object be otherwise attained? by prohibiting, for example, any innovations in those particulars without the consent of that department? or without the annual sanction of two or three successive Assemblies, over and above the other pre-requisites to the passage of a law?

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The model here proposed for a Court of Appeals is not recommended by experience. It is found, as might well be presumed, that the members are always warped in their appellate decisions by an attachment to the principles and jurisdiction of their respective Courts, and still more so by the previous decision on the case removed by appeal. The only efficient cure for the evil is to form a Court of Appeals of distinct and select Judges. The expense ought not to be admitted as an objection: 1. Because the proper administration of justice is of too essential a nature to be sacrificed to that consideration. 2. The number of inferior judges might, in that case, be lessened. 3. The whole department may be made to support itself by a judicious tax on law proceedings.

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The excuse for non-attendance would be a more proper subject of enquiry somewhere else than in the Court to which the party belonged. Delicacy, mutual convenience, &c. would soon reduce the regulation to mere form; or if not, it might become a disagreeable source of little irritations among the members. A certificate from the local Court, or some other local authority, where the party might reside or happen to be detained from his duty, expressing the cause of absence, as well as that it was judged to be satisfactory, might be safely substituted. Few Judges would improperly claim their wages if such a formality stood in the way. These observations are applicable to the Council of State.

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A Court of Impeachment is among the most puzzling articles of a Republican Constitution; and it is far more easy to point out defects in any plan than to supply a cure for them. The diversified expedients adopted in the Constitutions of the several States prove how much the compilers were embarrassed on this subject. The plan here proposed varies from all of them, and is, perhaps, not less than any, a proof of the difficulties which pressed the ingenuity of its author. The remarks arising on it are: 1. That it seems not to square with reason that the right to impeach should be united to that of trying the impeachment, and consequently, in a proportional degree, to that of sharing in the appointment of or influence on the Tribunal to which the trial may belong. 2. As the Executive and Judiciary would form a majority of the Court, and either have a right to impeach, too much might depend on a combination of these departments. This objection would be still stronger if the members of the Assembly were capable, as proposed, of holding offices, and were amenable in that capacity to the Court. 3. The House of Delegates and either of those departments could appoint a majority of the Court. Here is another danger of combination, and the more to be apprehended, as that branch of the Legislature would also have the right to impeach, a right in their hands of itself sufficiently weighty; and as the power of the Court would extend to the head of the Executive, by whose independence the constitutional rights of that Department are to be secured against legislative usurpations. 4. The dangers in the two last cases would be still more formidable, as the power extends not only to deprivation, but to future incapacity of office. In the case of all officers of sufficient importance to be objects of factious persecution, the latter branch of power is, in every view, of a delicate nature. In that of the Chief Magistrate, it seems inadmissible if he be chosen by the Legislature, and much more so if immediately by the people themselves. A temporary incapacitation is the most that could be properly authorised.

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The two great desiderata in a Court of Impeachments are: 1. Impartiality. 2. Respectability; the first in order to a right, the second in order to a satisfactory decision. These characteristics are aimed at in the following modification: Let the Senate be denied the right to impeach. Let one-third of the members be struck out, by alternate nominations of the prosecutors and party impeached; the remaining two-thirds to be the stamen of the Court. When the House of Delegates impeach, let the Judges, or a certain proportion of them, and the Council of State, be associated in the trial; when the Governor or Council impeaches, let the Judges only be associated; when the Judges impeach, let the Council only be associated. But if the party impeached by the House of Delegates be a member of the Executive or Judiciary, let that of which he is a member not be associated. If the party impeached belong to one and be impeached by the other of these branches, let neither of them be associated, the decision being in this case left with the Senate alone; or if that be thought exceptionable, a few members might be added by the House of Delegates. Two-thirds of the Court should in all cases be necessary to a conviction, and the Chief Magistrate, at least, should be exempt from a sentence of perpetual, if not of temporary incapacity. It is extremely probable that a critical discussion of this outline may discover objections which do not occur. Some do occur; but appear not to be greater than are incident to any different modification of the Tribunal.

Writings of Madison, Volume 1: 1769-1793, p.194

The establishment of trials by jury and viva voce testimony, in all cases and in all Courts, is, to say the least, a delicate experiment; and would most probably be either violated, or be found inconvenient.

Writings of Madison, Volume 1: 1769-1793, p.194

Council of Revision.

Writings of Madison, Volume 1: 1769-1793, p.194

A revisionary power is meant as a check to precipitate, to unjust, and to unconstitutional laws. These important ends would, it is conceded, be more effectually secured, without disarming the Legislature of its requisite authority, by requiring bills to be separately communicated to the Executive and Judiciary departments. If either of these object, let two-thirds, if both, three-fourths, of each House be necessary to overrule the objection; and if either or both protest against a bill as violating the Constitution, let it moreover be suspended, notwithstanding the overruling proportion of the Assembly, until there shall have been a subsequent election of the House of Delegates and a re-passage of the bill by two-thirds or three-fourths of both houses, as the case may be. It should not be allowed the Judges or the Executive to pronounce a law thus enacted unconstitutional and invalid.

Writings of Madison, Volume 1: 1769-1793, p.194

In the State Constitutions, and, indeed, in the Federal one also, no provision is made for the case of a disagreement in expounding them; and as the Courts are generally the last in making the decision, it results to them, by refusing or not refusing to execute a law, to stamp it with its final character. This makes the Judiciary department paramount in fact to the Legislature, which was never intended and can never be proper.

Writings of Madison, Volume 1: 1769-1793, p.194

The extension of the Habeas Corpus to the cases in which it has been usually suspended merits consideration at least. If there be emergencies which call for such a suspension, it can have no effect to prohibit it, because the prohibition will assuredly give way to the impulse of the moment; or rather, it will have the bad effect of facilitating other violations that may be less necessary. The exemption of the press from liability in every case for true facts is also an innovation, and, as such, ought to be well considered. This essential branch of liberty is, perhaps, in more danger of being interrupted by local tumults, or the silent awe of a predominant party, than by any direct attacks of power.

To Thomas Jefferson.

PHILADELPHIA, October 3d, 1785.

Writings of Madison, Volume 1: 1769-1793, p.195

DEAR, SIR,—In pursuance of the plan intimated in my last, I came to this city about three weeks ago, from which I continued my trip to New York. I returned last night, and in a day or two shall start for Virginia. Col. Monroe had left Philadelphia a few days before I reached it, on his way to a treaty to be held with the Indians about the end of this month on the Wabash. If a visit to the Eastern States had been his choice, short as the time would have proved, I should have made an effort to attend him. As it is, I must postpone that gratification, with a purpose, however, of embracing it on the first convenient opportunity.

Writings of Madison, Volume 1: 1769-1793, p.195

Your favor of the 11 May, by Monsr Doradour, inclosing your cypher, arrived in Virginia after I left it, and was sent after me to this place. Your notes which accompanied it remained behind, and consequently I can only now say on that subject that I shall obey your request on my return, which my call to Richmond will give me an early opportunity of doing.

Writings of Madison, Volume 1: 1769-1793, p.195

During my stay at New York I had several conversations with the Virginia Delegates, but with few others, on the affairs of the confederacy. I find with much regret that these are, as yet, little redeemed from the confusion which has so long mortified the friends to our national honor and prosperity. Congress have kept the vessel from sinking, but it has been by standing constantly art the pump, not by stopping the leaks which have endangered her. All their efforts for the latter purpose have been frustrated by the selfishness or perverseness of some part or other of their constituents. The desiderata most strongly urged boy our past experience and our present situation are: 1. A final discrimination between such of the unauthorised expences of the States as ought to be added to the common debt, and such as ought not. 2. A constitutional apportionment of the common debt, either by a valuation of the lands, or a change of the article which requires it. 3. A recognition by the States of the authority of Congress to enforce payment of their respective quotas. 4. A grant to Congress of an adequate power over trade.

Writings of Madison, Volume 1: 1769-1793, p.196

It is evident to me that the first object will never be effected in Congress, because it requires in those who are to decide it the spirit of impartial judges, whilst the spirit of those who compose Congress is feather that of advocates for the respective interests of their constituents. If this business were referred to a commission filled by a member chosen by Congress out of each State, and sworn to impartiality, I should have hopes of seeing an end of it. 'The 2d object affords less ground of hope. The execution of the 8th article of Confederation is generally held impracticable, and Rhode Island, if no other State, has put its veto on the proposed alteration of it. Until the 3d object can be obtained, the Requisitions of Congress will continue to be mere calls for voluntary contributions, which every State will be tempted to evade, by the uniform experience that those States have come off best which have done so most. The present plan of federal Government reverses the first principle of all Government. It punishes not the evil-doers, but those that do well. It may be considered, I think, as a fortunate circumstance for the United States, that the use of coercion, or such provision as would render the use of it unnecessary, might be made at little expence and perfect safety. A single frigate under the orders of Congress could make it the interest of any one of the Atlantic States to pay its just quota. With regard to such of the ultramontane States as depend on the trade of the Mississippi, as small a force would have the same effect; whilst the residue trading through the Atlantic States might be wrought upon by means more indirect, indeed, but perhaps sufficiently effectual.

Writings of Madison, Volume 1: 1769-1793, p.197

The fate of the 4th object is still suspended. The Recommendations of Congress on this subject, past before your departure, have been positively complied with by few of the States, I believe; but I do not learn that they have been rejected by any. A proposition has been agitated in Congress, and will, I am told, be revived, asking from the States a general and permanent authority to regulate trade, with a proviso that it shall in no case be exercised without the assent of eleven States in Congress. The Middle States favor the measure; the Eastern are zealous for it; the Southern are divided. Of the Virginia delegation, the president\* is an inflexible adversary, Grayson unfriendly, and Monroe and Hardy warm on the opposite side. If the proposition should pass Congress, its fate will depend much on the reception it may find in Virginia, and this will depend much on the part which may be taken by a few members of the Legislature. The prospect of its being levelled against Great Britain will be most likely to give it popularity.

Writings of Madison, Volume 1: 1769-1793, p.197

In this suspence of a general provision for our commercial interests, the more suffering States are seeking relief from partial efforts, which are less likely to obtain it than to drive their trade into ether channels, and to kindle heart-burnings on all sides. Massachusetts made the beginning; Pennsylvania has followed with a catalogue of duties on foreign goods and tonnage, which could scarcely be enforced against the smuggler, if New Jersey, Delaware, and Maryland, were to co-operate with her. The avowed object of these duties is to encourage domestic manufactures, and prevent the exportation of coin to pay for foreign. The Legislature had previously repealed the incorporation of the Bank, as the cause of the latter and a great many other evils. South Carolina, I am told, is deliberating on the distresses of her commerce, and will probably concur in some general plan, with a proviso, no doubt, against any restraint from importing slaves, of which they have received from Africa since the peace about twelve Thousand. She is also deliberating on the emission of paper money, and it is expected she will legalize a supension of Judicial proceedings, which has been already effected by popular combinations. The pretext for these measures is the want of specie occasioned by the unfavorable balance of trade.

Writings of Madison, Volume 1: 1769-1793, p.198

Your introduction of Mr. T. Franklin has been presented to me. The arrival of his Grandfather has produced an emulation among the different parties here in doing homage to his character. He will be unanimously chosen president of the State, and will either restore to it an unexpected quiet or lose his own. It appears, from his answer to some applications, that he will not decline the appointment.

Writings of Madison, Volume 1: 1769-1793, p.198

On my journey I called at Mount Vernon, and had the pleasure of finding the General in perfect health. He had just returned from a trip up the Potomac. He grows more and more sanguine as he examines further into the practicability of opening its navigation. The subscriptions are completed within a few shares, and the work is already begun at some of the lesser obstructions. It is overlooked by Rumsey, the inventor of the boats, which I have in former letters mentioned to you. He has not yet disclosed his secret. He had of late nearly finished a boat of proper size, which he meant to have exhibited, but the House which contained it and materials for others was consumed by fire. He assured the General that the enlargement of his machinery did not lessen the prospect of utility afforded by the miniature experiments. The General declines the shares voted him by the Assembly, but does not mean to withdraw the money from the object which it is to aid, and will even appropriate the future tolls, I believe, to some useful public establishment, if any such can be devised that will both please himself and be likely to please the State.

Writings of Madison, Volume 1: 1769-1793, p.198

This is accompanied by a letter from our amiable friend, Mrs. Trist, to Miss Patsy. She got back safe to her friends in August, and is as well as she has generally been; but her cheerfulness seems to be rendered less uniform than it once was by the scenes of adversity through which fortune has led her. Mrs. House is well, and charges me not to omit her respectful and affectionate compliments to you.

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I remain, dear sir, yours.

To General Washington.

RICHMOND, Novr 11th, 1785.

Writings of Madison, Volume 1: 1769-1793, p.199

DEAR SIR,—I received your favor of the 29th ultimo on Thursday. That by Col. Lee had been previously delivered. Your letter for the Assembly was laid before them yesterday. I have reason to believe that it was received with every sentiment which could correspond with yours. Nothing passed from which any conjecture could be formed as to the objects which would be most pleasing for the appropriation of the fund. The disposition is, I am persuaded, much stronger to acquiesce in your choice, whatever it may be, than to lead or anticipate it. I see no inconveniency in your taking time for a choice that wall please yourself. The letter was referred to a committee, which will no doubt make such a report as will give effect to your wishes.

Writings of Madison, Volume 1: 1769-1793, p.199

Our Session commenced very inauspiciously with a contest for the chair, which was followed by a rigid scrutiny into Mr. Harrison's election in his County. He gained the chair by a majority of six votes, and retained his seat by a majority of still fewer. His residence was the point on which the latter question turned. Doctor Lee's election was questioned on a similar point, and was also established; but it was held to be vacated by his acceptance of a lucrative post under the United States. The House have engaged with some alacrity in the consideration of the Revised Code, prepared by Mr. Jefferson, Mr. Pendleton, and Mr. Wythe. The present temper promises an adoption of it in substance. The greatest danger arises from its length, compared with the patience of the members. If it is persisted in, it must exclude several matters which are of moment, but, I hope, only for the present Assembly. The pulse of the House of Delegates was felt on Thursday with regard to a general manumission, by a petition presented on that subject. It was rejected without dissent, but not without an avowed patronage of its principle by sundry respectable members. A motion was made to throw it under the table, which was treated with as much indignation on one side as the petition itself was on the other. There are several petitions before the House against any step towards fleeing the Slaves, and even praying for a repeal of the law which licences particular manumissions.

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The merchants of several of our towns have made representations on the distress of our commerce, which have raised the question whether relief shall be attempted by a reference to Congress, or by measures within our own compass. On a pretty full discussion, it was determined by a large majority that the power over trade ought to be vested in Congress, under certain qualifications. If the qualifications suggested, and no others, should be annexed, I think they will not be subversive of the principle; tho' they will, no doubt, lessen its utility. The Speaker, Mr. M. Smith, and Mr. Braxton, are the champions against Congress. Mr. Thruston and Mr. White have since come in, and I fancy I may set down both as auxiliaries.

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They are not a little puzzled, however, by the difficulty of substituting any practicable regulations within ourselves. Mr. Braxton proposed two, that did not much aid his side of the question. The first was, that all British vessels from the West Indies should be excluded from our ports; the second, that no merchant should carry on trade here until he should have been a resident years. Unless some plan free from objection can be devised for this State, its patrons will be reduced clearly to the dilemma of acceding to a general one, or leaving our trade under all its present embarrassments. There was some little skirmishing on the ground of public faith, which leads me to hope that its friends have less to fear than was surmised. The Assize and Port Bills have not yet been awakened. The Senate will make a House to-day for the first time.

Writings of Madison, Volume 1: 1769-1793, p.201

Inclosed herewith are two Reports from the commissioners for examining the head of James River, &c., and the ground between the waters of Elizabeth River and North Carolina; also, a sensible pamphlet said to be written by St. George Tucker.

Notes for a Speech Given in 1785

in the Virginia House of Delegates

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[Notes of a speech made by Mr. Madison in the House of Delegates of Virginia, in the month of November, 1785, on the question of vesting in Congress the general power of regulating commerce for all the States:]

I. General regulations necessary, whether the object be to—

1. Counteract foreign plans.

2. Encourage ships and seamen.

3.——— manufactures.

4. Revenue.

5. Frugality; [articles of luxury most easily run from State to State.]

6. Embargo's in war—Case of Delaware in late war.

II. Necessary to prevent contention among States.

1. Case of French Provinces; Neckar says 23,000 patrols employed against internal contrabands.

2. Case of Massachusetts and Connecticut.

3. Case of New York and New Jersey.

4. Pennsylvania and Delaware.

5. Virginia and Maryland, late regulation.

6. Irish propositions.

III. Necessary to justice and true policy.

1. Connecticut and New Hampshire.

2. New Jersey.

3. North Carolina.

4. Western Country.

IV. Necessary as a system convenient and intelligible to foreigners trading to the United States.

V. Necessary as within reason of Federal Constitution, the regulation of trade being as impracticable by States as peace, war, ambassadors, &c.

Treaties of commerce ineffectual without it.

VI. Safe with regard to the liberties of the States.

1. Congress may be trusted with trade as well as war, &c.

2. Power of Treaties involve the danger, if any.

3. Controul of States over Congress.

4. Example of Amphyctionic League, Achaean, &c., Switzerland, Holland, Germany.

5. Peculiar situation of United States increases the repellant power of the States.

VII. Essential to preserve federal Constitution.

1. Declension of federal Government.

2. Inadequacy to end must lead States to substitute some other policy—no institution remaining long when it ceases to be useful, &c.

3. Policy of Great Britain to weaken Union.

VIII. Consequences of dissolution of confederacy.

1. Appeal to sword in every petty squabble.

2. Standing armies, beginning with weak and jealous States.

3. Perpetual taxes.

4. Sport of foreign politics.

5. Blast glory of Revolution.

To Thos Jefferson.

RICHMOND, Nov. 15th, 1785.

Writings of Madison, Volume 1: 1769-1793, p.202

DEAR SIR,—I acknowledged from Philadelphia your favor of the 11th May. On my return to Orange, I found the copy of your notes brought along with it by Mr. Doradour. I have looked them over carefully myself, and consulted several judicious friends in confidence. We are all sensible that the freedom of your strictures on some particular measures and opinions will displease their respective abettors. But we equally concur in thinking that this consideration ought not to be weighed against the utility of your plan. We think both the facts and remarks which you have Assembled too valuable not to be made known, at least to those for whom you destine them, and speak of them to one another in terms which I must not repeat to you. Mr. Wythe suggested that it might be better to put the number you may allot to the University into the library, rather than to distribute them among the students. In the latter case, the stock will be immediately exhausted. In the former, the discretion of the professors will make it serve the students as they successively come in. Perhaps, too, an indiscriminate gift might offend some narrow-minded parents.

Writings of Madison, Volume 1: 1769-1793, p.203

Mr. Wythe desired me to present you with his most friendly regards. He mentioned the difficulty he experiences in using his pen as an apology for not giving these assurances himself. I postpone my account of the Assembly till I can make it more satisfactory, observing only that we are at work on the Revisal, and I am not without hopes of seeing it pass this session, with as few alterations as could be expected. Some are made unavoidable by a change of circumstances. The greatest danger is to be apprehended from the impatience which a certain lapse of time always produces.

To James Monroe.

RICHMOND, December 9th, 1785.

Writings of Madison, Volume 1: 1769-1793, p.203

DEAR SIR,—Supposing that you will be at New York by the time this reaches it, I drop a few lines for the post of to-day. Mr. Jones tells me he informed you that a substitute had been brought forward to the commercial propositions which you left on the carpet. The subject has not since been called up. If any change has taken place in the mind of the House, it has not been unfavorable to the idea of confiding to Congress a power over trade. I am far from thinking, however, that a perpetual power can be made palatable at this time. It is more probable that the other idea of a Convention of Commissioners to Annapolis, from the States, for deliberating on the state of commerce and the degree of power which ought to be lodged in Congress, will be attempted. Should it fail in the House, it is possible that a revival of the printed propositions, with an extension of their term to twenty-five years, will be thought on by those who contend that something of a general nature ought to be done. My own opinion is unaltered. The propositions for a State effort have passed, and a bill is ordered in, but the passage of the bill will be a work of difficulty and uncertainty; many having acquiesced in the preliminary stages who will strenuously oppose the measure in its last stages.

Writings of Madison, Volume 1: 1769-1793, p.204

No decisive vote has been yet taken on the assize bill. I conceive it to be in some danger, but that the chance is in its favour. The case of the British debts will be introduced in a day or two. We have got through more than half of the Revisal. The criminal bill has been assailed on all sides. Mr. Mercer has proclaimed unceasing hostility against 'it. Some alterations have been made, and others probably will be made, but I think the main principle of it will finally triumph over all opposition. I had hoped that this session would have finished the code, but a vote against postponing the further consideration of it till the next was carried by so small a majority, that I perceive it will be necessary to contend for nothing more than a few of the more important bills, leaving the residue of them for another year.

Writings of Madison, Volume 1: 1769-1793, p.204

My proposed amendment to the report on the Memorial of Kentucky was agreed to in a Committee of the whole without alteration, and with very few dissents. It lies on the table for the ratification of the House. The members from that district have become extremely cold on the subject of an immediate separation. The half tax is postponed till March, and the September tax till November next. Not a word has passed in the House as to a paper emission. I wish to hear from you on your arrival at New York, and to receive, in particular, whatever you may be at liberty to disclose with regard to the Treaty of peace, &c., with Great Britain.

To General Washington.

RICHMOND, December 9th, 1785.

Writings of Madison, Volume 1: 1769-1793, p.205

DEAR SIR,—Your favor of November 30 was received a few days ago. This would have followed much earlier the one which yours acknowledges, had I not wished it to contain some final information relative to the commercial propositions. The discussion of them has consumed much time, and though the absolute necessity of some such general system prevailed over all the efforts of its adversaries in the first instance, the stratagem of 'limiting its duration to a short term has ultimately disappointed our hopes. I think it better to trust to further experience, and even distress, for an adequate remedy, than to try a temporary measure, which may stand in the way of a permanent one, and confirm that transatlantic policy which is rounded on our supposed distrust of Congress and of one another.

Writings of Madison, Volume 1: 1769-1793, p.205

Those whose opposition in this case did not spring from illiberal animosities towards the Northern States seem to have been frightened, on one side, at the idea of a perpetual and irrevocable grant of power, and, on the other, flattered with a hope that a temporary grant might be renewed from time to time, if its utility should be confirmed by the experiment. But we have already granted perpetual and irrevocable powers of a more extensive nature than those now proposed, and for reasons not stronger than the reasons which urge the latter. And as to the hope of renewal, it is the most visionary one that perhaps ever deluded men of sense.

Writings of Madison, Volume 1: 1769-1793, p.205

Nothing but the peculiarity of our circumstances could ever have produced those sacrifices of sovereignty on which the federal Government now rests. If they had been temporary, and the expiration of the term required a renewal at this crisis, pressing as the crisis is, and recent as is our experience of the value of the Confederacy, sure I am that it would be impossible to revive it. What room have we, then, to hope that the expiration of temporary grants of commercial powers would always find a unanimous disposition in the States to follow their own example ?

Writings of Madison, Volume 1: 1769-1793, p.206

It ought to be remembered, too, that besides the caprice, jealousy, and diversity of opinions, which will be certain obstacles in our way, the policy of foreign nations may hereafter imitate that of the Macedonian Prince who effected his purposes against the Grecian Confederacy by gaining over a few of the leading men in the smaller members of it. Add to the whole, that the difficulty now found in obtaining a unanimous concurrence of the States in any measure whatever must continually increase with every increase of their numbers, and, perhaps, in a greater ratio, as the ultramontane States may either have, or suppose they have, a less similitude of interests to the Atlantic States than these have to one another.

Writings of Madison, Volume 1: 1769-1793, p.206

The propositions, however, have not yet received the final vote of the House, having lain on the table for some time as a report from the committee of the whole. The question was suspended in order to consider a proposition which had for its object a meeting of Politico-commercial Commissioners from all the States, for the purpose of digesting and reporting the requisite augmentation of the power of Congress over trade.

Writings of Madison, Volume 1: 1769-1793, p.206

What the event will be cannot be foreseen. The friends of the original propositions are, I am told, rather increasing; but I despair of a majority, in any event, for a longer term than 25 years for their duration. The other scheme will have fewer enemies, and may, perhaps, be carried. It seems naturally to grow out of the proposed appointment of Commissioners for Virginia and Maryland, concerted at Mount Vernon, for keeping up harmony in the commercial regulations of the two States. Maryland has ratified the Report; but has invited into the plan Delaware and Pennsylvania, who will naturally pay the same compliment to their neighbours, &c.

Writings of Madison, Volume 1: 1769-1793, p.206

Besides the general propositions on the subject of trade, it has been proposed that some intermediate measures should be taken by ourselves; and a sort of navigation act will, I am apprehensive, be attempted. It is backed by the mercantile interest of most of our towns, except Alexandria, which alone seems to have liberality and light on the subject. It was refused even to suspend the measure on the concurrence of Maryland or N. Carolina. This folly, however, cannot, one would think, brave the ruin which it threatens to our Merchants, as well as people at large, when a final vote comes to be given.

Writings of Madison, Volume 1: 1769-1793, p.207

We have got through a great part of the Revisal, and might by this time have been at the end of it, had the time wasted in disputing whether it could be finished at this session been spent in forwarding the work. As it is, we must content ourselves with passing a few more of the important Bills, leaving the residue for our successors of the next year. As none of the Bills passed are to be in force till January, 1787, and the residue unpassed will probably be least disputable in their nature, this expedient, tho' little eligible, is not inadmissible.

Writings of Madison, Volume 1: 1769-1793, p.207

Our public credit has had a severe attack and a narrow escape. As a compromise, it has been necessary to set forward the half tax till March, and the whole tax of September next till November ensuing. The latter postponement was meant to give the planters more time to deal with the Merchants in the sale of their Tobacco, and is made a permanent regulation. The Assize Bill is now depending. It has many enemies, and its fate is precarious. My hopes, however, prevail over my apprehensions. The fate of the Port Bill is more precarious. The failure of an interview between our Commissioners and Commissioners on the part of North Carolina has embarrassed the projected Canal between the waters of the two States. If North Carolina were entirely well disposed, the passing an act suspended on and referred to her Legislature would be sufficient; and this course must, I suppose, be tried, tho' previous negociation would have promised more certain success.

Writings of Madison, Volume 1: 1769-1793, p.207

Kentucky has made a formal application for Independence. Her memorial has been considered and the terms of separation fixed by a committee of the whole. The substance of them is, that all private rights and interests derived from the laws of Virginia shall be secured; that the unlocated lands shall be applied to the objects to which the laws of Virginia have appropriated them; that non-residents shall be subjected to no higher taxes than residents; that the Ohio shall be a common high. way for Citizens of the United States, and the jurisdiction of Kentucky and Virginia, as far as the remaining territory of the latter will lie thereon, be concurrent only with the new States on the opposite shore; that the proposed State shall take its due share of our State debts; and that the separation shall not take place unless these terms shall be approved by a Convention to be held to decide the question, nor until Congress shall assent thereto, and fix the terms of their admission into the Union. The limits of the proposed State are to be the same with the present limits of the District. The apparent coolness of the Representatives of Kentucky as to a separation since these terms have been defined indicates that they had some views which will not be favored by them. They disliked much to be hung up on the will of Congress.

To James Monroe.

RICHMOND, December 24, 1785.

Writings of Madison, Volume 1: 1769-1793, p.208

DEAR SIR,—The proceedings of the Assembly since my last, dated this day week, have related: 1. To the Bill for establishing Religious freedom in the Revisal. 2. A Bill concerning British debts. 3. A Bill concerning the Proprietary interest in the Northern neck. 4. For reforming the County Courts. The first employed the House of Delegates several days, the preamble being the principal subject of contention. It at length passed without alteration. The Senate, I am told, have exchanged, after equal altercation, the preamble of the revisal for the last clause in the Declaration of Rights; an exchange which was proposed in the House of Delegates and negatived by a considerable majority. I do not learn that they have made, or will make, any other alteration.

Writings of Madison, Volume 1: 1769-1793, p.208

The Bill for the payment of British debts is nearly a transcript of that which went through the two Houses last year, except that it leaves the periods of instalment blank, and gives the creditor an opportunity of taking immediate execution for the whole debt, if the debtor refuses to give security for complying with the instalments. The Bill was near being put off to the next session on the second reading. A majority were for it; but having got inadvertently into a hobble, from the manner in which the question was put, the result was, that Monday next should be appointed for its consideration. The arrival and sentiments of Col. Grayson will be favorable to some provision on the subject. A clause is annexed to the Bill authorising the Executive to suspend its operation, in case Congress shall signify the policy of so doing. The general cry is, that the Treaty ought not to be executed here until the posts are surrendered, and an attempt will be made to suspend the operation of the Bill on that event, or, at least, on the event of a positive declaration from Congress that it ought to be put in force. The last mode will probably be fixed on, notwithstanding its departure from the regular course of proceeding, and the embarrassment in which it may place Congress.

Writings of Madison, Volume 1: 1769-1793, p.209

The Bill for reforming the County Courts proposes to select five Justices, who are to sit quarterly, be paid scantily, and to possess the civil jurisdiction of the County courts, and the criminal jurisdiction of the General Court, under certain restrictions. It is meant as a substitute for the Assize system, to all the objections against which it is liable, without possessing its advantages. It is uncertain whether it will pass at all, or what form it will finally take. I am inclined to think it will be thrown out. The Bill relating to the Northern Neck passed the House of Delegates yesterday. It removes the records into the Land office here, assimilates locations of surplus land to the general plan, and abolishes the Quit-rent. It was suggested that the latter point was of a judiciary nature, that it involved questions of fact, of law, and of the Treaty of peace, and that the representatives of the late proprietor ought at least to be previously heard, according to the request of their Agent. Very little attention was paid to these considerations, and the bill passed almost unanimously.

To James Monroe.

RICHMOND, Deer 30th, 1785.

Writings of Madison, Volume 1: 1769-1793, p.210

DEAR SIR,—The past week has been rendered important by nothing but some discussions on the subject of British debts. The bill brought in varied from that which miscarried last year: 1. By adding provision in favor of the creditors for securing payment at the dates of the instalments. 2. By annexing a clause empowering the Executive to suspend the operation of the act in case Congress should notify their wish to that effect. Great difficulty was found in drawing the House into Committee on the subject. It was at length effected on Wednesday. The changes made in the Bill by the Committee are: 1. Striking out the clause saving the Creditors from the act of limitation, which makes the whole a scene of mockery. 2. Striking out the provision for securities. 3. Converting the clause authorizing Congress to direct a suspension of the act into a clause suspending it until Congress should notify to the Executive that Great Britain had complied with the Treaty on her part, or that they were satisfied with the steps taken by her for evacuating the posts, paying for Negroes, and for a full compliance with the Treaty. The sentence underlined was proposed as an amendment to the amendment, and admitted by a very small majority only. 4. Exonerating the public from responsibility for the payments into the Treasury by British debtors beyond the real value of the liquidated paper. Since these proceedings of the Committee of the whole the subject has slept on the table, no one having called for the report. Being convinced myself that nothing can be now done that will not extremely dishonor us and embarrass Congress, my wish is that the report may not be called for at all.

Writings of Madison, Volume 1: 1769-1793, p.210

In the course of the debates no pains were spared to disparage the Treaty by insinuations against Congress, the Eastern States, and the negociators of the Treaty, particularly J. Adams. These insinuations and artifices explain, perhaps, one of the motives from which the augmentation of the federal powers and respectability has been opposed.

Writings of Madison, Volume 1: 1769-1793, p.211

The reform of the County Courts has dwindled into directions for going through the docket quarterly, under the same penalties as now oblige them to do their business monthly. The experiment has demonstrated the impracticability of rendering these courts fit instruments of Justice; and if it had preceded the Assize Question, would, I think, have ensured its success. Some wish to renew this question in a varied form, or at least under a varied title, but the session is too near its period for such an attempt. When it will end I know not. The business depending would employ the House till March. A system of navigation and commercial regulations for this State alone is before us, and comprises matter for a month's debate. The compact with Maryland has been ratified. It was proposed to submit it to Congress for their sanction, as being within the word Treaty used in the Confederation. This was opposed. It was then attempted to transmit it to our Delegates, to be by them simply laid before Congress. Even this was negatived by a large majority.

1786

To Thomas Jefferson.

RICHMOND, January 22d, 1786.

Writings of Madison, Volume 1: 1769-1793, p.211

DEAR SIR,—My last, dated November 15th, from this place, answered yours of May 11th, on the subject of your printed notes. I have since had opportunities of consulting other friends on the plan you propose, who concur in the result of the consultations which I transmitted you. Mr. Wythe's idea seems to be generally approved; that the copies destined for the University should be dealt out by the discretion of the Professors, rather than indiscriminately and at once put into the hands of the students, which, other objections apart, would at once exhaust the stock. A vessel from Havre de Grace brought me a few days ago two Trunks of Books, but without letter or catalogue attending them. I have forwarded them to Orange without examining much into the contents, lest I should miss a conveyance which is very precarious at this season, and be deprived of the amusement they promise me for the residue of the winter.

Writings of Madison, Volume 1: 1769-1793, p.212

Our Assembly last night closed a session of 97 days, during the whole of which, except the first seven, I have shared in the confinement. It opened with a very warm struggle for the chair between Mr. Harrison and Mr. Tyler, which ended in the victory of the former by a majority of six votes. This victory was shortly afterwards nearly frustrated by an impeachment of his election in the County of Surry. Having failed in his native County of Charles City, he abdicated his residence there, removed into the County of Surry, where he had an estate, took every step which the interval would admit to constitute himself an inhabitant, and was, in consequence, elected a representative. A charge of non-residence was, nevertheless, brought against him, decided against him in the committee of privileges by the casting vote of the Chairman, and reversed in the House by a very small majority. The election of Doctor Lee was attacked on two grounds: 1st, of non-residence; 2dly, of holding a lucrative office under Congress. On the 1st he was acquitted; on the 2d expelled by a large majority.

Writings of Madison, Volume 1: 1769-1793, p.212

The revised Code was brought forward prettly early in the session. It was first referred to Committee of Courts of Justice, to report such of the bills as were not of a temporary nature, and, on their report, committed to committee of the whole. Some difficulties were raised as to the proper mode of proceeding, and some opposition made to the work itself. These, however, being surmounted, and three days in each week appropriated to the task, we went on slowly but successfully, till we arrived at the bill concerning crimes and punishments. Here the adversaries of the Code exerted their whole force, which, being abetted by the impatience of its friends in an advanced stage of the session, so far prevailed that the farther prosecution of the work was postponed till the next session.

Writings of Madison, Volume 1: 1769-1793, p.212

The operation of the bills passed is suspended until the beginning of 1787, so that, if the code should be resumed by the next Assembly and finished early in the session, the whole system may commence at once. I found it more popular in the Assembly than I had formed any idea of, and though it was considered by paragraphs, and carried through all the customary forms, it might have been finished at one session with great case, if the time spent on motions to put it off and other dilatory artifices had been employed on its merits. The adversaries were the Speaker, Thruston, and Mercer, who came late in the session into a vacancy left by the death of Col. Brent, of Stafford, and contributed principally to the mischief.

Writings of Madison, Volume 1: 1769-1793, p.213

The titles in the enclosed list will point out to you such of the bills as were adopted from the Revisal. The alterations which they underwent are too numerous to be specified, but have not materially vitiated the work. The bills passed over were either temporary ones, such as, being not essential as parts of the system, may be adopted at any time, and were likely to impede it at this, or such as have been rendered unnecessary by acts passed since the epoch at which the revisal was prepared. After the completion of the work at this session was despaired of, it was proposed and decided that a few of the bills following the bill concerning crimes and punishments should be taken up, as of peculiar importance.

Writings of Madison, Volume 1: 1769-1793, p.213

The only one of these which was pursued into an Act is the Bill concerning Religious freedom. The steps taken throughout the Country to defeat the General Assessment had produced all the effect that could have been wished. The table was loaded with petitions and remonstrances from all parts against the interposition of the Legislature in matters of Religion. A general Convention of the Presbyterian church prayed expressly that the bill in the revisal might be passed into a law, as the best safeguard, short of a Constitutional one, for their religious rights. The bill was carried thro' the House of Delegates without alteration. The Senate objected to the preamble, and sent down a proposed substitution of the 16th article of the Declaration of Rights. The House of Delegates disagreed. The Senate insisted, and asked a Conference. Their objections were frivolous indeed. In order to remove them, as they were understood by the Managers of the House of Delegates, the preamble was sent up again from the House of Delegates with one or two verbal alterations. As an amendment to these the Senate sent down a few others, which, as they did not affect the substance, though they somewhat defaced the composition, it was thought better to agree to than to run further risks, especially as it was getting late in the Session and the House growing thin. The enacting clauses past without a single alteration, and I flatter myself have, in this country, extinguished forever the ambitious hope of making laws for the human mind.

Acts not included in the Revisal.

Writings of Madison, Volume 1: 1769-1793, p.214

For the naturalization of the Marquis de La Fayette.

Writings of Madison, Volume 1: 1769-1793, p.214

This was brought forward by Col. Henry Lee, Jr., and passed without opposition. It recites his merits towards this Country, and constitutes him a Citizen of it.

Writings of Madison, Volume 1: 1769-1793, p.214

To amend the act vesting in Genl Washington certain shares in the River Companies.

Writings of Madison, Volume 1: 1769-1793, p.214

The donation presented to Genl Washington embarrassed him much. On one side, he disliked the appearance of slighting the bounty of his Country, and of an ostentatious disinterestedness. On the other, an acceptance of reward in any shape was irreconcileable with the law he had imposed on himself. His answer to the Assembly declined in the most affectionate terms the emolument allotted to himself, but intimated his willingness to accept it so far as to dedicate it to some public and patriotic use. This act recites the original act and his answer, and appropriates the future revenue from the shares to such public objects as he shall appoint. He has been pleased to ask my ideas with regard to the most proper objects. I suggest, in general only, a partition of the fund between some institution which would please the philosophical world, and some other which may be of a popular cast. If your knowledge of the several institutions in France or elsewhere should suggest models or hints, I could wish for your ideas on the case, which no less concern the good of the Commonwealth than the character of its most illustrious citizen.

Writings of Madison, Volume 1: 1769-1793, p.215

An act empowering the Governor and Council to grant Conditional pardons in certain cases.

Writings of Madison, Volume 1: 1769-1793, p.215

Some of the malefactors consigned by the Executive to labour brought the legality of such pardons before the late Court of Appeals, who adjudged them to be void. This act gives the Executive a power in such cases for one year. It passed before the bill in the revisal on this subject was taken up, and was urged against the, necessity of passing it at this Session. The expiration of this act at the next Session will become an argument on the other side.

Writings of Madison, Volume 1: 1769-1793, p.215

An act giving powers to the Governor and Council in certain cases.

Writings of Madison, Volume 1: 1769-1793, p.215

This act empowers the Executive to confine or send away suspicious aliens, on notice from Congress that their sovereigns have declared or commenced hostilities against the United States, or that the latter have declared war against such sovereigns. It was occasioned by the arrival of two or three Algerines here, who, having no apparent object, were suspected of an unfriendly one. The Executive caused them to be brought before them, but found themselves unarmed with power to proceed. These adventurers have since gone off.

Writings of Madison, Volume 1: 1769-1793, p.215

Act for safe keeping land papers of the Northern Neck.

Writings of Madison, Volume 1: 1769-1793, p.215

Abolishes the quit-rent, and removes the papers to the Register's office.

Writings of Madison, Volume 1: 1769-1793, p.215

Act for reforming County Courts.

Writings of Madison, Volume 1: 1769-1793, p.215

Requires them to clear their dockets quarterly. It amounts to nothing, and is chiefly the result of efforts to render Courts of Assize unnecesary.

Writings of Madison, Volume 1: 1769-1793, p.215

Act to suspend the operation of the act establishing Courts of Assize.

Writings of Madison, Volume 1: 1769-1793, p.215

The latter act, passed at the last session, required sundry supplemental regulations to fit it for operation. An attempt to provide these, which involved the merits of the innovation, drew forth the united exertions of its adversaries. On the question on the supplemental bill, they prevailed by 63 votes against 49. The best that could be done in this situation was to suspend instead of repealing the original act, which will give another chance to our successors for introducing the proposed reform. The various interests opposed to it will never be conquered without considerable difficulty.

Writings of Madison, Volume 1: 1769-1793, p.216

Resolution proposing a general meeting of commissioners from the States to consider and recommend a federal plan for regulating commerce; and. appointing as commissioners from Virginia, Ed Randolph, Js Madison, Jr., Walter Jones, St G. Tucker, M. Smith, G. Mason, and David Ross, who are to communicate the proposal and suggest time and place of meeting.

Writings of Madison, Volume 1: 1769-1793, p.216

The necessity of harmony in the commercial regulations of the States has been rendered every day more apparent. The local efforts to counteract the policy of Great Britain, instead of succeeding, have in every instance recoiled more or less on the States which ventured on the trial. Notwithstanding these lessons, the Merchants of this State, except those of Alexandria, and a few of the more intelligent individuals elsewhere, were so far carried away by their jealousies of the Northern Marine as to wish for a navigation Act confined to this State alone. In opposition to those narrow ideas, the printed proposition herewith inclosed was made. As printed, it went into a Committee of the whole. The alterations of the pen shew the state in which it came out. Its object was to give Congress such direct power only as would not alarm, but to limit that of the States in such manner as would indirectly require a conformity to the plans of Congress. The renunciation of the right of laying duties on imports from other States would amount to a prohibition of duties on imports from foreign Countries, unless similar duties existed in other States. This idea was favored by the discord produced between several States by rival and adverse regulations. The evil had proceeded so far between Connecticut and Massachusetts that the former laid heavier duties on imports from the latter than from Great Britain, of which the latter sent a letter of complaint to the Executive here, and I suppose to the other Executives. Without some such self-denying compact, it will, I conceive, be impossible to preserve harmony among the contiguous States.

Writings of Madison, Volume 1: 1769-1793, p.216

In the Committee of the whole the proposition was combated at first on its general merits. This ground was, however, soon changed for that of its perpetual duration, which was reduced first to 25 years, then to 13 years. Its adversaries were the Speaker, Thruston, and Corbin; they were bitter and illiberal against Congress and the Northern States beyond example. Thruston considered it as problematical whether it would not be better to encourage the British than the Eastern marine. Braxton and Smith were in the same sentiments, but absent at this crisis of the question.

Writings of Madison, Volume 1: 1769-1793, p.217

The limitation of the plan to 13 years so far destroyed its value in the judgment of its friends, that they chose rather to do nothing than to adopt it in that form. The report accordingly remained on the table uncalled for to the end of the session. And on the last day the resolution above quoted was substituted. It had been proposed by Mr. Tyler immediately. after the miscarriage of the printed proposition, but was left on the table till it was found that several propositions for regulating our trade without regard to other States produced nothing. In this extremity, the resolution was generally acceded to, not without the opposition of Corbin and Smith. The Commissioners first named were the Attorney, Doctor Jones, and myself. In the House of Delegates, Tucker and Smith were added, and in the Senate, Mason, Ross, and Ronald. The last does not undertake.

Writings of Madison, Volume 1: 1769-1793, p.217

The port bill was attacked and nearly defeated. An amendatory bill was passed with difficulty thro' the House of Delegates, and rejected in the Senate. The original one will take effect before the next session, but will probably be repealed then. It would have been repealed at this, if its adversaries had known their strength in time and exerted it with judgment.

Writings of Madison, Volume 1: 1769-1793, p.217

A Bill was brought in for paying British debts, but was rendered so inadequate to its object by alterations inserted by a committee of the whole, that the patrons of it thought it best to let it sleep.

Writings of Madison, Volume 1: 1769-1793, p.217

Several petitions (from Methodists, chiefly) appeared in favor of a gradual abolition of slavery, and several from another quarter for a repeal of the law which licences private manumissions. The former were not thrown under the table, but were treated with all the indignity short of it. A proposition for bringing in a bill conformably to the latter was decided in the affirmative by the casting voice of the Speaker; but the bill was thrown out on the first reading by a considerable majority.

Writings of Madison, Volume 1: 1769-1793, p.218

A considerable itch for paper money discovered itself, though no overt attempt was made. The partizans of the measure, among whom Mr. M. Smith may be considered as the most zealous, flatter themselves, and I fear upon too good ground, that it will be among the measures of the next session. The unfavorable balance of trade and the substitution of facilities in the taxes will have dismissed the little specie remaining among us and strengthened the common argument for a paper medium.

Writings of Madison, Volume 1: 1769-1793, p.218

Act for postponing the tax of the present year, and admitting facilities in payment.

Writings of Madison, Volume 1: 1769-1793, p.218

This tax was to have been collected in September last, and had been in part actually collected in specie. Notwithstanding this and the distress of public credit, an effort was made to remit the tax altogether. The party was headed by Braxton, who was courting an appointment into the Council. On the question for a third reading, the affirmative was carried by 52 against 42. On the final question, a vigorous effort on the negative side, with a reinforcement of a few new members, threw the bill out. The victory, however, was not obtained without subscribing to a postponement instead of remission, and the admission of facilities instead of specie. The postponement, too, extends not only to the tax which was under collection, and which will not now come in till May, but to the tax of September next, which will not now be in the Treasury till the beginning of next year. The wisdom of seven sessions will be unable to repair the mischiefs of this single act.

Writings of Madison, Volume 1: 1769-1793, p.218

Act concerning the erection of Kentucky into an independent State.

Writings of Madison, Volume 1: 1769-1793, p.218

This was prayed for by a memorial from a Convention held in Kentucky, and passed without opposition. It contains stipulations in favor of territorial rights held under the laws of Virginia, and suspends the actual separation on the decision of a Convention authorized to meet for that purpose, and on the assent of Congress. The boundary of the proposed State is to remain the same as the present boundary of the district.

Writings of Madison, Volume 1: 1769-1793, p.219

Act to amend the Militia law.

Writings of Madison, Volume 1: 1769-1793, p.219

At the last session of 1784 an act passed displacing all the militia officers, and providing for the appointment of experienced men. In most counties it was carried into execution, and generally much to the advantage of the militia. In consequence of a few petitions against the law as a breach of the Constitution, this act reverses all the proceedings under it and reinstates the old officers.

Writings of Madison, Volume 1: 1769-1793, p.219

Act to extend the operation of the Escheat law to the Northern neck.

Writings of Madison, Volume 1: 1769-1793, p.219

From the peculiar situation of that district, the Escheat law was not originally extended to it. Its extension at this time was occasioned by a bill brought is by Mr. Mercer for seizing and selling the deeded land of the late Lord Fairfax, on the ground of its being devised to aliens, leaving them at liberty, indeed, to assert their pretensions before the Court of Appeals. As the bill, however, stated the law and the fact, and excluded the ordinary inquest, in the face of pretensions set up even by a citizen, (Martin,) to whom it is said the reversion is given by the will, it was opposed as exerting at least a Legislative interference in, and improper influence on, the Judiciary question. It was proposed to substitute the present act as an amendment to the bill in a committee of the whole; which was disagreed to. The bill being of a popular cast went through the House of Delegates by a great majority. In the Senate it was rejected by a greater one, if not unanimously. The extension of the escheat law was, in consequence, taken up and passed.

Writings of Madison, Volume 1: 1769-1793, p.219

"An act for punishing certain offences."

Writings of Madison, Volume 1: 1769-1793, p.219

To wit: attempts to dismember the State without the consent of the Legislature. It is pointed against the faction headed by Arthur Campbell, in the County of Washington.

Writings of Madison, Volume 1: 1769-1793, p.219

Act for amending the appropriating Act.

Writings of Madison, Volume 1: 1769-1793, p.219

Complies with the requisition of Congress for the present year, to wit: 1786. It directs 512,000 dollars, the quota of this State, to be paid before May next, the time fixed by Congress, altho' it is known that the postponement of the taxes renders the payment of a shilling impossible. Our payments last year gained us a little reputation. Our conduct this must stamp us with ignominy.

Writings of Madison, Volume 1: 1769-1793, p.220

Act for regulating the salaries of the civil list.

Writings of Madison, Volume 1: 1769-1793, p.220

Reduces that of the Governor from £1,000 to £800, and the others, some at a greater, and some at a less proportion.

Writings of Madison, Volume 1: 1769-1793, p.220

Act for disposing of waste lands on Eastern waters.

Writings of Madison, Volume 1: 1769-1793, p.220

Meant chiefly to affect vacant land in the Northern Neck, erroneously conceived to be in great quantity and of great value. The price is fixed at £25 per Hundred acres, at which not an acre will be sold.

Writings of Madison, Volume 1: 1769-1793, p.220

An act imposing additional tonnage on British vessels.

Writings of Madison, Volume 1: 1769-1793, p.220

Amounting in the whole to five shillings per ton.

Writings of Madison, Volume 1: 1769-1793, p.220

Nothing has been yet done with North Carolina towards opening a Canal through the Dismal. The powers given to Commissioners on our part are renewed, and some negociation will be brought about if possible. A certain interest in that State is suspected of being disinclined to promote the object, notwithstanding its manifest importance to the community at large. On Potowmac they have been at work some time. On this river they have about eighty hands ready to break ground, and have engaged a man to plan for them. I fear there is a want of skill for the undertaking that threatens a waste of labour and a discouragement to the enterprize. I do not learn that any measures have been taken to procure from Europe the aid which ought to be purchased at any price, and which might, I should suppose, be purchased at a moderate one.

Writings of Madison, Volume 1: 1769-1793, p.220

I had an opportunity a few days ago of knowing that Mrs. Carr and her family, as well as your little daughter, were well. I am apprehensive that some impediments still detain your younger nephew from his destination. Peter has been in Williamsburg, and I am told by Mr. Maury that his progress is satisfactory. He has read, under him, Horace, some of Cicero's orations, Greek testament, Aesop's fables in Greek, ten books of Homer's Iliad, and is now beginning Xenophon, Juvenal, and Livy. He has also given some attention to French.

Writings of Madison, Volume 1: 1769-1793, p.220

I have paid Le Maire ten guineas. He will set out in about three weeks, I am told, for France. Mr. Jones has promised to collect and forward by him all such papers as are in print, and will explain the situation of our affairs to you. Amongthem will be the most important acts of the session, and the Journal as far as it will be printed.

Writings of Madison, Volume 1: 1769-1793, p.221

Mr. William Hays, in sinking a well on the declivity of the hill above the proposed seat of the Capitol, and nearly in a line from the Capitol to Belvidere, found about seventy feet below the surface several large bones, apparently belonging to a fish not less than the shark, and, what is more singular, several fragments of potter's ware in the style of the Indians. Before he reached these curiosities he passed through about fifty feet of soft blue clay. I have not seen the articles, having but just heard of them, and been too closely engaged; but have my information from the most unexceptionable witnesses, who have. I am told by General Russell, of Washington County, that, in sinking a salt well in that County, he fell in with the hip bone of the incognitum, the socket of which was about 8 inches diameter. It was very soft in the subterraneous state, but seemed to undergo a petrefaction on being exposed to the air.

Writings of Madison, Volume 1: 1769-1793, p.221

Adieu. Affectionly

Promotions.—Edward Carrington & H. Lee, Jr., added to R. H. Lee, J's Monroe, and Wm. Grayson, in the delegation to Congress.

Writings of Madison, Volume 1: 1769-1793, p.221

Carter Braxton to the Council.

Writings of Madison, Volume 1: 1769-1793, p.221

John Tyler to court of admiralty, in room of B. Waller, resigned.

Prices current.—Tobacco, 23s. on James River, and proportionally elsewhere.

Writings of Madison, Volume 1: 1769-1793, p.221

Wheat, 5 to 6s. per bushel. Corn, 18 to 20s. per barrel. Pork 28 to 30s pr ct.

To James Monroe.

RICHMOND, January 22d, 1786.

Writings of Madison, Volume 1: 1769-1793, p.221

DEAR, SIR,—Your favors of the 19th December and 7th January came both to hand by yesterday's mail. The Assembly adjourned last night after a session of 97 days. If its importance were to be measured by a list of the laws which it has produced, all preceding Legislative merit would be eclipsed, the number in this instance amounting to 114 or 115. If we recur to the proper criterion, no session has, perhaps, afforded less ground for applause. Not a single member seems to be pleased with a review of what has passed. I was too hasty in informing you that an amendment of the Port bill had passed. I was led into the error by the mistake of some who told me it had passed the Senate, when it had only been agreed to in a Committee of the Senate. Instead of passing it, they sent down a repeal of the old port bill by way of amendment. This was disagreed to by the House of Delegates as indirectly originating. The Senate adhered, and the bill was lost. An attempt was then made by the adversaries of the port measure to suspend its operation till the end of the next session. This also was negatived, so that the old bill is left as it stood, without alteration. Defective as it is, particularly in putting citizens of other States on the footing of foreigners, and destitute as it is of proper concomitant provisions, it was judged best to hold it fast, and trust to a succeeding Assembly for amendments.

Writings of Madison, Volume 1: 1769-1793, p.222

The navigation system for the State, after having been prepared at great length by Mr. G. Baker, was procrastinated in a very singular manner, and finally died away of itself, without anything being done, except a short act passed yesterday in great hurry, imposing a tonnage of 5 shillings on the vessels of foreigners not having treated with the United States.

Writings of Madison, Volume 1: 1769-1793, p.222

This failure of local measures in the commercial line, instead of reviving the original propositions for a general plan, revived that of Mr. Tyler for the appointment of Commissioners to meet Commissioners from the other States on the subject of general regulations. It went through by a very great majority, being opposed only by Mr. M. Smith and Mr. Corbin. The expedient is no doubt liable to objections, and will probably miscarry. I think, however, it is better than nothing; and as a recommendation of additional powers to Congress is within the purview of the Commission, it may possibly lead to better consequences than at first occur. The Commissioners first named were the attorney, Doctor W. Jones of the Senate, and myself. The importunity of Mr. Page procured the addition of St George Tucker, who is sensible, federal, and skilled in commerce, to whom was added, on the motion of I know not whom, Mr. M. Smith, who is at least exceptionable in the second quality, having made unceasing war during the session against the idea of bracing the federal system. In the senate, a further addition was made of Col. Mason, Mr. D. Ross, and Mr. Ronald. The name of the latter was struck out at his desire. The others stand. It is not unlikely that this multitude of associates will stifle the thing in its birth. By some it was probably meant to do so.

Writings of Madison, Volume 1: 1769-1793, p.223

I am glad to find that Virginia has merit where you are, and should be more so if I saw greater reason for it. The bill which is considered at New York as a compliance with the requisitions of Congress, is more so in appearance than reality. It will bring no specie into the Treasury, and but little Continental paper. Another act has since passed which professes to comply more regularly with the demand of Congress, but this will fail as to specie and as to punctuality. It will probably procure the indents called for, and fulfils the views of Congress in making those of other States receivable into our Treasury Among the acts passed since my last, I must not omit an economical revision of the Civil list. The saving will amount to 5 or 6,000 pounds. The Governor was reduced by the House of Delegates to £800, to which the Senate objected. Which receded I really forget. The Council to £2,000; the Attorney to £200; Register from £1,100 to £800; Auditor and Solicitor from £4 to 300; Speaker of House of Delegates to 40s. per day, including daily pay as a member; and of Senate to 20s, &c.; Delegates to Congress to six dollars per day. The act, however, is not to commence till November next.

To Thomas Jefferson.

ORANGE, March 18th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.224

DEAR SIR,—Your two favours of the 1 and 20 September, under the same cover, by Mr. Fitzhugh, did not come to hand till the 24th ultimo, and of course till it was too late for any Legislative interposition with regard to the Capitol. I have written to the Attorney on the subject. A letter which I have from him, dated prior to his receipt of mine, takes notice of the plan you had promised, and makes no doubt that it will arrive in time for the purpose of the Commissioners. I do not gather from his expressions, however, that he was aware of the change which will become necessary in the foundation already laid, a change which will not be submitted to without reluctance, for two reasons: 1. The appearance of caprice to which it may expose the Commissioners. 2. Which is the material one, the danger of retarding the work till the next session of Assembly can interpose a vote for its suspension, and possibly for a removal to Williamsburg. This danger is not altogether imaginary. Not a session has passed since I became a member without one or other or both of these attempts.

Writings of Madison, Volume 1: 1769-1793, p.224

At the late session a suspension was moved by the Williamsburg interest, which was within a few votes of being agreed to. It is a great object, therefore, with the Richmond interest, to get the buildings so far advanced before the fall as to put an end to such experiments. The circumstances which will weigh in the other scale, and which, it is to be hoped, will preponderate, are the fear of being reproached with sacrificing public considerations to a local policy, and a hope that the substitution of a more economical plan may better reconcile the Assembly to a prosecution of the undertaking.

Writings of Madison, Volume 1: 1769-1793, p.224

Since I have been at home I have had leisure to review the literary cargo, for which I am so much indebted to your friendship. The collection is perfectly to my mind. I must trouble you only to get two little mistakes rectified. The number of vols. in the Encyclopedia corresponds with your list, but a duplicate has been packed up of Tom. 1, premiére partie of Histoire Naturelie, Quadrupèdes, première livraison, and there is left out the second part of the same Tome, which, as appears by the Avis to the 1st Livraison, makes the 1st Tome of Histoire des oiseaux as well as by the Histoire des oixeaux sent, which begins with Tom. II repartie, and with the letter F from the Avis to the sixth Livraison. I infer that the vol. omitted made part of the 5th livraison. The duplicate vol. seems to have been a good deal handled, and possibly belongs to your own sett. Shall I keep it in my hands, or send it back? The other mistake is an omission of the 4th vol. of D'Albon sur l'intérèt de plusieurs nations, &c. The binding of the three vols which are come is distinguished from that of most of the other books by the circumstance of the figure on the back numbering the vols being on a black instead of a red ground. The author's name above is on a red ground. I mention these circumstances that the binder may supply the omitted volume in proper uniform.

Writings of Madison, Volume 1: 1769-1793, p.225

I annex a state of our account balanced. I had an opportunity a few days after your letters were received of remitting the balance to the hands of Mrs. Carr, with a request that it might be made use of as you directed, to prevent a loss of time to her sons from occasional disappointments in the stated funds. I have not yet heard from the Mr. Fitzhughs on the subject of your advance to them. The advance to Le Maire had been made a considerable time before I received your countermanding instructions. I have no copying press, but must postpone that conveniency to other wants which will absorb my little resources. I am fully apprized of the value of this machine, and mean to get one when I can better afford it and may have more use for it. I am led to think it would be a very economical acquisition to all our public offices, which are obliged to furnish copies of papers belonging to them.

Writings of Madison, Volume 1: 1769-1793, p.225

A quorum of the deputies appointed by the Assembly for a commercial Convention had a meeting at Richmond shortly after I left it, and the Attorney tells me it has been agreed to propose Annapolis for the place, and the first monday in September for the time, of holding the Convention. It was thought prudent to avoid the neighborhood of Congress and the large Commercial towns, in order to disarm the adversaries to the object of insinuations of influence from either of these quarters. I have not heard what opinion is entertained of this project at New York, nor what reception it has found in any of the States. If it should come to nothing, it will, I fear, confirm Great Britain and all the world in the belief that we are not to be respected nor apprehended as a nation in matters of commerce. The States are every day giving proofs that separate regulations are more likely to set them by the ears than to attain the common object. When Massachusetts set on foot a retaliation of the policy of Great Britain, Connecticut declared her ports free. New Jersey served New York in the same way. And Delaware, I am told, has lately followed the example, in opposition to the commercial plans of Pennsylvania.

Writings of Madison, Volume 1: 1769-1793, p.226

A miscarriage of this attempt to unite the States in some effectual plan will have another effect of a serious nature. It will dissipate every prospect of drawing a steady revenue from our imposts, either directly into the federal treasury, or indirectly through the treasuries of the Commercial States, and, of consequence, the former must depend for supplies solely on annual requisitions, and the latter on direct taxes drawn from the property of the Country. That these dependencies are in an alarming degree fallacious, is put by experience out of all question. The payments from the States under the calls of Congress have in no year borne any proportion to the public wants. During the last year, that is, from November, 1784, to November, 1785, the aggregate payments, as stated to the late Assembly, fell short of 400,000 dollars, a sum neither equal to the interest due on the foreign debts, nor even to the current expences of the federal Government. The greatest part of this sum, too, went from Virginia, which will not supply a single shilling the present year.

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Another unhappy effect of a continuance of the present anarchy of our commerce will be a continuance of the unfavorable balance on it, which, by draining us of our metals, furnishes pretexts for the pernicious substitution of paper money, for indulgences to debtors, for postponements of taxes. In fact, most of our political evils may be traced up to our commercial ones, as most of our moral may to our political. The lessons which the mercantile interest of Europe have received from late experience will probably check their propensity to credit us beyond our resources, and so far the evil of an unfavorable balance will correct itself. But the Merchants of Great Britain, if no others, will continue to credit us, at least as far as our remittances can be strained, and that is far enough to perpetuate our difficulties, unless the luxurious propensity of our own people can be otherwise checked.

Writings of Madison, Volume 1: 1769-1793, p.227

This view of our situation presents the proposed Convention as a remedial experiment which ought to command every assent; but if it be a just view, it is one which assuredly will not be taken by all even of those whose intentions are good. I consider the event, therefore, as extremely uncertain, or rather, considering that the States must first agree to the proposition for sending deputies, that these must agree in a plan to be sent back to the States, and that these again must agree unanimously in a ratification of it, I almost despair of success. It is necessary, however, that something should be tried, and if this be not the best possible expedient, it is the best that could possibly be carried through the Legislature here. And if the present crisis cannot effect unanimity, from what future concurrence of circumstances is it to be expected ? Two considerations particularly remonstrate against delay. One is the danger of having the same game played on our Confederacy by which Philip managed that of the Grecians. I saw enough during the late Assembly of the influence of the desperate circumstances of individuals on their public conduct, to admonish me of the possibility of finding in the council of some one of the States fit instruments of foreign machinations. The other consideration is the probability of an early increase of the confederated States, which more than proportionally impede measures which require unanimity; as the new members may bring sentiments and interests less congenial with those of the Atlantic States than those of the latter are one with another.

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The price of our staple is down at 22s. at Richmond. One argument for putting off the taxes was, that it would relieve the planters from the necessity of selling, and would enable them to make a better bargain with the purchasers. The price has, notwithstanding, been falling ever since. How far the event may have proceeded from a change in the Market of Europe, I know not. That it has in part proceeded from the practice of remitting and postponing the taxes, may, I think, be fairly deduced. The scarcity of money must, of necessity, sink the price of every article, and the relaxation in collecting the taxes increases this scarcity by diverting the money from the public Treasury to the shops of Merchandize. In the former case it would return into circulation. In the latter, it goes out of the Country to balance the increased consumption. A vigorous and steady collection of taxes would make the money necessary here, and would therefore be a mean of keeping it here. In our situation it would have the salutary operation of a sumptuary law. The price of Indian Corn in this part of the Country, which produced the best crops, is not higher than two dollars per barrel. It would have been much higher but for the peculiar mildness of the winter. December and January scarcely reminded us that it was winter. February, though temperate, was less unseasonable. Our deepest snow (about seven inches) was in the present month. I observe the tops of the blue ridge still marked with its remains. My last was dated January 22d, and contained a narrative of the proceedings of the Assembly.

To James Monroe.

ORANGE, 19th March, 1786.

Writings of Madison, Volume 1: 1769-1793, p.228

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.228

"The Question of policy," you say, "is whether it will be better to correct the vices of the Confederation by recommendation gradually as it moves along, or by a Convention. If the latter should be determined on, the powers of the Virginia Commissioners are inadequate." If all on whom the correction of these vices depends were well informed and well disposed, the mode would be of little moment. But as we have both ignorance and iniquity to combat, we must defeat the designs of the latter by humouring the prejudices of the former. The efforts for bringing about a correction through the medium of Congress have miscarried. Let a Convention, then, be tried. If it succeeds in the first instance, it can be repeated as other defects force themselves on the public attention, and as the public mind becomes prepared for further remedies.

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The Assembly here would refer nothing to Congress. They would have revolted equally against a plenipotentiary commission to. their deputies for the Convention. The option, therefore, lay between doing what was done and doing nothing. Whether a right choice was made time only can prove. I am not, in general, an advocate for temporizing or partial remedies. But a rigor in this respect, if pushed too far, may hazard everything. If the present paroxysm of our affairs be totally neglected our case may become desperate. If anything comes of the Convention, it will probably be of a permanent, not a temporary nature, which I think will be a great point. The mind feels a peculiar complacency in seeing a good thing done when it is not subject to the trouble and uncertainty of doing it over again. The commission is, to be sure, not filled to every man's mind. The History of it may be a subject of some future tête a tête.

To James Monroe.

ORANGE, April 9th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.229

DEAR SIR,—The step taken by New Jersey was certainly a rash one, and will furnish fresh pretexts to unwilling States for withholding their contributions. In one point of view, however, it furnishes a salutary lesson. Is it possible, with such an example before our eyes of impotency in the federal system, to remain sceptical with regard to the necessity of infusing more energy into it? A Government cannot long stand which is obliged, in the ordinary course of its administration, to court a compliance with its constitutional acts, from a member not of the most powerful order, situated within the immediate verge of authority, and apprised of every circumstance which should remonstrate against disobedience.

Writings of Madison, Volume 1: 1769-1793, p.230

The question whether it be possible and worth while to preserve the Union of the States must be speedily decided some way or other. Those who are indeifferent to its preservation would do well to look forward to the consequences of its extinction. The prospect to my eye is a gloomy one indeed.

Writings of Madison, Volume 1: 1769-1793, p.230

I am glad to hear that the opposition to the impost is likely to be overcome. It is an encouragement to persevere in good measures. I am afraid, at the same time, that, like other auxiliary resources, it will be overrated by the States, and slacken the regular efforts of taxation. It is also materially short of the power which Congress ought to have with regard to trade. It leaves the door unshut against a commercial warfare among the States, our trade exposed to forcign machinations, and the distresses of an unfavorable balance very little checked. The experience of European Merchants who have speculated in our trade will probably check, in a great measure, our opportunities of consuming beyond our resources; but they will continue to credit us as far as our coin, in addition to our productions, will extend, and our experience here teaches us that our people will extend their consumption as far as credit can be obtained.

To Thomas Jefferson.

ORANGE, May 12th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.230

DEAR SIR,—My last was of March 18, since which I have been favored with yours of the 8 and 9th of February. Bancroft"s application in favour of Paradise, inclosed in the latter, shall be attended to as far as the case will admit, though I see not how any relief can be obtained. If Mr. Paradise stands on the list of foreign creditors, his agent here may probably convert his securities into money without any very great loss, as they rest on good funds, and the principal is in a course of payment. If he stands on the domestic list, as I presume he does, the interest only is provided for, and, since the postponement of the taxes, even that cannot be negociated without a discount of 10 per cent., at least. The principal cannot be turned into cash without sinking three-fourths of its amount.

Writings of Madison, Volume 1: 1769-1793, p.231

Your notes having got into print in France, will inevitably be translated back and published in that form, not only in England but in America, unless you give out the original. I think, therefore, you owe it not only to yourself, but to the place you occupy and the subjects you have handled, to take this precaution. To say nothing of the injury which will certainly result to the diction from a translation first into French and then back into English, the ideas themselves may possibly be so perverted as to lose their propriety.

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The books which you have been so good as to forward to me are so well assorted to my wishes that no suggestions are necessary as to your future purchases. A copy of the old edition of the Encyclopedia is desirable, for the reasons you mention; but as I should gratify my desire in this particular at the expence of something else which I can less dispense with, I must content myself with the new Edition for the present. The watch I bought in Philadelphia, though a pretty good one, is probably so far inferior to those of which you have a sample that I cannot refuse your kind offer to procure me one of the same sort; and I am fancying to myself so many little gratifications from the pedometer that I cannot forego that addition.

Writings of Madison, Volume 1: 1769-1793, p.231

The inscription for the Statue is liable to Houdon's criticism, and is in every respect inferior to the substitute which you have copied into your letter. I am apprehensive, notwithstanding, that no change can be effected. The Assembly will want some proper ground for resuming the matter. The devices for the other side of the pedestal are well chosen, and might, I should suppose, be applied without scruple as decorations of the artist. I counted, myself, on the addition of proper ornaments, and am persuaded that such a liberty could give offence nowhere.

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The execution of your hints with regard to the Marquis and Rochambeau would be no less pleasing to me than to you. I think with you, also, that the setting up the busts of our own worthies would not be doing more honour to them than to ourselves. I foresee, however, the difficulty of overcoming the popular objection against every measure which involves expence, particularly where the importance of the measure will be felt by a few only; and an unsuccessful attempt would be worse than no attempt. I have heard nothing as to the Capitol. I mentioned to you in my last that I had written to the Attorney on the subject. 1 shall have an opportunity shortly of touching on it again to him.

Writings of Madison, Volume 1: 1769-1793, p.232

A great many changes have taken place in the late elections. The principal acquisitions are Col. G. Mason, who, I am told, was pressed into the service at the instigation of General Washington, General Nelson, Mann Page. In Albemarle, both the old ones declined the task. Their successors are George and John Nicholas. Col. Carter was again an unsuccessful candidate. I have not heard how Mr. Harrison has shaped his course. It was expected that he would stand in a very awkward relation both to Charles City and to Surrey, and would probably succeed in neither. Monroe lost his election in King George by 6 votes. Mercer did his by the same number in Stafford. Neither of them was present, or they would, no doubt, have both been elected. Col. Bland is also to be among us. Among the many good things which may be expected from Col. Mason, we may reckon, perhaps, an effort to review our Constitution. The loss of the port bill will certainly be one condition on which we are to receive his valuable assistance. I am not without fears, also, concerning his federal ideas. The last time I saw him he seemed to have come about a good deal towards the policy of giving Congress the management of trade. But he has been led so far out of the right way that a thorough return can scarcely be hoped for. On all the other great points, the Revised Code, the Assize bill, taxation, paper money, &c., his abilities will be inestimable.

Writings of Madison, Volume 1: 1769-1793, p.233

Most if not all the States, except Maryland, have appointed deputies for the proposed Convention at Annapolis. The refusal of Maryland to appoint proceeded, as I am informed by Mr. Daniel Carroll, from a mistaken notion that the measure would derogate from the authority of Congress, and interfere with the Revenue system of April, 1783, which they have lately recommended anew to the States. There is certainly no such interference, and instead of lessening the authority of Congress, the object of the Convention is to extend it over commerce. I have no doubt that on a reconsideration of the matter it will be viewed in a different light.

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The internal situation of this State is growing worse and worse. Our specie has vanished. The people are again plunged in debt to the Merchants, and these circumstances, added to the fall of Tobacco in Europe and a probable combination among its chief purchasers here, have reduced that article to 20s. The price of Corn is, in many parts of the Country, at 20s. and upwards per barrel. In this part it is not more than 15s. Our spring has been a cool and, latterly, a dry one; of course it is a backward one. The first day of April was the most remarkable ever experienced in this climate. It snowed and hailed the whole day in a storm from N. E. and the Thermometer stood at 4 o'clock P.M. at 26°. If the snow had fallen in the usual way it would have been 8 or 10 inches deep, at least; but consisting of small hard globules, mixed with small hail, and lying on the ground so compact and firm as to bear a man, it was less than half of that depth.

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We hear from Kentucky that the inhabitants are still at variance with their savage neighboars. In a late skirmish several were lost on both sides. On that of the whites Col. W. Christian is mentioned. It is said the scheme of independence is growing unpopular since the act of our Assembly has brought the question fully before them. Your nephew, Dabney Carr, has been some time at the Academy in Prince Edward. The President, Mr. Smith, speaks favorably of him.

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With the sincerest affection, I remain, dear sir, your friend and servant.

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P.S. I have taken measures for procuring the Peccan nuts, and the seed of the sugar Tree. Are there no other things here which would be acceptable on a like account? You will withhold from me a real pleasure if you do not favor me with your commands freely. Perhaps some of our animal curiosities would enable you to gratify particular characters of merit. I can, without difficulty, get the skins of all our common and of some of our rarer quadrupeds, and can have them stuffed, if desired. It is possible, also, that I may be able to send some of them alive. I lately had on hand a female opossum, with seven young ones, which I intended to have reared, for the purpose partly of experiments myself, and partly of being able to forward them to you in case of an opportunity, and your desiring it. Unfortunately, they have all died. But I find they can be got at any time, almost, in the spring of the year, and if the season be too far advanced now, they may certainly be had earlier in the next spring.

Writings of Madison, Volume 1: 1769-1793, p.234

I observe that in your notes you number the fallow and Roedeer among the native quadrupeds of America. As Buffon had admitted the fact, it was, whether true or erroneous, a good argument, no doubt, against him. But I am persuaded they are not natives of the new continent. Buffon mentions the chev-ruèl, in particular, as abounding in Louisiana. I have enquired of several credible persons who have traversed the western woods extensively, and quite down to New Orleans, all of whom affirm that no other than our common deer are any where seen. Nor can I find any written evidence to the contrary that deserves notice. You have, I believe, justly considered our Monax as the Marmotte of Europe. I have lately had an opportunity of examining a female one with some attention. Its weight, after it had lost a good deal of blood, was 5 1/2 lbs. Its dimensions, shape, teeth, and structure within, as far as I could judge, corresponded in substance with the description given by D'Aubenton. In sundry minute circumstances a precise correspondence was also observable. The principal variations were: 1st, in the face, which was shorter in the Monax than in the proportions of the Marmotte, and was less arched about the root of the nose. 2nd, in the feet, each of the forefeet having a fifth nail, about 1/3 of an inch long, growing out of the inward side of the heel, without any visible toe. From this particular it would seem to be the Marmotte of Poland, called the Bobac, rather than the Alpine Marmotte. 3rd, in the teats, which were 8 only. The marmotte in Buffon had 10. 4th, in several circumstances of its robe, particularly of that of the belly, which consisted of a short, coarse, thin hair, whereas this part of Buffon's marmotte was covered with a thicker fur than the back, &c.

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A very material circumstance in the comparison remains to be ascertained. The European Marmotte is in the class of those which are dormant during the winter. No person here of whom I have enquired can decide whether this be a quality of the Monax. I infer that it is of the dormant class, not only from its similitude to the Marmotte in other respects, but from the sensible coldness of the Monax I examined, compared with the human body, although the vital heat of quadrupeds is said, in general, to be greater than that of man. This inferiority of heat being a characteristic of animals which become torpid from cold, I should consider it as deciding the quality of the Monax in this respect, were it not that the subject of my examination, though it remained alive several days, was so crippled and apparently dying the whole time, that its actual heat could not fairly be taken for the degree of its natural heat. If it had recovered, I intended to have made a trial with the Thermometer. I now propose to have, if I can, one of their habitations discovered during the summer, and to open it on some cold day next winter. This will fix the matter. There is another circumstance which belongs to a full comparison of the two animals. The Marmotte of Europe is said to be an inhabitant of the upper region of mountains only. Whether our Monax be confined to mountainous situations or not, I have not yet learnt. If it be not found as a permanent inhabitant of the level country, it certainly descends occasionally into the plains which are in the neighborhood of mountains.

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I also compared, a few days ago, one of our moles with the male one described in Buffon. It weighed 2 ounces 11 pents. Its length, the end of its snout to the root of the tail, was 5 inches 3 lines, English measure. That described in Buffon was not weighed, I believe. Its length was 5 inches, French measure. The external and internal correspondence seemed to be too exact for distinct species. There was a difference, nevertheless, in two circumstances, one of which is not unworthy of notice, and the other of material consequence in the comparison. The first difference was in the tail, that of the mole here being 10 1/2 English lines only in the length, and naked, whereas that of Buffon's mole was 14 French lines in length, and covered with hair. If the hair was included in the latter measure, the difference in the length ought scarcely to be noticed. The second difference lay in the teeth. The mole in Buffon had 44. That which I examined had but 33; one of those on the left side of the upper jaw, and next to the principal cutters, was so small as to be scarcely visible to the natural eye, and had no corresponding tooth on the opposite side. Supposing this defect of a corresponding tooth to be accidental, a difference of ten teeth still remains.

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If these circumstances should not be thought to invalidate the identity of species, the mole will stand as an exception to the Theory which supposes no animal to be common to the two continents which cannot bear the cold of the region where they join, since, according to Buffon, this species of mole is not found "dans les climâts froids ou la terre est glacé pendant la plus grande partie de l'année," and it cannot be suspected of such a journey during a short summer as would head the sea which separates the two continents. I suspect that several of our quadrupeds which are not peculiar to the new continent will be found to be exceptions to this Theory, if the mole should not. The Marmotte itself is not an animal taken notice of very far to the north, and as it moves slowly, and is deprived of its locomotive powers altogether by cold, cannot be supposed to have travelled the road which leads from the old to the New World. It is, perhaps, questionable whether any of the dormant animals, if any such be really common to Europe and America, can have emigrated from one to the other.

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I have thought that the cuts of the Quadrupeds in Buffon, if arranged in frames, would make both an agreeable and instructive piece of wall furniture. What would be the cost of them in such a form? I suppose they are not to be had coloured to the life, and would, besides, be too costly. What is the price of Buffon's birds, colored?

Writings of Madison, Volume 1: 1769-1793, p.237

Your letter of 28 October has never come to hand.

To James Monroe.

ORANGE, May 13th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.237

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.237

I think, with you, that it would have an odd appearance for two Conventions to be sitting at the same time with powers in part concurrent. The reasons you give seem also to be valid against augmenting the powers of that which is to meet at Annapolis. I am not surprized, therefore, at the embarrassment of Congress in the present conjuncture. Will it not be best, on the whole, to suspend measures for a more thorough cure of our federal system till the partial experiment shall have been made? If the spirit of the Conventioners should be friendly to the Union, and their proceedings well conducted, their return into the councils of their respective States will greatly facilitate any subsequent measures which may be set on foot by Congress, or by any of the States.

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Great changes have taken place in the late elections. I regret much that we are not to have your aid. It will be greatly needed, I am sure. Mercer, it seems, lost his election by the same number of votes as left you out. He was absent at the time, or he would no doubt have been elected. Have you seen his pamphlet? You will have heard of the election of Col. Mason, General Nelson, Mann rage, G. Nicholas, Jno Nicholas, and Col. Bland. Col. Mason will be an inestimable acquisition on most of the great points. On the port bill he is to be equally dreaded. In fact, I consider that measure as lost almost at any rate. There was a majority against it last session if it had been skilfully made use of. To force the trade to Norfolk and Alexandria, without preparations for it at those places, will be considered as injurious. And so little ground is there for confidence in the stability of the Legislature, that no preparations will ever be made in consequence of a preceding law. The transition must of necessity, therefore, be at any time abrupt and inconvenient. I am somewhat apprehensive, likewise, that Col. Mason may not be fully cured of his anti-federal prejudices.

Writings of Madison, Volume 1: 1769-1793, p.238

We hear from Kentucky that the savages continue to disquiet them. Col. W. Christian, it is said, lately lost his life in pursuing a few who had made an inroad on the settlement. We are told, too, that the proposed separation is growing very unpopular among them.

To James Monroe.

ORANGE, June 4th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.238

DEAR SIR,—At the date of my last, I expected I should by this time have been on the journey which promises the pleasure of taking you by the hand in New York. Several circumstances have produced a delay in my setting out which I did not calculate upon, and which are like to continue it for eight or ten days to come. My journey will also be rendered tedious by the route which I shall pursue. I have some business which makes it expedient for me to take Winchester and Lancaster in my way, and some duties of consanguinity which will detain me some days in the neighborhood of the former. If I have an opportunity I will write you again before I set out; and if I should not, I will do it immediately on my reaching Philadelphia. You will not write after the receipt of this.

Writings of Madison, Volume 1: 1769-1793, p.238

I imagine you get from Mr. Jones better information as to the back country, as well as concerning our more immediate affairs, than I can give you. The death of Christian seems to be confirmed. The disinclination of Kentucky to a separation is also repeated with strong circumstances of probability. Our staple continues low. The people have got in debt to the merchants, who set their own price, of course. There are, perhaps, other causes also, besides the fall of the market in Europe, which, of itself, does not explain the matter. One of them may be the scarcity of money, which is really great.

Writings of Madison, Volume 1: 1769-1793, p.239

The advocates for paper money are making the most of this handle. I begin to fear exceedingly that no efforts will be sufficient to parry this evil. The election of Col. Mason is the main counterpoise for my hopes against the popular cry. Mann Page and General Nelson will also, I flatter myself, be valuable fellow-labourers. Our situation is truly embarrassing. It cannot, perhaps, be affirmed that there is gold and silver enough in the Country to pay the next tax. What, then, is to be done? Is there any other alternative but to emit paper, or to postpone the collection? These are the questions which will be rung in our ears by the very men whose past measures have plunged us into our difficulties. But I will not plague you with our difficulties here. You have enough of them, I am sure, where you are. Present my best respects to Col. Grayson and your other colleagues, and believe me to be, your's affectionately.

To James Monroe.

ORANGE, June 21st, 1786.

Writings of Madison, Volume 1: 1769-1793, p.239

DEAR SIR,—Your favor of the 31st ult. did not come to hand till two days ago. As I expect to see you in a short time, I will suspend the full communication of my ideas on the subject of it till I have that pleasure.

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I cannot, however, forbear in the mean time expressing my amazement that a thought should be entertained of surrendering the Mississippi, and of guarantying the possessions of Spain in America. In the first place, has not Virginia, have not Congress themselves, and the Ministers of Congress by their orders, asserted the right of those who live on the waters of the Mississippi to use it as the high road given by nature to the sea? This being the case, have Congress any more authority to say that the Western citizens of Virginia shall not pass through the capes of the Mississippi, than to say that her Eastern citizens shall not pass through the capes Henry and Charles? It should be remembered that the United States are not now extricating themselves from war—a crisis which often knows no law but that of necessity. The measure in question would be a voluntary barter, in time of profound peace, of the rights of one part of the empire to the interests of another part. What would Massachusetts say to a proposition for ceding to Britain her right of fishery as the price of some stipulations in favor of Tobacco?

Writings of Madison, Volume 1: 1769-1793, p.240

Again: can there be a more short-sighted or dishonorable policy than to concur with Spain in frustrating the benevolent views of nature, to sell the affections of our ultra-montane brethren, to depreciate the richest fund we possess, to distrust an ally we know to be able to befriend us, and to have an interest in doing it against the only nation whose enmity we can dread, and at the same time to court by the most precious sacrifices the alliance of a nation whose impotency is notorious, who has given no proof of regard for us, and the genius of whose Government, religion, and manners, unfits them of all the nations in christendom for a coalition with this country? Can anything, too, as you well observe, be more unequal than a stipulation which is to open all our ports to her, and some only, and those the least valuable, of hers to us; and which places the commercial freedom of our ports against the lettered regulations of those in Spain? I always thought the stipulation with France and Holland of the privileges of the most favoured nation unequal, and only to be justified by the influence which the treaties could not fail to have on the event of the war. A stipulation putting Spanish subjects on the same footing with our own citizens is carrying the evil still farther, without the same pretext for it, and is the more to be dreaded, as by making her the most favored nation it would let in the other nation with whom we are now connected to the same privileges, whenever they may find it their interest to make the same compensation for them, whilst we have not a reciprocal right to force them into such an arrangement in case our interest should dictate it.

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A guaranty is, if possible, still more objectionable. If it be insidious, we plunge ourselves into infamy; if sincere, into obligations the extent of which cannot easily be determined. In either case we get farther into the labyrinth of European politics, from which we ought religiously to keep ourselves as free as possible. And what is to be gained by such a rash step? Will any man in his senses pretend that our territory needs such a safeguard, or that, if it were in danger, it is the arm of Spain that is to save it? Viewing the matter in this light, I cannot but flatter myself that if the attempt you apprehend should be made, it will be rejected with becoming indignation.

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I am less sanguine as to the issue of the other matter contained in your letter. I know the mutual prejudices which impede every overture towards a just and final settlement of claims and accounts. I persist in the opinion that a proper and speedy adjustment is unattainable from any assembly constituted as Congress is, and acting under the impulse which they must. I need not repeat to you the plan which has always appeared to me most likely to answer the purpose. In the mean time it is mortifying to see the other States, or rather their Representatives, pursuing a course which will make the case more and more difficult, and putting arms into the hands of the enemies to every amendment of our federal system. God knows that they are formidable enough in this State without such an advantage. With it, their triumph will be certain and easy. But I have been led much farther already than I proposed, and will only that

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I am with the sincerest affection, your friend and serv.

To Thomas Jefferson.

PHILADELPHIA, Aug. 12th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.242

DEAR SIR,—My last, of the 19th of June, intimated that my next would be from New York or this place. I expected it would rather have been from the former, which I left a few days ago; but my time was so taken up there with my friends and some business, that I thought it best to postpone it till my return here. My ride through Virginia, Maryland, and Pennsylvania, was in the midst of harvest. I found the crops of wheat in the upper parts of the two former considerably injured by the wet weather, which my last described as so destructive in the lower parts of those States. The computed loss where I passed was about one-third. The loss in the Rye was much greater. It was admitted, however, that the crops of both would have been unusually large but for this casualty. Throughout Pennsylvania the wheat was unhurt, and the Rye very little affected.

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As I came by the way of Winchester and crossed the Potowmac at Harper's Ferry, I had an opportunity of viewing the magnificent scene which nature here presents. I viewed it, however, under great disadvantages. The air was so thick that distant objects were not visible at all, and near ones not distinctly so. We ascended the mountain, also, at a wrong place, fatigued ourselves much in traversing it before we gained the right position, were threatened during the whole time with a thunder storm, and finally overtaken by it. Had the weather been favorable the prospect would have appeared to peculiar advantage, being enriched with the harvest in its full maturity, which filled every vale as far as the eye could reach.

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I had the additional pleasure here of seeing the progress of the works on the Potowmac. About 50 hands were employed at these falls, or rather rapids, who seemed to have overcome the greatest difficulties. Their plan is to slope the fall by opening the bed of the river, in such a manner as to render a lock unnecessary, and, by means of ropes fastened to the rocks, to pull up and ease down the boats where the current is most rapid. At the principal falls 150 hands, I was told, were at work, and that the length of the canal will be reduced to less than a mile, and carried through a vale which does not require it to be deep. Locks will here be unavoidable. The undertakers are very sanguine. Some of them who are most so talk of having the entire work finished in three years. I can give no particular account of the progress on James River, but am told it is very flattering. I am still less informed of what is doing with North Carolina towards a canal between her and our waters. The undertaking on the Susquehannah is said to be in such forwardness as to leave no doubt of its success.

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A negociation is set on foot between Pennsylvania, Maryland, and Delaware, for a canal from the head of Chesapeak to the Delaware. Maryland, as I understand, heretofore opposed the undertaking, and Pennsylvania means now to make her consent to it a condition on which the opening of the Susquehannah within the limits of Pennsylvania will depend. Unless this is permitted, the opening undertaken within the limits of Maryland will be of little account. It is lucky that both parties are so dependent on each other as to be thus mutually forced into measures of general utility. I am told that Pennsylvania has complied with the joint request of Virginia and Maryland for a road between the head of Potowmac and the waters of the Ohio, and the secure and free use of the latter through her jurisdiction.

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These fruits of the Revolution do great honour to it. I wish all our proceedings merited the same character. Unhappily, there are but too many belonging to the opposite side of the account. At the head of these is to be put the general rage for paper money. Pennsylvania and North Carolina took the lead in this folly. In the former the sum emitted was not considerable, the funds for sinking it were good, and it was not made a legal tender. It issued into circulation partly by way of loan to individuals on landed security, partly by way of payment to the public creditors. Its present depreciation is about 10 or 12 per cent. In North Carolina the sums issued at different times have been of greater amount, and it has constantly been a tender. It issued partly in payments to military creditors, and, latterly, in purchases of Tobacco on public account. The Agent, I am informed, was authorised to give nearly the double of the current price; and as the paper was a tender, debtors ran to him with their Tobacco, and the creditors paid the expence of the farce. The depreciation is said to be 25 or 30 per cent. in that State. South Carolina was the next in order. Her emission was in the way of loans to individuals, and is not a legal tender. But land is there made a tender in case of suits, which shuts the Courts of Justice, and is, perhaps, as great an evil. The friends of the emission say that it has not yet depreciated, but they admit that the price of commodities has risen, which is evidently the form in which depreciation will first shew itself.

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New Jersey has just issued, £30,000 (dollar at 7s. 6d.) in loans to her citizens. It is a legal tender. An addition of £100,000 is shortly to follow on the same principles. The terror of popular associations stifles, as yet, an overt discrimination between it and specie; but as this does not operate in Philadelphia and New York, where all the trade of New Jersey is carried on, its depreciation has already commenced in those places, and must soon communicate itself to New Jersey. New York is striking £200,000 (dollar at 8s.) on the plan of loans to her citizens. It is made a legal tender in case of suits only. As it is but just issuing from the press, its depreciation exists only in the foresight of those who reason without prejudice on the subject. In Rhode Island, £100,000 (dollar at 6s.) has lately been issued in loans to individuals. It is not only made a tender, but severe penalties annexed to the least attempt, direct or indirect, to give a preference to specie. Precautions dictated by distrust in the rulers soon produced it in the people. Supplies were withheld from the Market, the Shops were shut, popular meetings ensued, and the State remains in a sort of convulsion.

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The Legislature of Massachusetts at their last session rejected a paper emission by a large majority. Connecticut and New Hampshire, also, have as yet forborne, but symptoms of danger, it is said, begin to appear in the latter. The Senate of Maryland has hitherto been a bar to paper in that State. The clamor for it is now universal, and as the periodical election of the Senate happens at this crisis, and the whole body is, unluckily, by their Constitution, to be chosen at once, it is probable that a paper emission will be the result. If, in spite of the zeal exerted against the old Senate, a majority of them should be re-elected, it will require all their firmness to withstand the popular torrent. Of the affairs of Georgia I know as little as of those of Kamskatska.

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Whether Virginia is to remain exempt from the epidemic malady will depend on the ensuing Assembly. My hopes rest chiefly on the exertions of Col. Mason, and the failure of the experiments elsewhere. That these must fail is morally certain; for besides the proofs of it already visible in some States, and the intrinsic defect of the paper in all, this fictitious money will rather feed than cure the spirit of extravagance which sends away the coin to pay the unfavorable balance, and will therefore soon be carried to market to buy up coin for that purpose. From that moment depreciation is inevitable. The value of money consists in the uses it will serve. Specie will serve all the uses of paper; paper will not serve one of the essential uses of specie. The paper, therefore, will be less valuable than specie. Among the numerous ills with which this practice is pregnant, one, I find, is, that it is producing the same warfare and retaliation among the States as were produced by the State regulations of commerce. Massachusetts and Connecticut have passed laws enabling their citizens who are debtors to citizens of States having paper money, to pay their debts in the same manner as their citizens who are creditors to citizens of the latter States are liable to be paid their debts.

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The States which have appointed deputies to Annapolis are New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, and Virginia. Connecticut declined, not from a dislike to the object, but to the idea of a Convention, which it seems has been rendered obnoxious by some internal Conventions, which embarrassed the Legislative authority. Maryland, or rather her Senate, negatived an appointment, because they supposed the measure might interfere with the plans or prerogatives of Congress. North Carolina has had no Legislative meeting since the proposition was communicated. South Carolina supposed she had sufficiently signified her concurrence in a general regulation of trade by vesting the power in Congress for 15 years. Georgia —— ——. Many Gentlemen, both within and without Congress, wish to make this meeting subservient to a plenipotentiary Convention for amending the Confederation. Tho' my wishes are in favor of such an event, yet I despair so much of its accomplishment at the present crisis that I do not extend my views beyond a commercial Reform. To speak the truth, I almost despair even of this. You will find the cause in a measure now before Congress, of which you will receive the detail from Col. Monroe. I content myself with hinting that it is a proposed treaty with Spain, one article of which shuts up the Mississippi for twenty-five or thirty years. Passing by the other Southern States, figure to yourself the effect of such a stipulation on the Assembly of Virginia, already jealous of Northern politics, and which will be composed of about thirty members from the Western waters; of a majority of others attached to the Western Country from interests of their own, of their friend, or their constituent; and of many others who, though indifferent to Mississippi, will zealously play off the disgust of their friends against federal measures. Figure to yourself its effect on the people at large on the western waters, who are impatiently waiting for a favorable result to the negociation of Gardoqui, and who will consider themselves as sold by their Atlantic brethren. Will it be an unnatural consequence if they consider themselves absolved from every federal tie, and court some protection for their betrayed rights? This protection will appear more attainable from the maritime power of Britain, than from any other quarter; and Britain will be more ready than any other nation to seize an opportunity of embroiling our affairs.

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What may be the motive with Spain to satisfy herself with a temporary occlusion of the Mississippi, at the same time that she holds forth our claim to it as absolutely inadmissible, is matter of conjecture only. The patrons of the measure in Congress contend that the Minister, who at present governs the Spanish councils, means only to disembarrass himself at the expence of his successors. I should rather suppose he means to work a total separation of interest and affection between western and eastern settlements, and to foment the jealousy between the Eastern and Southern States. By the former, the population of the Western Country, it may be expected, will be checked, and the Mississippi so far secured; and, by both, the general security of Spanish America be promoted.

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As far as I can learn, the assent of nine States in Congress will not at this time be got to the projected treaty; but an unsuccessful attempt by six or seven will favor the views of Spain, and be fatal, I fear, to an augmentation of the federal authority, if not to the little now existing. My personal situation is rendered by this business particularly mortifying. Ever since I have been out of Congress I have been inculcating on our Assembly a confidence in the equal attention of Congress to the rights and interests of every part of the Republic, and on the Western members, in particular, the necessity of making the Union respectable by new powers to Congress, if they wished Congress to negociate with effect for the Mississippi.

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I leave to Col. Monroe the giving you a particular account of the impost. The acts of Pennsylvania, Delaware, and New York, must be revised and amended in material points before it can be put in force, and even then the fetters put on the collection by some other States will make it a very awkward business. Your favor of 25th of April, from London, found me here. My letter from Richmond at the close of the Assembly will have informed you of the situation in which British debts stand in Virginia. Unless Congress say something on the subject, I do not think anything will be done by the next session. The expectations of the British Merchants coincide with the information I had received, as your opinion of the steps proper to be taken by the Assembly do with those for which I have ineffectually contended. The merits of Mr. Paradise will ensure every attention from me to his claim, as far as general principles will admit.

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The catalogues sent by Mr. Skipwith I do not expect to receive till I get back to Virginia. If you meet with "Groecorum Respublicæ ab Ubbone Emmio descriptæ," Sugd. Batavorum, 1632, pray get it for me.

To James Monroe.

PHILADELPHIA, August 15th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.248

DEAR SIR,—

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I am sorry the development of the interesting subject before Congress\* had so little effect on the members. I did not see General St. Clair, and if I had, my acquaintance is too slender to have warranted my broaching a conversation with him. I have conferred freely with Mr. Wilson. What his ultimate opinion may be on a full view of the measure in its details, I cannot say. I think he is not unaware of strong objections against it, particularly as it tends to defeat the object of the meeting at Annapolis, from which he has great expectations.

To James Monroe.

PHILADELPHIA, August 17th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.248

Dr. SIR,—I have your favor of the 14th inst. The expedient\* of which you ask my opinion has received, as it deserved, all the consideration which the time and other circumstances would allow me to give. I think that, in the present state of things, such an arrangement would be beneficial, and even pleasing to those most concerned in it; and yet I doubt extremely the policy of your proposing it to Congress. The objections which occur to me are: 1. That if the temper and views of Congress be such as you apprehend, it is morally certain they would not enter into the accommodation. Nothing, therefore, would be gained, and you would have to combat under the disadvantage of having forsaken your first ground. 2. If Congress should adopt your expedient as a ground of negociation with Guardoqui, and the views of Spain be such as they must be apprehended to be, it is still more certain that it would be rejected on that side, especially under the flattering hopes which the spirit of concession in Congress must have raised. In this event, the patrons of the measure now before Congress would return to it with greater eagerness and with fresh arguments, drawn from the impossibility of making better terms, and from the relaxation into which their opponents will have been betrayed. It is even possible that a foresight of this event might induce a politic concurrence in the experiment.

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Your knowledge of all circumstances will make you a better judge of the solidity or fallacy of these reflections than I can be. I do not extend them because it would be superfluous, as well as because it might lead to details which could not prudently be committed to the mail without the guard of a cypher. Not foreseeing that any confidential communication on paper would happen between us during my absence from Virginia, I did not bring mine with me.

To James Monroe.

ANNAPOLIS, September 11th, 1786.

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DEAR SIR,—I have two letters from you not yet acknowledged, one of the 1st, the other of the 3d instant. Nothing could be more distressing than the issue of the business stated in the latter. If the affirmative vote of seven States should be pursued, it will add the insult of trick to the injury of the thing itself.

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Our prospect here makes no amends for what is done with you. Delaware, New Jersey, and Virginia, alone are on the ground; two Commissioners attend from New York, and one from Pennsylvania. Unless the sudden attendance of a much more respectable number takes place it is proposed to break up the meeting, with a recommendation of another time and place, and an intimation of the expediency of extending the plan to other defects of the Confederation. In case of a speedy dispersion, I shall find it requisite to ride back as far as Philadelphia before I proceed to Virginia, from which place, if not from this, I will let you know the upshot here.

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I have heard that Col. Grayson was stopped at Trenton, by indisposition, on his way to the Assembly of Pennsylvania. I hope he is well again, and would write to him, but know not whither to address a letter to him.

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Adieu. Yrs affy.

To James Monroe.

PHILADELPHIA, Octr 5th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.250

DEAR SIR,—I received yesterday your favor of the 2nd instant, which makes the third for which my acknowledgments are due. The progression which a certain measure seems to be making is an alarming proof of the predominance of temporary and partial interests over those just and extended maxims of policy which have been so much boasted of among us, and which alone can effectuate the durable prosperity of the Union. Should the measure triumph under the patronage of nine States, or even of the whole thirteen, I shall never be convinced that it is expedient, because I cannot conceive it to be just.

Writings of Madison, Volume 1: 1769-1793, p.250

There is no maxim, in my opinion, which is more liable to be misapplied, and which, therefore, more needs elucidation, than the current one, that the interest of the majority is the political standard of right and wrong. Taking the word "interest" as synonymous with "ultimate happiness," in which sense it is qualified with every necessary moral ingredient, the proposition is no doubt true. But taking it in the popular sense, as referring to immediate augmentation of property and wealth, nothing can be more false. In the latter sense, it would be the interest of the majority in every community to despoil and enslave the minority of individuals; and in a federal community, to make a similar sacrifice of the minority of the component States. In fact, it is only re-establishing, under another name and a more specious form, force as the measure of right; and in this light the Western settlements will infallibly view it.

To James Monroe.

RICHMOND, Octr 30th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.251

DEAR SIR,—I drop you a few lines rather as a fulfilment of my promise than for the purpose of information, since they go by Mr. Jones, who is much better acquainted with the politics here than myself.

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I find, with pleasure, that the navigation of the Mississippi will be defended by the Legislature with as much zeal as could be wished. Indeed, the only danger is, that too much resentment may be indulged by many against the federal Councils. Paper money has not yet been tried even in any indirect mode that could bring forth the mind of the Legislature. Appearances on the subject, however, are rather flattering. Mr. Henry\* has declined a reappointment to the office he holds, and Mr. Randolph is in nomination for his successor, and will pretty certainly be elected. R. H. Lee has been talked of, but is not yet proposed. The appointments to Congress are a subject of conversation, and will be made as soon as a Senate is made. Mr. Jones will be included in the new Delegation. Your presence and communications on the point of the Mississippi are exceedingly wished for, and would, in several respects, be extremely useful. If Mr. Jones does not return in a day or two, come without him, I beseech you. I am consulted frequently on matters concerning which I cannot or ought not to speak, and refer to you as the proper source of information, as far as you may be at liberty. Hasten your trip, I again beseech you. I hope Mrs. Monroe continues well. My sincerest respects wait on her.

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In haste, adieu. Yrs.

To General Washington.

RICHMOND, Novr 1, 1786.

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DEAR SIR,—I have been here too short a time, as yet, to have collected fully the politics of the session. In general, appearances are favorable. On the question for a paper emission, the measure was this day rejected in emphatical terms by a majority of 84 vs. 17. The affair of the Mississippi\* is but imperfectly known. I find that its influence on the federal spirit will not be less than was apprehended. The Western members will not be long silent on the subject. I inculcate a hope that the views of Congress may yet be changed, and that it would be rash to suffer the alarm to interfere with the policy of amending the Confederacy. The sense of the House has not yet been tried on the latter point.

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The Report from the Deputies to Annapolis lies on the table, and I hope will be called for before the business of the Mississippi begins to ferment. Mr. Henry has signified his wish not to be re-elected, [Governor,] but will not be in the Assembly. The Attorney [Ed. Randolph] and R. H. Lee are in nomination for his successor. The former will probably be appointed; in which case, the contest for that vacancy will lie between Col. Innes and Mr. Marshall. The nominations for Congress are, as usual, numerous. There being no Senate yet, it is uncertain when any of these appointments will take place.

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With sincerest affection, your's.

To Col. James Madison.

RICHMOND, Novr 1st, 1786.

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HOND SIR,—

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Paper money was the subject of discussion this day, and was voted, by a majority of 84 against 17, to be "unjust, impolitic, destructive of public and private confidence, and of that virtue which is the basis of Republican Government." Our Revenue matters have also been on the anvil; several changes in our taxes are proposed, and it is not unlikely that some will take place. Duties on imports will be urged, as far as they can be guarded against smuggling by land, as well as by water. Governor Henry declines a reappointment, but does not come into the Assembly. The Attorney or R. H. Lee, probably the former, will supply his place.

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We learn that great commotions are prevailing in Massachusetts. An appeal to the Sword is exceedingly dreaded. The discontented, it is said, are as numerous as the friends of Government, and more decided in their measures. Should they get uppermost, it is uncertain what may be the effect. They profess to aim only at a reform of their Constitution, and of certain abuses in the public administration; but an abolition of debts, public and private, and a new division of property, are strongly suspected to be in contemplation.

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We also learn that a general combination of the Indians threatens the frontier of the United States. Congress are planning measures for warding off the blow, one of which is an augmentation of the federal troops to upwards of 2,000 men. In addition to these ills, it is pretty certain that a formidable party in Congress are bent on surrendering the Mississippi to Spain, for the sake of some commercial stipulations. The project has already excited much heat within that Assembly, and, if pursued, will not fail to alienate the Western Country and confirm the animosity and jealousy already subsisting between the Atlantic States. I fear that, although it should be frustrated, the effects already produced will be a great bar to our amendment of the Confederacy, which I consider as essential to its continuance. I have letters from Kentucky which inform me that the expedition against the Indians has prevented the meeting which was to decide the question of their Independence. It is probable the news relative to the surrender of the Mississippi will lessen the disposition to separate.

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If the bacon left behind by John should not have been sent, it need not be sent at all. Fresh butter will, from time to time, continue to be very acceptable. My best regards to my mother and the family.

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Your affectionate and dutiful son.

To General Washington.

RICHMOND, Novr 8th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.254

DEAR SIR,—I am just honored with your favor of the 5th instant. The intelligence from General Knox\* is gloomy indeed, but it is less so than the colours in which I had it through another channel. If the lessons which it inculcates should not work the proper impressions on the American public, it will be a proof that our case is desperate.

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Judging from the present temper and apparent views of our Assembly, I have some ground for leaning to the side of hope. The vote against paper money has been followed by two others of great importance. By one of them, petitions for applying a scale of depreciation to the military certificates was unanimously rejected. By the other, the expediency of complying with the Recommendation from Annapolis in favour of a general revision of the federal system was unanimously agreed to. A Bill for the purpose is now depending, and in a form which attests the most federal spirit. As no opposition has been yet made, and it is ready for the third reading, I expect it will soon be before the public. It has been thought advisable to give this subject a very solemn dress, and all the weight that could be derived from a single State. This idea will be pursued in the selection of characters to represent Virginia in the federal Convention. You will infer our earnestness on this point from the liberty which will be used of placing your name at the head of them. How far this liberty may correspond with the ideas by which you ought to be governed will be best decided when it must ultimately be decided. In every event, it will assist powerfully in marking the zeal of our Legislature, and its opinion of the magnitude of the occasion.

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Mr. Randolph has been elected successor to Mr. Henry. He had 77 votes, Col. Bland 26, and R. H. Lee 22. The delegation to Congress drops Col. H. Lee, a circumstance which gives much pain to those who attend to the mortification in which it involves a man of sensibility. I am yet to learn the ground of the extensive disapprobation which has shewn itself.

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I am, dear sir, most respectfully and affectionately your's.

Writings of Madison, Volume 1: 1769-1793, p.255

[Notes of a speech made by Mr. Madison in the House of Delegates of Virginia, in November, 1786, in opposition to paper-money.]

Writings of Madison, Volume 1: 1769-1793, p.255

Unequal to specie.

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1. Being redeemable at future day, and not bearing interest. 2. Illustrated by case of bank notes, stock in funds, paper of Spain issued during late war, (See Neckar on finance,) navy bills, tallies. 3. Being of less use than specie, which answers externally as well as internally, must be of less value, which depends on the use.

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Unjust.

Writings of Madison, Volume 1: 1769-1793, p.255

1. To creditors of a legal tender. 2. To debtors, if not legal tender, by increasing difficulty of getting specie. This it does by increasing extravagance and unfavorable balance of trade, and by destroying that confidence between man and man by which resources of one may be commanded by another. 3. Illustrated—1. By raising denomination of coin. 2. Increasing alloy of do; brass made is silver by the Romans, according to Sallust. 3. By changing weights and measures. 4. By case of creditors within who are debtors without the State.

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Unconstitutional.

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1. Affects rights of property as much as taking away equal value in land; illustrated by case of land paid for down, and to be conveyed in future, and of a law for remitting conveyance, to be satisfied by conveying a part only, or other land of inferior quality. 2. Affects property without trial by jury.

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Anti-federal.

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Right of regulating coin given to Congress for two reasons: 1. For sake of uniformity. 2. To prevent frauds in States towards each other or foreigners. Both these reasons hold equally as to paper money.

Writings of Madison, Volume 1: 1769-1793, p.256

Unnecessary.

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1. Produce of country will bring in specie, if not laid out in superfiuities. 2. Of paper, if necessary, enough already in Tobacco notes and public securities. 3. The true mode of giving value to these, and bringing in specie, is to enforce justice and taxes.

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Pernicious.

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1. By fostering luxury, extends instead of curing scarcity of specie. 2. By disabling compliance with requisition of Congress. 3. Sowing dissentions between States. 4. Destroying confidence between individuals. 5. Discouraging commerce. 6. Enriching collectors and sharpers. 7. Vitiating morals. 8. Reversing end of government, which is to reward best and punish worst. 9. Conspiring with the examples of other States to disgrace republican governments in the eyes of mankind.

Writings of Madison, Volume 1: 1769-1793, p.256

Objection.

Writings of Madison, Volume 1: 1769-1793, p.256

Paper money good before the war.

Writings of Madison, Volume 1: 1769-1793, p.256

Answer.

Writings of Madison, Volume 1: 1769-1793, p.256

1. Not true in New England, nor in Virginia, where exchange rose to 60 per cent., nor in Maryland. See Franklin on paper money. 2. Confidence then; not now. 3. Principles of paper credit not then understood; such would not then, nor now, succeed in Great Britain, &c.

Writings of Madison, Volume 1: 1769-1793, p.257

Advantages from rejecting paper:

Writings of Madison, Volume 1: 1769-1793, p.257

1. Distinguish the State and its credit.

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2. Draw commerce and specie.

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3. Set honorable example to other States.

To Col. James Madison.

RICHMOND, Nov. 16th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.257

HOND SIR,—

Writings of Madison, Volume 1: 1769-1793, p.257

The House of Delegates have done little since my last, and what was then done is still ineffectual for want of a Senate. A proposition for stopping the receipt of indents was made, and met with so little countenance that it was withdrawn. They will continue to be receivable as far as the law now permits, and those who have them not would do well to provide them. A bill is depending which makes Tobacco receivable in lieu of the specie part of the current tax, according to its value at the different Warehouses. Whether it will pass or not is uncertain. I think it most probable that it will pass. Nothing has yet been done as to the certificate tax.

To Col. James Madison.

November 24th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.257

HOND SIR,—The House of Delegates have just passed a bill making Tobacco receivable in the tax at the market price at the several Warehouses to be fixt by the Executive. There is a proviso that the highest price shall not exceed 28s. An equality of price throughout was contended for, which I disapproved: 1. Because I think it would have been unjust. 2. Because the bill could not have been carried in that form. I was not anxious for its success in any form, but acquiesced in it as it stands, as the people may consider it in the light of an easement, and as it may prevent some worse project in the Assembly.

Petition for the Repeal of the Law Incorporating

the Protestant Episcopal Church in Virginia

Writings of Madison, Volume 1: 1769-1793, p.258

[The following petition for the repeal of the Law incorporating the Protestant Episcopal Church in Virginia, passed in 1784, is found among the papers of Mr. Madison, and in his handwriting.\*]

To the Honorable the Speaker and gentlemen the General Assembly of Virginia:

Writings of Madison, Volume 1: 1769-1793, p.258

We, the subscribers, members of the Protestant Episcopal Church, claim the attention of your honorable body to our objections to the law passed at the last session of Assembly for incorporating the Protestant Episcopal Church; and we remonstrate against the said law—

Writings of Madison, Volume 1: 1769-1793, p.258

Because the law admits the power of the Legislative Body to interfere in matters of Religion, which we think is not included in their jurisdiction:

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Because the law was passed on the petition of some of the clergy of the Protestant Episcopal Church, without any application from the other members of that church on whom the law is to operate; and we conceive it to be highly improper that the Legislature should regard as the sense of the whole church the opinion of a few interested members, who were in most instances originally imposed on the people without their consent, and who were not authorized by even the smallest part of this community to make such a proposition:

Writings of Madison, Volume 1: 1769-1793, p.258

Because the law constitutes the clergy members of a convention who are to legislate for the laity, contrary to their fundamental right in chusing their own Legislators:

Writings of Madison, Volume 1: 1769-1793, p.258

Because by that law the most obnoxious and unworthy Clergyman cannot be removed from a parish except by the determination of a body, one half of whom the people have no confidence in, and who will always have the same interest with the Minister whose conduct they are to judge of:

Writings of Madison, Volume 1: 1769-1793, p.259

Because by that law power is given to the Convention to regulate matters of faith, and the obsequious vestries are to engage to change their opinions as often as the Convention shall alter theirs:

Writings of Madison, Volume 1: 1769-1793, p.259

Because a system so absurd and servile will drive the members of the Episcopal church over to other sects, where there will be more consistency and liberty:

Writings of Madison, Volume 1: 1769-1793, p.259

We therefore hope that the wisdom and impartiality of the present Assembly will incline them to repeal a law so pregnant with mischief and injustice.

To Thomas Jefferson.

RICHMOND, December 4th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.259

DEAR SIR,—The recommendation from the meeting at Annapolis, of a plenipotentiary Convention in Philadelphia in May next, has been well received by the Assembly here. Indeed, the evidence of dangerous defects in the confederation has at length proselyted the most obstinate adversaries to a reform. The unanimous sanction given by the Assembly to the inclosed compliance with the Recommendation marks sufficiently the revolution of sentiment which the experience of one year has effected in this country. The deputies are not yet appointed. It is expected that General Washington, the present Governor, E. Randolph, and the late one, Mr. Henry, will be of the number.

Writings of Madison, Volume 1: 1769-1793, p.259

The project for bartering the Mississippi to Spain was brought before the Assembly after the preceding measure had been adopted. The report of it having reached the ears of the Western Representatives, as many of them as were on the spot, backed by a number of the late officers, presented a memorial, full of consternation and complaint; in consequence of which, some very pointed Resolutions, by way of instruction to the Delegates in Congress, were unanimously entered into by the House of Delegates. They are now before the Senate, who will no doubt be also unanimous in their concurrence.

Writings of Madison, Volume 1: 1769-1793, p.260

The question of paper money was among the first with which the session opened. It was introduced by petitions from two Counties. The discussion was faintly supported by a few obscure patrons of the measure, and, on the vote, it was thrown out by 85 against 17. A petition for paying off the public securities according to a scale of their current prices was unanimously rejected.

Writings of Madison, Volume 1: 1769-1793, p.260

The consideration of the Revised Code has been resumed, and prosecuted pretty far towards its conclusion. I find, however, that it will be impossible, as well as unsafe, to give an ultimate fiat to the system at this session. The expedient I have in view is to provide for a supplemental revision by a Committee, who shall accommodate the bills skipped over, and the subsequent laws, to such part of the Code as has been adopted, suspending the operation of the latter for one year longer. Such a work is rendered indispensable by the alterations made in some of the bills in their passage, by the change of circumstances, which call for corresponding changes in sundry bills which have been laid by, and by the incoherence between the whole Code and the laws in force of posterior date to the Code. This business has consumed a great deal of the time of two sessions, and has given infinite trouble to some of us. We have never been without opponents, who contest, at least, every innovation inch by inch. The bill proportioning crimes and punishments, on which we were wrecked last year, has, after undergoing a number of alterations, got through a Committee of the whole; but it has not yet been reported to the House, where it will meet with the most vigorous attack. I think the chance is rather against its final passage in that branch of the Assembly; and if it should not miscarry there, it will have another gauntlet to run through the Senate.

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The bill on the subject of Education, which could not safely be brought into discussion at all last year, has undergone a pretty indulgent consideration this. In order to obviate the objection from the inability of the Country to bear the expence, it was proposed that it should be passed into a law, but its operation suspended for three or four years. Even in this form, however, there would be hazard in pushing it to a final question, and I begin to think it will be best to let it lie over for the supplemental Revisors, who may, perhaps, be able to put it into some shape that will lessen the objection of expence. I should have no hesitation at this policy if I saw a chance of getting a Committee equal to the work of compleating the revision. Mr. Pendleton is too far gone to take any part in it. Mr. Wythe, I suppose, will not decline any duty which may be imposed on him, but it seems almost cruel to tax his patriotic zeal any farther. Mr. Blair is the only remaining character in which full confidence could be placed.

Writings of Madison, Volume 1: 1769-1793, p.261

The delay in the administration of Justice from the accumulation of business in the General Court, and despair of obtaining a reform according to the Assize plan, have led me to give up this plan in favor of district Courts, which differ from the former in being clothed with all the powers of the General Court within their respective districts. The bill on the latter plan will be reported in a few days, and will probably, though not certainly, be adopted.

Writings of Madison, Volume 1: 1769-1793, p.261

The fruits of the impolitic measures taken at the last session with regard to taxes are bitterly tasted now. Our Treasury is empty, no supplies have gone to the federal treasury, and our internal embarrassments torment us exceedingly. The present Assembly have good dispositions on the subject, but some time will elapse before any of their arrangements can be productive. In one instance only, the general principles of finance have been departed from. The specie part of the tax under collection is made payable in Tobacco. This indulgence to the people, as it is called and considered, was so warmly wished for out of doors, and so strenuously pressed within, that it could not be rejected without danger of exciting some worse project of a popular cast. As Tobacco alone is made commutable, there is reason to hope the public treasury will suffer little, if at all. It may possibly gain.

Writings of Madison, Volume 1: 1769-1793, p.261

The repeal of the port bill has not yet been attempted. Col. Mason has been waited for as the hero of the attack. As it is become uncertain whether he will be down at all, the question will probably be brought forward in a few days. The repeal, were he present, would be morally certain. Under the disadvantage of his absence, it is more than probable. The question of British debts has also awaited his patronage. I am unable to say what the present temper is on that subject, nothing having passed that could make trial of it. The repeated disappointments I have sustained in efforts in favor of the Treaty make me extremely averse to take the lead in the business again.

Writings of Madison, Volume 1: 1769-1793, p.262

The public appointments have been disposed of as follows: The contest for the chair lay between Col. Bland and Mr. Prentis. The latter prevailed by a majority of near 20 votes. Mr. Harrison, the late Speaker, lost his election in Surrey, which he represented last year; and since has been equally unsuccessful in his pristine County, Charles City, where he made a second experiment. In the choice of a Governor, Mr. E. Randolph had a considerable majority of the whole in the first ballot. His competitors were Col. Bland and R. H. Lee, each of whom had between 20 and 30 votes. The delegation to Congress contained, under the first choice, Grayson, Carrington, R. H. Lee, Mr. Jones, and myself. Col. H. Lee, of the last delegation, was dropped. The causes were different, I believe, and not very accurately known to me. One of them is said to have been his supposed heterodoxy touching the Mississippi. Mr. Jones has since declined his appointment, and Col. Lee has been reinstated by an almost unanimous vote. A vacancy in the Council, produced by the resignation of Mr. Roane, is filled by Mr. Bolling Starke. Cyrus Griffin was a candidate, but was left considerably in the rear. The Attorney Generalship has been conferred on Col. Innes. Mr. Marshall had a handsome vote.

Writings of Madison, Volume 1: 1769-1793, p.262

Our summer and fall have been wet beyond all imagination in some places, and much so everywhere. The crops of corn are in general plentiful. The price up the country will not exceed 8 or 10s. In this district it is scarcest and dearest, being already as high as 12 or 15s. The crop of Tobacco will fall short considerably, it is calculated, of the last year's. The highest and lowest prices in the Country, of the new crop, are 25 and 20s. A rise is confidently expected.

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My next will be from New York, whither I shall set out as soon as the principal business of the Session is over. Till my arrival there I postpone communications relative to our national affairs, which I shall then be able to make on better grounds, as well as some circumstances relative to the affairs of this State, which the hurry of the present opportunity restrains me from entering into.

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Adieu.

To General Washington.

RICHMOND, December 7th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.263

DEAR SIR,—Notwithstanding the communications in your favor of the 18th ulto, which has remained until now unacknowledged, it was the opinion of every judicious friend whom I consulted that your name could not be spared from the Deputation to the meeting in May, at Philadelphia. It was supposed, in the first place, that the peculiarity of the Mission, and its acknowledged pre-eminence over every other public object, may possibly reconcile your undertaking it with the respect which is justly due, and which you wish to pay, to the late officers of the Army; and, in the second place, that although you should find that or any other consideration an obstacle to your attendance on the service, the advantage of having your name in the front of the appointment, as a mark of the earnestness of Virginia, and an invitation to the most select characters from every part of the Confederacy, ought at all events to be made use of. In these sentiments I own I fully concurred, and flatter myself that they will at least apologize for my departure from those held out in your letter. I even flatter myself that they will merit a serious consideration with yourself whether the difficulties which you enumerate ought not to give way to them.

Writings of Madison, Volume 1: 1769-1793, p.264

The affair of the Mississippi, which was brought before the Assembly in a long memorial from the Western members and some of the officers, has undergone a full consideration of both Houses. The resolutions printed in the papers were agreed to unanimously in the House of Delegates. In the Senate, I am told, the language was objected to by some members as too pointed. They certainly express in substance the decided sense of the Country at this time on the subject, and were offered in the place of some which went much farther, and which were in other respects exceptionable. I am entirely convinced, from what I observe here, that unless the project of Congress [for ceding to Spain the Mississippi for 25 years] can be reversed, the hopes of carrying this State into a proper federal system will be demolished. Many of our most federal leading men are extremely soured with what has already passed. Mr. Henry, who has been hitherto the champion of the federal cause, has become a cold advocate, and in the event of an actual sacrifice of the Mississippi by Congress, will unquestionably go over to the opposite side. I have a letter from Col. Grayson of late date, which tells me that nothing further has been done in Congress, and one from Mr. A. Clarke, of New Jersey, which informs me that he expected every day instructions from his Legislature for reversing the vote given by the Delegates of that State in favor of the project.

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The temper of the Assembly at the beginning of the session augured an escape from every measure this year not consonant to the proper principles of Legislation. I fear, now, that the conclusion will contradict the promising outset. In admitting Tobacco for a commutable, we perhaps swerved a little from the line in which we set out. I acquiesced in the measure myself as a prudential compliance with the clamours within doors and without, and as a probable means of obviating more hurtful experiments. I find, however, now, that it either had no such tendency, or that schemes were in embryo which I was not aware of. A Bill for establishing District Courts has been clogged with a plan for installing all debts now due, so as to make them payable in three annual portions. What the fate of the experiment will be I know not. It seems pretty certain that if it fails, the bill will fail with it. It is urged in support of the measure that it will be favorable to debtors and creditors both, and that, without it, the bill for accelerating justice would ruin the former and endanger the public repose. The objections are so numerous, and of such a nature, that I shall myself give up the bill rather than pay such a price for it.

To Col. James Madison.

RICHMOND, Decr 12th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.265

HOND SIR,—The inclosed paper will give you a knowledge of the mode and terms on which Tobacco is made a Commutable. It also contains some Resolutions of importance relative to the navigation of the Mississippi. The Senate have concurred in them, though not unanimously. Some of the members of that branch objected to the pointedness of the language; others doubted the propriety of taking up a subject of so delicate a nature without official information from the delegation in Congress.

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The repeal of the port bill was yesterday a subject of discussion, and rejected by 70 against 36, so that the law is likely to become permanent. Amendments, however, are necessary, and will probably take place. We have a bill depending for establishing District Courts, differing from the Assize in this respect, that the former will be vested with as compleat jurisdiction within the District as the General Court exercises over the whole State. Unhappily, it is clogged with a clause installing all debts among ourselves, so as to make them payable in three annual portions. Such an interposition of the law in private contracts is not to be vindicated on any Legislative principle within my knowledge, and seems obnoxious to the strongest objections which prevailed against paper money. How it will be relished I cannot say, the matter not having yet been taken into discussion. I think it probable that it will miscarry, and that it will involve the District bill in its fate.

Writings of Madison, Volume 1: 1769-1793, p.266

No thorough revision of the taxes has yet taken place. The inclosed report of a Committee will present some ideas which are to be discussed. In general, the bias of the House seems to be strongly towards taxes which are to operate indirectly, and on articles of luxury. The lawyers and County Court clerks are also likely to be squeezed. One-tenth of the fees of the former, and one-third of those of the latter, were voted to-day to be a proper share for the public. Riding Carriages were also voted to be proper objects of additional taxation. Coaches, &c., are to pay six dollars per wheel, Phaetons 4 dollars, and Chairs, &c., 2 dollars per wheel. Whether these extravagant ideas will be persisted in is uncertain. I can scarcely suppose they will, in their full extent.

Writings of Madison, Volume 1: 1769-1793, p.266

The Convention in Kentucky was prevented by the Expeditions into the Indian Country. It is proposed that another Convention shall be authorized to decide the question of their Independence.

To James Monroe.

RICHMOND, December 21st, 1786.

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DEAR SIR,—

Writings of Madison, Volume 1: 1769-1793, p.266

We hear nothing from any of the other States on the subject of the federal Convention. The ice seems to have intercepted totally the Northern communication for a considerable time past. The Assembly have been much occupied of late with the bill for district Courts. On the final question there was a majority of one against it, in fact, though on the count a mistake made the division equal, and it fell to the Chair to decide, who passed the bill. The real majority, however, were sensible of the mistake, and refused to agree to the title, threatening a secession at the same time. The result was a compromise, that the question should be decided anew the next morning, when the bill was lost in a full house by a single voice. It is now proposed to extend the Session of the General Court so as to accelerate the business depending there. We hear that Maryland is much agitated on the score of paper money, the House of Delegates having decided in favour of an emission.

To General Washington.

RICHMOND, December 24th, 1786.

Writings of Madison, Volume 1: 1769-1793, p.267

DEAR SIR,—Your favor of the 16th instant came to hand too late on thursday evening to be answered by the last mail. I have considered well the circumstances which it confidentially discloses, as well as those contained in your preceding favor. The difficulties which they oppose to an acceptance of the appointment, in which you are included, can as little be denied as they can fail to be regretted. But I still am inclined to think that the posture of our affairs, if it should continue, would prevent every criticism on the situation which the cotemporary meetings would place you in; and that at least a door could be kept open for your acceptance hereafter, in case the gathering clouds become so dark and menacing as to supersede every consideration but that of our national existence and safety. A suspension of your ultimate determination would be nowise inconvenient in a public view, as the Executive are authorised to fill vacancies, and can fill them at any time; and, in any event, three out of seven deputies are authorized to represent the State. How far it may be admissible in another view will depend, perhaps, in some measure, on the chance of your finally undertaking the service, but principally on the correspondence which is now passing on the subject between yourself and the Governor.

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Your observations on Tobacco as a commutable in the taxes are certainly just and unanswerable. My acquiescence in the measure was against every general principle which I have embraced, and was extorted by a fear that some greater evil under the name of relief to the people would be substituted. I am far from being sure, however, that I did right. The other evils contended for have, indeed, been as yet parried, but it is very questionable whether the concession in the affair of the Tobacco had much hand in it. The original object was paper money. Petitions for graduating certificates succeeded. Next came instalments. And, lastly, a project for making property a tender for debts at four-fifths of its value. All these have been happily got rid of by very large majorities. But the positive efforts in favor of Justice have been less successful. A plan for reforming the administration in this branch, accommodated more to the general opinion than the Assize plan, got as far as the third reading, and was then lost by a single vote. The Senate would have passed it readily, and would have even added amendments of the right complexion. I fear it will be some time before this necessary reform will again have a fair chance. Besides some other grounds of apprehension, it may well be supposed that the Bill, which is to be printed for consideration of the public, will, instead of calling forth the sanction of the wise and virtuous, be a signal to interested men to redouble their efforts to get into the Legislature.

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The Revenue business is still unfinished. The present rage seems to be to draw all our income from trade. From the sample given of the temper of the House of Delegates on this subject, it is much to be feared that the duties will be augmented with so daring a hand, that we shall drive away our trade instead of making it tributary to our Treasury. The only hope that can be indulged is that of moderating the fury. The port bill was defended against a repeal by about 70 votes against about 40. The revised code is not quite finished, and must receive the last hand from a succeeding Assembly. Several bills of consequence being rendered unfit to be passed in their present form, by a change of circumstances since they were prepared, necessarily require revision. Others, as the Education bill, &c., are thought to be adapted only to a further degree of wealth and population. Others, as the Execution bill, which subjects lands to debts, do not find yet an adequate patronage. Several bills, also, and particularly the bill relating to crimes and punishments, have been rejected, and require reconsideration from another Assembly. This last bill, after being purged of its objectionable peculiarities, was thrown out on the third reading by a single vote.

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It will little elevate your idea of our Senate to be told that they negatived the bill defining the privileges of Ambassadors, on the principle, as I am told, that an alien ought not to be put on better ground than a citizen. British debts have not yet been mentioned, and probably will not, unless Congress say something on the matter before the adjournment.

To Edmund Pendleton.

RICHMOND, January 9th, 1787.

Writings of Madison, Volume 1: 1769-1793, p.269

MY DEAR SIR,—Your favor of the 9th ultimo has been so long on hand unanswered, that I cannot now acknowledge it without observing, in the apology for the delay, that I waited for some measures of which I wished to communicate the event. The district bill, of which I formerly made mention, was finally thrown into a very curious situation, and lost by a single voice. I refer you for its history to Col. Pendleton, who was here at the time, and is now with you. An attempt has been since made to render the General Court more efficient, by lengthening its terms, and transferring the criminal business to the Judges of the Admiralty. As most of the little motives which co-operated with a dislike to Justice in defeating the District Bill happened to be in favour of the subsequent attempt, it went through the House of Delegates by a large majority. The Senate have disappointed the majority infinitely in putting a negative on it, as we just learn that they have done, by a single voice. An amendment of the County Courts has also been lost, through a disagreement of the two Houses on the subject. Our merit on the score of Justice has been entirely of the negative kind. It has been sufficient to reject violations of this cardinal virtue, but not to make any positive provisions in its behalf.

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The revised code has not been so thoroughly passed as I hoped at the date of my last. The advance of the session, the coldness of a great many, and the dislike of some to the subject, required that it should be pressed more gently than could be reconciled with a prosecution of the work to the end. I had long foreseen that a supplemental revision, as well of some of the articles of the Code as of the laws passed since it was digested, would become necessary, and had settled a plan for the purpose with myself. This plan was to suspend the laws adopted from the Code until the supplement could be prepared, and then to put the whole in force at once. Several circumstances satisfied me of late, that if the work was put within the reach of the next Assembly, there would be danger not only of its being left in a mutilated state, but of its being lost altogether. The observations in your favor above acknowledged encouraged me to propose that the parts of the Code adopted should take effect without waiting for the last hand to it. This idea has been pursued, and the bills passed at the last session are to commence as then determined, those passed at the present being suspended until July next.

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I would myself have preferred a suspension of the former also till July, for the sake of a more thorough promulgation, and of a cotemporary introduction of the laws, many of which are connected together; but the Senate thought otherwise, and in a ticklish stage of the session, the friends of the code in the House of Delegates joined me in opinion that it would be well to create no unnecessary delays or disagreements. I have strong apprehensions that the work may never be systematically perfected, for the reasons which you deduce from our form of Government. Should a disposition, however, continue in the Legislature as favorable as it has been in some stages of the business, I think a succession of revisions, each growing shorter than the preceding, might ultimately bring a completion within the compass of a single session. At all events, the invaluable acquisition of important bills, prepared at leisure by skilful hands, is so sensibly impressed on thinking people by the crudeness and tedious discussion of such as are generally introduced, that the expence of a continued revision will be thought by all such to be judiciously laid out for this purpose alone.

Writings of Madison, Volume 1: 1769-1793, p.271

The great objection which I personally feel arises from the necessity we are under of imposing the weight of these projects on those whose past services have so justly purchased an exemption from future labours. In your case, the additional consideration of ill health became almost an affair of conscience, and I have been no otherwise able to stifle the remorse of having nominated you, along with Mr. Wythe and Mr. Blair, for reviewing the subject left unfinished, than by reflecting that your colleagues will feel every disposition to abridge your share of the burden, and in case of such an increase of your infirmity as to oblige you to renounce all share, that they are authorised to appoint to, I will not say to fill, the vacancy. I flatter myself that you will be at least able to assist in general consultations on the subject, and to adjust the bills unpassed to the changes which have taken place since they were prepared. On the most unfortunate suppositions, my intentions will be sure to find in your benevolence a pardon for my error.

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The Senate have saved our commerce from a dreadful blow which it would have sustained from a bill passed in the House of Delegates, imposing enormous duties, without waiting for the concurrence of the other States, or even of Maryland. There is a rage at present for high duties, partly for the purpose of revenue, partly of forcing manufactures, which it is difficult to resist. It seems to be forgotten, in the first case, that in the arithmetic of the customs, as Dean Swift observes, 2 and 2 do not make four; and in the second, that manufactures will come of themselves when we are ripe for them. A prevailing argument, among others on the subject, is, that we ought not to be dependent on foreign nations for useful articles, as the event of a war may cut off all external supplies. This argument certainly loses its force when it is considered that, in case of a war hereafter, we should stand on very different ground from what we lately did. Neutral nations, whose rights are becoming every day more and more extensive, would not now suffer themselves to be shut out from our ports, nor would the hostile Nation presume to attempt it. As far as relates to implements of war, which are contraband, the argument for our fabrication of them is certainly good.

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Our latest information from the Eastward has not removed our apprehensions of ominous events in that quarter. It is pretty certain that the seditious party has become formidable to the Government, and that they have opened a communication with the viceroy of Canada. I am not enough acquainted with the proceedings of Congress to judge of some of the points which you advert to. The regulations of their land office have appeared to me nearly in the light in which they do to you.

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I expect to set out in a few days for New York, when I shall revive my claim to a correspondence which formerly gave me so much pleasure, and which will enable me, perhaps, to answer your queries. The end of my paper will excuse an abrupt but affectionate adieu.

To Thomas Jefferson.

NEW YORK, February 15th, 1787.

Writings of Madison, Volume 1: 1769-1793, p.272

DEAR SIR,—My last was from Richmond, of the 4th of December, and contained a sketch of our Legislative proceedings prior to that date.

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The principal proceedings of subsequent date relate, as nearly as I can recollect, 1st, to a rejection of the Bill on crimes and punishments, which, after being altered so as to remove most of the objections, as was thought, was lost by a single vote. The rage against Horse-stealers had a great influence on the fate of the bill. Our old bloody code is by this event fully restored, the prerogative of conditional pardon having been taken from the Executive by a judgment of the Court of Appeals, and the temporary law granting it to them having expired, and been left unrevived. I am not without hope that the rejected bill will find a more favorable disposition in the next Assembly. 2dly. To the bill for diffusing knowledge; it went through two readings by a small majority, and was not pushed to a third one. The necessity of a systematic provision on the subject was admitted on all hands. The objections against that particular provision were: 1. The expence, which was alleged to exceed the ability of the people. 2. The difficulty of executing it in the present sparse settlement of the country. 3. The inequality of the districts, as contended by the Western members. The last objection is of little weight, and might have been easily removed if it had been urged in an early stage of the discussion. The bill now rests on the same footing with the other unpassed Bills in the Revisal.

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3dly. To the Revisal at large. It was found impossible to get through the system at the late session, for several reasons: 1. The changes which have taken place, since its compilement, in our affairs and our laws, particularly those relating to our Courts, called for changes in some of the bills, which could not be made with safety by the Legislature. 2. The pressure of other business, which, though of less importance in itself, yet was more interesting for the moment. 3. The alarm excited by an approach toward the Execution bill, which subjects land to the payment of debts. This bill could not have been carried, was too important to be lost, and even too difficult to be amended without destroying its texture. 4. The danger of passing the Repealing Bill at the end of the Code, before the operation of the various amendments, &c., made by the Assembly, could be leisurely examined by competent Judges. Under these circumstances, it was thought best to hand over the residue of the work to our successors; and in order to have it made compleat, Mr. Pendleton, Mr. Wythe, and Blair, were appointed a Committee to amend the unpassed bills, and also to prepare a supplemental revision of the laws which have been passed since the original work was executed.

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It became a critical question with the friends of the Revisal whether the parts of the Revisal actually passed should be suspended in the mean time, or left to take their operation. The first plan was strongly recommended by the advantage of giving effect to the system at once, and by the inconveniency arising from the latter, of leaving the old laws to a constructive repeal only. The latter, notwithstanding, was preferred, as putting the adopted bills out of the reach of a succeeding Assembly, which might possibly be unfriendly to the system altogether. There was good reason to suspect Mr. Henry, who will certainly be then a member. By suffering the bills which have passed to take effect in the mean time, it will be extremely difficult to get rid of them.

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4thly. Religion. The act incorporating the protestant Episcopal Church excited the most pointed opposition from the other sects. They even pushed their attacks against the reservation of the Glebes, &c., to the church exclusively. The latter circumstance involved the Legislature in some embarrassment. The result was a repeal of the act, with a saving of the property. 5th. The district Courts. After a great struggle, they were lost in the House of Delegates by a single voice. 6thly. Taxes. The attempts to reduce former taxes were baffled, and sundry new taxes added: on lawyers, 1/10 of their fees; on Clerks of Courts, 1/4 of do.; on Doctors, a small tax; a tax on houses in towns, so as to level their burden with that of real estate in the country; very heavy taxes on riding carriages, &c. Besides these, an additional duty of 2 per cent. ad valorem on all merchandises imported in vessels of nations not in treaty with the United States, an additional duty of four pence on every gallon of wine except French wines, and of two pence on every gallon of distilled spirits except French brandies, which are made duty free. The exceptions in favor of France were the effect of the sentiments and regulations communicated to you by Mr. Calonne. A printed copy of the communication was received the last day of the session in a newspaper from New York, and made a warm impression on the Assembly. Some of the taxes are liable to objections, and were much complained of. With the additional duties on trade, they will considerably enhance our revenue. I should have mentioned a duty of 6s. per Hogshead on Tobacco for complying with a special requisition of Congress for supporting the corps of men raised for the public security.

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7th. The Mississippi. At the date of my last, the House of Delegates only had entered into Resolutions against a surrender of the right of navigating it. The Senate shortly after concurred. The States south of Virginia still adhere, as far as I can learn, to the same ideas as have governed Virginia. New Jersey, one of the States in Congress which was on the opposite side, has now instructed her Delegates against surrendering to Spain the navigation of the River, even for a limited time; and Pennsylvania, it is expected, will do the same. I am told that Mr. Jay has not ventured to proceed in his project, and I suppose will not now do it. 8th. The Convention for amending the federal Constitution. At the date of my last, Virginia had passed an act for appointing deputies. The deputation consists of General Washington, Mr. Henry, late Governor, Mr. Randolph, present Governor, Mr. Blair, Mr. Wythe, Col. Mason, and James Madison.

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North Carolina has also made an appointment, including her present and late Governor. South Carolina, it is expected by her delegates in Congress, will not fail to follow these examples. Maryland has determined, I just hear, to appoint, but has not yet agreed on her deputies. Delaware, Pennsylvania, and New Jersey, have made respectable appointments. New York has not yet decided on the point. Her Assembly has just rejected the impost, which has an unpropitious aspect. It is not clear, however, that she may not yet accede to the other measure. Connecticut has a great aversion to Conventions, and is otherwise habitually disinclined to abridge her State prerogatives. Her concurrence, nevertheless, is not despaired of. Massachusetts, it is said, will concur, though hitherto not well inclined. New Hampshire will probably do as she does. Rhode Island can be relied on for nothing that is good. On all great points, she must sooner or later bend to Massachusetts and Connecticut.

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Having but just come to this place, I do not undertake to give you any general view of American affairs, or of the particular state of things in Massachusetts. The omission is probably of little consequence, as information of this sort must fall within your correspondence with the office of foreign affairs. I shall not, however, plead this consideration in a future letter, when I hope to be more able to write fully.

To General Washington.

NEW YORK, Feb. 21, 1787.

Writings of Madison, Volume 1: 1769-1793, p.276

DEAR SIR,—Some little time before my arrival here, a quorum of the States was made up, and General St. Clair put in the Chair. We have at present nine States on the ground, but shall lose South Carolina to-day. Other States are daily expected. What business of moment may be done by the present or a fuller meeting is uncertain.

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The objects now depending and most immediately in prospect are: 1. The Treaty of Peace. The Secretary of foreign Affairs has very ably reported a view of the infractions on both sides, his exposition of the contested articles, and the steps proper to be taken by Congress. I find, what I was not before apprized of, that more than one infraction on our part preceded even the violation on the other side in the instance of the negroes. Some of the reasoning on the subject of the debts would be rather grating to Virginia. A full compliance with the Treaty according to judicial constructions, and as a ground for insisting on a reciprocal compliance, is the proposition in which the Report terminates. 2. A recommendation of the proposed Convention in May. Congress have been much divided and embarrassed on the question whether their taking an interest in the measure would impede or promote it. On one side it has been urged that some of the backward States have scruples against acceding to it without some constitutional sanction; on the other, that other States will consider any interference of Congress as proceeding from the same views which have hitherto excited their jealousies. A vote of the Legislature here, entered into yesterday, will give some relief in the case. They have instructed their delegates in Congress to move for the reconsideration in question. The vote was carried by a majority of one only in the Senate, and there is room to suspect that the minority were actuated by a dislike to the substance, rather than by any objection against the form of the business. A large majority in the other Branch a few days ago put a definitive veto on the Impost.

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It would seem as if the politics of this State are directed by individual interests and plans, which might be incommoded by the controul of an efficient federal Government. The four States north of it are still to make their decision on the subject of the Convention. I am told by one of the Massachusetts delegates that the Legislature of that State, which is now sitting, will certainly accede and appoint Deputies if Congress declare their approbation of the measure. I have similar information that Connecticut will probably come in, though it is said that the interference of Congress will rather have a contrary tendency there. It is expected that South Carolina will not fail to adopt the plan, and that Georgia is equally well disposed. All the intermediate States between the former and New York have already appointed Deputies, except Maryland, which, it is said, means to do it, and has entered into some vote which declares as much. Nothing has yet been done by the new Congress with regard to the Mississippi.

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Our latest information from Massachusetts gives hopes that the meeting, or, as the Legislature there now style it, the Rebellion, is nearly extinct. If the measures, however, on foot for disarming and disfranchising those concerned in it should be carried into effect, a new crisis may be brought on.

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I have not been here long enough to gather the general sentiments of leading characters touching our affairs and prospects. I am inclined to hope that they will gradually be concentered in the plan of a thorough reform of the existing system. Those who may lean towards a monarchical government, and who, I suspect, are swayed by very indigested ideas, will of course abandon an unattainable object whenever a prospect opens of rendering the Republican form competent to its purposes. Those who remain attached to the latter form must soon perceive that it cannot be preserved at all under any modification which does not redress the ills experienced from our present establishments. Virginia is the only State which has made any provision for the late moderate but essential requisition of Congress, and her provision is a partial one only.

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This would have been of earlier date, but I have waited for more interesting subjects for it. I shall do myself the pleasure of repeating the liberty of dropping you a few lines as often as proper occasions arise, on no other condition, however, than your waiving the trouble of regular answers or acknowledgements on your part.

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With the greatest respect and affection, I am, Dr Sir, your obt friend and serv.

To the Honble Edmund Pendleton.

NEW YORK, February 24, 1787.

Writings of Madison, Volume 1: 1769-1793, p.278

DEAR SIR,—If the contents of the newspapers of this place find their way into the Gazettes of Richmond, you will have learnt that the expedition of General Lincoln against the insurgents has effectually dispersed the main body of them. It appears, however, that there are still some detachments which remain to be subdued, and that the government of Massachusetts consider very strong precautions as necessary against farther eruptions. The principal incendiaries have, unluckily, made off. By some it is said that they are gone to Canada; by others, that they have taken shelter in Vermont; and by some, that they are opening a communication with the upper parts of this State. The latter suggestion has probably some color, as the Governor here has thought proper to offer rewards for them, after the example of Governor Bowdoin. We have no interesting information from Europe.

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The only step of moment taken by Congress, since my arrival, has been a recommendation of the proposed meeting in May, for revising the federal Articles. Some of the States, considering this measure as an extra-constitutional one, had scruples against concurring in it without some regular sanction. By others, it was thought best that Congress should remain neutral in the business, as the best antidote for the jealousy of an ambitious desire in them to get more power into their hands. This suspense was at length removed by an instruction from this State to its delegates to urge a recommendatory Resolution in Congress, which accordingly passed a few days ago. Notwithstanding this instruction from N. York, there is room to suspect her disposition not to be very federal, a large majority of the House of Delegates having very lately entered into a definitive refusal of the impost, and the instruction itself having passed in the Senate by a casting vote only. In consequence of the sanction given by Congress, Massachusetts, it is said, will send Deputies to the Convention, and her example will have great weight with the other New England States. The States from North Carolina to New Jersey, inclusive, have made their appointments, except Maryland, who has, as yet, only determined that she will make them. The gentlemen here from South Carolina and Georgia expect that those States will follow the general example. Upon the whole, therefore, it seems probable that a meeting will take place, and that it will be a pretty full one.

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What the issue of it will be is among the other arcana of futurity, and nearly as inscrutable as any of them. In general, I find men of reflection much less sanguine as to a new, than despondent as to the present system. Indeed, the present system neither has nor deserves advocates; and if some very strong props are not applied, will quickly tumble to the ground. No money is paid into the public Treasury; no respect is paid to the federal authority. Not a single State complies with the requisitions; several pass them over in silence, and some positively reject them. The payments, ever since the peace, have been decreasing, and of late fall short even of the pittance necessary for the civil list of the Confederacy. It is not possible that a Government can last long under these circumstances.

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If the approaching convention should not agree on some remedy, I am persuaded that some very different arrangement will ensue. The late turbulent scenes in Massachusetts, and infamous ones in Rhode Island, have done inexpressible injury to the republican character in that part of the United States, and a propensity towards monarchy is said to have been produced by it in some leading minds. The bulk of the people will probably prefer the lesser evil of a partition of the Union into three more practicable and energetic governments. The latter idea, I find, after long confinement to individual speculations and private circles, is beginning to shew itself in the newspapers. But though it is a lesser evil, it is so great a one that I hope the danger of it will rouse all the real friends of the Revolution to exert themselves in favor of such an organization of the Confederacy as will perpetuate the Union and redeem the honor of the Republican name.

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I shall follow this introductory letter with a few lines from time to time, as a proper subject for them occurs. The only stipulation I exact on your part is, that you will not consider them as claiming either answers or acknowledgements, and that you will believe me to be, with sincerest wishes for your health and every other happiness,

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Your affectionate friend and serv.

To Col. James Madison.

NEW YORK, Feby 25th, 1787.

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HOND SIR,—

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The success of General Lincoln against the insurgents has corresponded with the hopes of the Government. It is still said, notwithstanding, that there remains a great deal of leven in the mass of the people. Connecticut has not caught the fermentation, but she pays no taxes. Congress received a letter a few days ago from the Governor of that State, inclosing a non-compliance of the Assembly with the requisitions of Congress. In fact, payments to the federal Treasury are ceasing everywhere, and the minds of people losing all confidence in our political system. What change may be wrought by the proposed Convention is uncertain. There is a prospect, at present, of pretty general appointments to it.

To General Washington.

NEW YORK, March 18th, 1787.

Writings of Madison, Volume 1: 1769-1793, p.281

DEAR SIR,—Recollecting to have heard you mention a plan formed by the Empress of Russia for a comparative view of the Aborigines of the new Continent, and of the N. E. parts of the old, through the medium of their respective tongues, and that her wishes had been conveyed to you for your aid in obtaining the American vocabularies, I have availed myself of an opportunity, offered by the kindness of Mr. Hawkins, of taking a copy of such a sample of the Cherokee and Choctaw dialects as his late commission to treat with them enabled him to obtain, and do myself the honor now of enclosing it. I do not know how far the list of words made use of by Mr. Hawkins may correspond with the standard of the Empress, nor how far nations so remote as the Cherokees and Choctaws from the N. W. shores of America may fall within the scheme of comparison. I presume, however, that a great proportion, at least, of the words will answer, and that the laudable curiosity which suggests investigations of this sort will be pleased with every enlargement of the field for indulging it. Not finding it convenient to retain a copy of the enclosed, as I wished to do, for myself, I must ask the favor of your amanuensis to perform that task for me.

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The appointments for the Convention go on very successfully. Since the date of my last, Georgia, South Carolina, New York, Massachusetts, and New Hampshire, have come into the measure. Georgia and New Hampshire have constituted their Delegates in Congress their representatives in Convention. South Carolina has appointed Mr. J. Rutledge, General Pinckney, Mr. Laurens, Major Butler, and Mr. Charles Pinckney, late member of Congress. The deputies of Massachusetts are Mr. Dana, Mr. King, Mr. Gorham, Mr. Gerry, Mr. Strong. I am told that a Resolution of the Legislature of this State, which originated with their Senate, lays its deputies under the fetter of not departing from the 5th of the present articles of Confederation. As this Resolution passed before the recommendatory act of Congress was known, it is conjectured that it may be rescinded; but its having passed at all denotes a much greater prevalence of political jealousy in that quarter than had been imagined. The deputation of New York consists of Colonel Hamilton, Judge Yates, and a Mr. Lansing. The two last are said to be pretty much linked to the anti-federal party here, and are likely, of course, to be a clog on their colleague. It is not doubted, now, that Connecticut and Rhode Island will avoid the singularity of being unrepresented in the Convention.

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The thinness of Congress has been an obstacle to all the important business before them. At present there are nine States on the ground; but this number, though adequate to every object when unanimous, makes a slow progress in business that requires seven States only. And I see little prospect of the number being increased.

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By our latest and most authentic information from Massachusetts, it would seem that a calm has been restored by the expedition of General Lincoln. The precautions taking by the State, however, betray a great distrust of its continuance. Besides their act disqualifying the malcontents from voting in the election of members for the Legislature, &c. another has been passed for raising a corps of 1,000 or 1,500 men, and appropriating the choicest revenues of the country to its support. It is said that at least half of the insurgents decline accepting the terms annexed to the amnesty, and that this defiance of the law against Treason is countenanced not only by the impunity with which they show themselves on public occasions, even with insolent badges of their character, but by marks of popular favor conferred on them in various instances in the election to local offices.

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A proposition has been introduced and discussed in the Legislature of this State for relinquishing its claim to Vermont, and urging the admission of it into the Confederacy. As far as I can learn, difficulties will arise only in settling the form, the substance of the measures being not disliked by any of the parties. It is wished by those who are not interested in claims to lands within that district to guard against any responsibility in the State for compensation. On the other side, it will at least be insisted that they shall not be barred the privilege of carrying their claims before a federal court, in case Vermont shall become a party to the Union. I think it probable, if she should not decline becoming such altogether, that she will make two conditions, if not more: 1. That neither her boundaries nor the rights of her citizens shall be impeachable under the 9th article of Confederation. 2. That no share of the public debt already contracted shall be allotted to her.

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I have a letter from Col. John Campbell, dated at Pittsburg, from which I gather that the people of that quarter are thrown into great agitation by the reported intention of Congress concerning the Mississippi, and that measures are on foot for uniting the minds of all the different settlements which have a common interest at stake. Should this policy take effect, I think there is much ground to apprehend that the ambition of individuals will quickly mix itself with the first impulses of resentment and interest; that by degrees the people may be led to set up for themselves; that they will slide, like Vermont, insensibly into a communication and latent connection with their British neighbors, and, in pursuance of the same example, make such a disposition of the Western Territory as will entice into it most effectually emigrants from all parts of the Union. If these apprehensions be not imaginary, they suggest many observations extremely interesting to Spain as well as to the United States.

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I hear from Richmond, with much concern, that Mr. Henry has positively declined his mission to Philadelphia. Besides the loss of his services on that theatre, there is danger, I fear, that this step has proceeded from a wish to leave his conduct unfettered on another theatre, where the result of the Convention will receive its destiny from his omnipotence.

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With every sentiment of esteem and affection, I remain, Dear Sir, your obt and very h'ble serv.

To Thomas Jefferson.

NEW YORK, March 19th, 1787.

Writings of Madison, Volume 1: 1769-1793, p.284

DEAR SIR,—My last was of the 11th of February, and went by the packet. This will go to England in the care of a French gentleman, who will consign it to the care of Mr. Adams.

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The appointments for the Convention go on auspiciously. Since my last, Georgia, South Carolina, New York, Massachusetts, and New Hampshire, have come into the measure. The first and the last of these States have commissioned their delegates to Congress as their representatives in Convention. The deputation of Massachusetts consists of Messrs. Gorham, Dana, King, Gerry, and Strong. That of New York, Messrs. Hamilton, Yates, and Lansing. That of South Carolina, Messrs. J. Rutledge, Laurens, Pinckney, (General,) Butler, and Charles Pinckney, lately member of Congress. The States which have not yet appointed are Rhode Island, Connecticut, and Maryland. The last has taken measures which prove her intention to appoint, and the two former it is not doubted will follow the example of their neighbours. I just learn from the Governor of Virginia that Mr. Henry has resigned his place in the deputation from that State, and that General Nelson is put into it by the Executive, who were authorised to fill vacancies. The Governor, Mr. Wythe, and Mr. Blair, will attend, and some hopes are entertained of Col. Mason's attendance. General Washington has prudently authorised no expectations of his attendance, but has not either precluded himself absolutely from stepping into the field if the crisis should demand it.

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What may be the result of this political experiment cannot be foreseen. The difficulties which present themselves are, on one side, almost sufficient to dismay the most sanguine, whilst on the other side the most timid are compelled to encounter them by the mortal diseases of the existing Constitution. These diseases need not be pointed out to you, who so well understand them. Suffice it to say, that they are at present marked by symptoms which are truly alarming, which have tainted the faith of the most orthodox republicans, and which challenge from the votaries of liberty every concession in favor of stable Government not infringing fundamental principles, as the only security against an opposite extreme of our present situation.

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I think myself that it will be expedient, in the first place, to lay the foundation of the new system in such a ratification by the people themselves of the several States as will render it clearly paramount to their Legislative authorities. 2dly. Over and above the positive power of regulating trade and sundry other matters in which uniformity is proper, to arm the federal head with a negative in all cases whatsoever on the local Legislatures. Without this defensive power, experience and reflection have satisfied me that, however ample the federal powers may be made, or however clearly their boundaries may be delineated on paper, they will be easily and continually baffled by the Legislative sovereignties of the States. The effects of this provision would be not only to guard the national rights and interests against invasion, but also to restrain the States from thwarting and molesting each other; and even from oppressing the minority within themselves by paper money and other unrighteous measures which favor the interest of the majority. In order to render the exercise of such a negative prerogative convenient, an emanation of it must be vested in some set of men within the several States, so far as to enable them to give a temporary sanction to laws of immediate necessity. 3dly. To change the principle of Representation in the federal system. Whilst the execution of the acts of Congress depends on the several Legislatures, the equality of votes does not destroy the inequality of importance and influence in the States. But in case of such an augmentation of the federal power as will render it efficient without the intervention of the Legislatures, a vote in the general Councils from Delaware would be of equal value with one from Massachusetts or Virginia. This change, therefore, is just. I think, also, it will be practicable. A majority of the States conceive that they will be gainers by it. It is recommended to the Eastern States by the actual superiority of their populousness, and to the Southern by their expected superiority; and if a majority of the larger States concur, the fewer and smaller States must finally bend to them. This point being gained, many of the objections now urged in the leading States against renunciations of power will vanish. 4thly. To organize the federal powers in such a manner as not to blend together those which ought to be exercised by separate departments. The limited powers new vested in Congress are frequently mismanaged from the want of such a distribution of them. What would be the case under an enlargement not only of the powers, but the number of the federal Representatives? These are some of the leading ideas which have occurred to me, but which may appear to others as improper as they appear to me necessary.

To Col. James Madison.

NEW YORK, April 1st, 1787.

Writings of Madison, Volume 1: 1769-1793, p.286

HOND SIR,—The general attention is now directed towards the approaching Convention. All the States have appointed deputies to it except Connecticut, Maryland, and Rhode Island. The first, it is not doubted, will appoint, and the second has already resolved on the expediency of the measure. Rhode Island alone has refused her concurrence. A majority of more than twenty in the Legislature of that State has refused to follow the general example. Being conscious of the wickedness of the measures they are pursuing, they are afraid of everything that may become a controul on them. Notwithstanding this prospect of a very full and respectable meeting, no very sanguine expectations can well be indulged. The probable diversity of opinions and prejudices, and of supposed or real interests among the States, renders the issue totally uncertain. The existing embarrassments and mortal diseases of the Confederacy form the only ground of hope that a spirit of concession on all sides may be produced by the general chaos, or at least partitions of the Union, which offers itself as the alternative.

To General Washington.

NEW YORK, April 16th, 1787.

Writings of Madison, Volume 1: 1769-1793, p.287

DEAR SIR,—I have been honored with your letter of the 31 March, and find, with much pleasure, that your views of the reform which ought to be pursued by the Convention give a sanction to those I entertained. Temporising applications will dishonor the councils which propose them, and may foment the internal malignity of the disease, at the same time that they produce an ostensible palliation of it. Radical attempts, although unsuccessful, will at least justify the authors of them.

Writings of Madison, Volume 1: 1769-1793, p.287

Having been lately led to revolve the subject which is to undergo the discussion of the Convention, and formed some outlines of a new system, I take the liberty of submitting them without apology to your eye.

Writings of Madison, Volume 1: 1769-1793, p.287

Conceiving that an individual independence of the States is utterly irreconcileable with their aggregate sovereignty, and that a consolidation of the whole into one simple republic would be as inexpedient as it is unattainable, I have sought for middle ground, which may at once support a due supremacy of the national authority, and not exclude the local authorities wherever they can be subordinately useful.

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I would propose as the groundwork, that a change be made in the principle of representation. According to the present form of the Union, in which the intervention of the States is in all great cases necessary to effectuate the measures of Congress, an equality of suffrage does not destroy the inequality of importance in the several members. No one will deny that Virginia and Massachusetts have more weight and influence, both within and without Congress, than Delaware or Rhode Island. Under a system which would operate in many essential points without the intervention of the State legislatures, the case would be materially altered. A vote in the national Councils from Delaware would then have the same effect and value as one from the largest State in the Union. I am ready to believe that such a change would not be attended with much difficulty. A majority of the States, and those of greatest influence, will regard it as favorable to them. To the northern States it will be recommended by their present populousness; to the Southern, by their expected advantage in this respect. The lesser States must in every event yield to the predominant will. But the consideration which particularly urges a change in the representation is, that it will obviate the principal objections of the larger States to the necessary concessions of power.

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I would propose next, that in addition to the present federal powers, the national Government should be armed with positive and compleat authority in all cases which require uniformity; such as the regulation of trade, including the right of taxing both exports and imports, the fixing the terms and forms of naturalization, &c., &c.

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Over and above this positive power, a negative in all cases whatsoever on the Legislative acts of the States, as heretofore exercised by the Kingly prerogative, appears to me to be absolutely necessary, and to be the least possible encroachment on the State jurisdictions. Without this defensive power, every positive power that can be given on paper will be evaded or defeated. The States will continue to invade the National jurisdiction, to violate treaties and the law of nations, and to harass each other with rival and spiteful measures dictated by mistaken views of interest. Another happy effect of this prerogative would be its controul on the internal vicissitudes of State policy, and the aggressions of interested majorities on the rights of minorities and of individuals. The great desideratum, which has not yet been found for Republican Governments, seems to be some disinterested and dispassionate umpire in dispates between different passions and interests in the State. The majority, who alone have the right of decision, have frequently an interest, real or supposed, in abusing it. In Monarchies, the Sovereign is more neutral to the interests and views of different parties; but, unfortunately, he too often forms interests of his own, repugnant to those of the whole. Might not the national prerogative here suggested be found sufficiently disinterested for the decision of local questions of policy, whilst it would itself be sufficiently restrained from the pursuit of interests adverse to those of the whole society? There has not been any moment since the peace at which the representatives of the Union would have given an assent to paper money, or any other measure of a kindred nature.

Writings of Madison, Volume 1: 1769-1793, p.289

The national supremacy ought also to be extended, as I conceive, to the Judiciary departments. If those who are to expound and apply the laws are connected by their interests and their oaths with the particular States wholly, and not with the Union, the participation of the Union in the making of the laws may be possibly rendered unavailing. It seems at least necessary that the oaths of the Judges should include a fidelity to the general as well as local Constitution, and that an appeal should lie to some National tribunal in all cases to which foreigners or inhabitants of other States may be parties. The admiralty jurisdiction seems to fall entirely within the purview of the National Government.

Writings of Madison, Volume 1: 1769-1793, p.289

The National supremacy in the Executive departments is liable to some difficulty, unless the officers administering them could be made appointable by the Supreme Government. The Militia ought certainly to be placed, in some form or other, under the authority which is entrusted with the general protection and defence.

Writings of Madison, Volume 1: 1769-1793, p.289

A Government composed of such extensive powers should be well organized and balanced. The legislative department might be divided into two branches; one of them chosen every years, by the people at large, or by the Legislatures; the other to consist of fewer members, to hold their places for a longer term, and to go out in such a rotation as always to leave in office a large majority of old members. Perhaps the negative on the laws might be most conveniently exercised by this branch. As a further check, a Council of revision, including the great ministerial officers, might be superadded.

Writings of Madison, Volume 1: 1769-1793, p.290

A National Executive must also be provided. I have scarcely ventured, as yet, to form my own opinion either of the manner in which it ought to be constituted, or of the authorities with which it ought to be cloathed.

Writings of Madison, Volume 1: 1769-1793, p.290

An article should be inserted expressly guarantying the tranquillity of the States against internal as well as external dangers.

Writings of Madison, Volume 1: 1769-1793, p.290

In like manner the right of coercion should be expressly declared. With the resources of commerce in hand, the National administration might always find means of exerting it either by sea or land. But the difficulty and awkwardness of operating by force on the collective will of a State render it particularly desirable that the necessity of it might be precluded. Perhaps the negative on the laws might create such a mutuality of dependence between the general and particular authorities as to answer this purpose. Or, perhaps, some defined objects of taxation might be submitted, along with commerce, to the general authority.

Writings of Madison, Volume 1: 1769-1793, p.290

To give a new system its proper validity and energy, a ratification must be obtained from the people, and not merely from the ordinary authority of the Legislatures. This will be the more essential, as inroads on the existing Constitutions of the States will be unavoidable.

Writings of Madison, Volume 1: 1769-1793, p.290

The inclosed address to the States on the subject of the Treaty of peace has been agreed to by Congress, and forwarded to the several Executives. We foresee the irritation which it will excite in many of our Countrymen, but could not withhold our approbation of the measure. Both the resolutions and the address passed without a dissenting voice.

Writings of Madison, Volume 1: 1769-1793, p.290

Congress continue to be thin, and of course do little business of importance. The settlement of the public accounts, the disposition of the public lands, and arrangements with Spain, are subjects which claim their particular attention. As a step towards the first, the Treasury board are charged with the task of reporting a plan by which the final decision on the claims of the States will be handed over from Congress to a select set of men, bound by their oaths, and cloathed with the powers of Chancellors. As to the second article, Congress have it themselves under consideration. Between six and seven hundred thousand acres have been surveyed and are ready for sale. The mode of sale, however, will probably be a source of different opinions, as will the mode of disposing of the unsurveyed residue. The Eastern gentlemen remain attached to the scheme of townships. Many others are equally strenuous for indiscriminate locations. The States which have lands of their own for sale are suspected of not being hearty in bringing the federal lands to market. The business with Spain is becoming extremely delicate, and the information from the Western settlements truly alarming.

Writings of Madison, Volume 1: 1769-1793, p.291

A motion was made some days ago for an adjournment of Congress for a short period, and an appointment of Philadelphia for their reassembling. The eccentricity of this place, as well with regard to East and West as to North and South, has, I find, been for a considerable time a thorn in the minds of many of the Southern members. Suspicion, too, has charged some important votes on the weight thrown by the present position of Congress into the Eastern scale, and predicts that the Eastern members will never concur in any substantial provision or movement for a proper permanent seat for the National Government, whilst they remain so much gratified in its temporary residence. These seem to have been the operative motives with those on one side who were not locally interested in the removal. On the other side, the motives are obvious. Those of real weight wore drawn from the apparent caprice with which Congress might be reproached, and particularly from the peculiarity of the existing moment.

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I own that I think so much regard due to these considerations, that notwithstanding the principal ones on the other side, I should have assented with great reluctance to the motion, and would even have voted against it, if any probability had existed that, by waiting for a proper time, a proper measure might not be lost for a very long time. The plan which I should have judged most eligible would have been to fix on the removal whenever a vote could be obtained, but so as that it should not take effect until the commencement of the ensuing federal year. And if an immediate removal had been resolved on, I had intended to propose such a change in the plan. No final question was taken in the case. Some preliminary questions showed that six States were in favor of the motion. Rhode Island, the seventh, was at first on the same side, and Mr. Varnum, one of the delegates, continues so. His colleague was overcome by the solicitations of his Eastern brethren. As neither Maryland nor South Carolina was on the floor, it seems pretty evident that New York has a very precarious tenure of the advantages derived from the abode of Congress.

Writings of Madison, Volume 1: 1769-1793, p.292

We understand that the discontents in Massachusetts, which lately produced an appeal to the sword, are now producing a trial of strength in the field of electioneering. The Governor will be displaced. The Senate is said to be already of a popular complexion, and it is expected that the other branch will be still more so. Paper money, it is surmised, will be the engine to be played off against creditors, both public and private. As the event of the elections, however, is not yet decided, this information must be too much blended with conjecture to be regarded as matter of certainty.

Writings of Madison, Volume 1: 1769-1793, p.292

I do not learn that the proposed act relating to Vermont has yet gone through all the stages of legislation here; nor can I say whether it will finally pass or not. In truth, it having not been a subject of conversation for some time, I am unable to say what has been done or is likely to be done with it.

Notes of Ancient and Modern Confederacies,

preparatory to the federal Convention of 1787.\*

Lycian Confederacy.

Writings of Madison, Volume 1: 1769-1793, p.293

In this confederacy, the number of votes allotted to each member was proportioned to its pecuniary contributions. The Judges and town magistrates were elected by the general authority in like proportion.

Writings of Madison, Volume 1: 1769-1793, p.293

See Montesquieu, who prefers this mode.

Writings of Madison, Volume 1: 1769-1793, p.293

The name of a federal republic may be refused to Lycia, which Montesquieu cites as an example in which the importance of the members determined the proportion of their votes in the general councils. The Grison League is a juster example.—Code de l'Hum. Confederation.

Writings of Madison, Volume 1: 1769-1793, p.293

Lyciorum quoque avoµeav celebrat Strabo: de qûa pauca libet heic subjungere. Fuere eorum urbes XXIII, distinctæ in classes tres pro mode virium. In primâ classe censebantur maximæ sex, in alterâ mediæ, numero nobis incerto, in tertiâ reliquæ omnes, quarum fortuna minima. Et singulæ quidem urbes hæ domi res suas curabant, magistratus sues ordinemque civilem suum habebant: universæ tumen in unum coeuntes unam communem rempublicam constituebant, concilioque utebantur uno, velut senatu majore. In eo de bello, de pace, de foederibus, denique de rerum Lyciacarum summa deliberabant et statuebant. Coibant vero in concilium hoc ex singulis urbibus missi cum potestate ferendi suffragii: utebanturque eâ in re jure æquissimo. Nam quælibet urbs primæ classis habebat jus suffragiorum trium, secundæ duorum, tertiæ unius. Eademque proportione tributa quoque conferebant, et munia alia obibant. Quemadmodum enim ratio ipsa dictat, et poscit æquites, ut plura qui possident, et cæteris ditiores sunt, plura etiam in usus communes, et reipublicæ subsidia conferant, sic quoque eadem æquitatis regula postulat, at in statuendo de re communi iidem illi plus ellis possint: præsertim cure eorundem magis intersit rempublicam esse salvam quam tenuiorum. Locum concilii hujus non habebant fixum et certum, sod ex omnibus urbem deligebant, quæ videbatur pro tempore commodissima. Concilio coacto primum designabant Lyciarcham principem totius reipublicæ, dein magistratus alios creabant, partes reipublicæ administraturos demure judicia publics constituebant. Atque hæc omnia faciebant servatâ proportione eâdem, ut nulla emnino urbs præteriretur munerum ve aut honorum horum non fieret particeps. Et hoc jus illibatum mansit Lyciis ad id usque tempus, quo Romani assumpto Asiæ imperio magnâ ex parte sui arbitrii id fecerunt.—Ubbo Emmius de Lyciorum Republica in Asia. [Apud Grovonii Thes., iv, 597.]

Amphictyonic Confederacy.

Instituted by Amphictyon, son of Deucalion, King of Athens, 1522 years Ant. Christ.—Code de l'Humanité.

Writings of Madison, Volume 1: 1769-1793, p.294

Seated first at Thermopylæ, then at Delphos, afterwards at these places alternately. It met half yearly, to wit, in the Spring and Fall, besides extraordinary occasions.—Id. In the latter meetings, all such of the Greeks as happened to be at Delphos on a religious errand were admitted to deliberate, but not to vote.—Encyclopedie.

Writings of Madison, Volume 1: 1769-1793, p.294

The number and names of the confederated cities differently reported. The union seems to have consisted originally of the Delphians and their neighbors only, and by degrees to have comprehended all Greece. 10, 11, 12, are the different numbers of original members mentioned by different authors.—Code de l'Humanité.

Writings of Madison, Volume 1: 1769-1793, p.294

Each city sent two deputies; one to attend particularly to Religious matters, the other to civil and criminal matters affecting individuals; both to decide on matters of a general nature.—Id. Sometimes more than two were sent, but they had two votes only.—Encyclopedie. The Amphictyons took an oath mutually to defend and protect the united cities, to inflict vengeance on those who should sacrilegiously despoil the temple of Delphos, to punish the violators of this oath, and never to divert the water-courses of any of the Amphictyonic cities, either in peace or in war.—Code de l'Hum. Æschines orat. vs. Ctesiphontem.

Writings of Madison, Volume 1: 1769-1793, p.295

The Amphictyonic Council was instituted by way of defence and terror against the Barbarians.—Dictre de Treviux.

Writings of Madison, Volume 1: 1769-1793, p.295

Federal Authority.

Writings of Madison, Volume 1: 1769-1793, p.295

The Amphictyons had full power to propose and resolve whatever they judged useful to Greece.—Encycopedie Pol.

Writings of Madison, Volume 1: 1769-1793, p.295

OEcon.

Writings of Madison, Volume 1: 1769-1793, p.295

1. They judged in the last resort all differences between the Amphictyonic cities.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.295

2. Mulcted the aggressors.—Id.

Writings of Madison, Volume 1: 1769-1793, p.295

3. Employed whole force of Greece against such as refused to execute its decrees.—Id. and Plutarch, Cimon.

4. Guarded the immense Riches of the Temple at Delphos, and decided controversies between the inhabitants and those who came to consult the Oracle.—Encyclop.

Writings of Madison, Volume 1: 1769-1793, p.295

5. Superintended the Pythian games.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.295

6. Exercised right of admitting new members.—(See decree admitting Philip, in Demosthenes on Crown.)

Writings of Madison, Volume 1: 1769-1793, p.295

7. Appointed General of the federal troops, with full powers to carry their decrees into execution.—Ibid.

Writings of Madison, Volume 1: 1769-1793, p.295

8. Declared and carried on war.—Code de l'Human.

Writings of Madison, Volume 1: 1769-1793, p.295

Strabo says that the Council of the Amphictyons was dissolved in the time of Augustus; but Pausanias, who lived in the time of Antoninus Pius, says it remained entire then, and that the number of Amphictyons was thirty.—Potter's Gre. Ant., vol. 1, pa. 90.

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The institution declined on the admission of Philip, and in the time of the Roman Emperors the functions of the council were reduced to the administration and police of the Temple. This limited authority expired only with the Pagan Religion.—Code de l'Human.

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Vices of the Constitution.

Writings of Madison, Volume 1: 1769-1793, p.296

It happened but too often that the Deputies of the strongest cities awed and corrupted those of the weaker, and that Judgment went in favor of the most powerful party.—Id. See, also, Plutarch: Themistocles.

Writings of Madison, Volume 1: 1769-1793, p.296

Greece was the victim of Philip. If her confederation had been stricter, and been persevered in, she would never have yielded to Macedon, and might have proved a Barrier to the vast projects of Rome.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.296

Philip had two votes in the Council.—Rawleigh Hist. world, lib. 4, c. 1, Sect. 7.

Writings of Madison, Volume 1: 1769-1793, p.296

The execution of the Amphictyonic powers was very different from the Theory.—Id. It did not restrain the parties from warring against each other. Athens and Sparta were members during their conflicts. Quer.: Whether Thucydides or Xenophon, in their Histories, ever allude to the Amphictyonic authority, which ought to have kept the peace?—See Gillies' Hist. Greece, particularly vol. II, p. 345.

Achæan Confederacy.

In 124 Olympd the Patrians and Dymæans joined first in this league.—Polyb. lib. 2, c. 3.

Writings of Madison, Volume 1: 1769-1793, p.296

This League consisted at first of three small cities. Aratus added Sicyon, and drew in many other cities of Achaia and Peloponnesus. Of these he formed a Republic of a peculiar sort.—Code de l'Human.

Writings of Madison, Volume 1: 1769-1793, p.296

It consisted of twelve cities, and was produced by the necessity of such a defence against the Etolians.—Encyclo. Pol. OE., and Polyb., lib. 2.

Writings of Madison, Volume 1: 1769-1793, p.296

The members enjoyed a perfect equality, each of them sending the number of deputies to the Senate.—Id.

Writings of Madison, Volume 1: 1769-1793, p.296

The Senate assembled in the Spring and Fall, and was also convened on extraordinary occasions by two Prætors, charged with the administration during the recess, but who could execute nothing without the consent of the Inspectors.—Id.

Writings of Madison, Volume 1: 1769-1793, p.296

Foedoral Authority.

Writings of Madison, Volume 1: 1769-1793, p.296

1. The Senate, composed of the deputies, made war and peace.—D'Albon I, page 270.

Writings of Madison, Volume 1: 1769-1793, p.296

2. Appointed a Captain General annually.—Co. d'Hum.

Writings of Madison, Volume 1: 1769-1793, p.297

3. Transferred the power of deciding to ten citizens taken from the deputies, the rest retaining a right of consultation only.—Id.

Writings of Madison, Volume 1: 1769-1793, p.297

4. Sent and received Ambassadors.—D'Albon. Ibid.

Writings of Madison, Volume 1: 1769-1793, p.297

5. Appointed a prime Minister.—D'Albon. Ibid.

Writings of Madison, Volume 1: 1769-1793, p.297

6. Contracted foreign alliances.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.297

7. Confederated cities in a manner forced to receive the same laws and customs, weights and measures, (Id., and Polyb., lib. 2, cap. 3,) yet considered as having each their independent police and Magistrates.—Encyclop. Pol. OEcon.

Writings of Madison, Volume 1: 1769-1793, p.297

8. Penes hoc concilium erat summum forum arbitrium, ex cujus decreto bells suscipiebantur, et finiebantur, pax conveniebat, foedera feriebantur et solvebantur, leges fiebant ratæ aut irritæ. Hujus etiam erat, Magistratus toti Societati communes eligere, legationes decernere, &c., &c. \*\* Regebant concilium prætor præcipue, si præsens esset, et magistratus alii, quos Achæi [demiourgous] nuncupabant. Hi numero X erant, suffragiis legitimi concilii, quod verno tempore habebatur, electi ex universa societate prudentia præcipui, quorum concilio potissimum prætor ex lege utebatur. Horum potestas et dignitas maxima erat post ipsum præetorem, quos idciro Livius, Polybium sequens, summum Achæorum magistratum appellat. \*\* Cum his igitur de negociis gravioribus in concilio agitandis prætor præconsultabut, nec de iis, nisi in id pars major consentiret, licebat ad consilium referre.—Ubbo Emmius. [Descr. Reip. Achæorum, Ap. Gron. Thes., iv, 573.]

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Ista vero imprimis memorabilis ex est, vinculum societatis Achaicæ maximé stringens, et concordiam reunions, quâ interdictum fuit, ne cui civitati Societatis hujus participi fas esset, seorsim ad exteros ultos mittere legatos, non ad Romanos, non ad alios. Et hæc expressim inserts fuit pactis conventis Achæorum cum populo Romano. \* \* \* \* Omnium autem laudatissima lex apud eos viguit \* \* \* quâ vetitum, ne quis omnino, sire privatæ conditionis, seu magistratum gerens, ullam ob causam, quæcunque etiam sit, dona a Rege aliquo caperet.—Id. [Ap. Gron. Thes., iv, 575.]

Writings of Madison, Volume 1: 1769-1793, p.298

Vices of the Constitution.

Writings of Madison, Volume 1: 1769-1793, p.298

The defect of subjection in the members to the general authority ruined the whole Body. The Romans seduced the members from the League by representing that it violated their sovereignty.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.298

After the death of Alexander, this Union was dissolved by various dissentions, raised chiefly thro' the acts of the Kings of Macedon. Every city was now engaged in a separate interest, and no longer acted in concert.—Polyb., lib. 2, cap 3. After, in 124 Olympd, they saw their error, and began to think of returning to their former State. This was the time when Pyrrhus invaded Italy.—Ibid.

Helvetic Confederacy.

Commenced in 1308 by the temporary and in 1315 by the perpetual Union of Uri, Schweitz, and Underwald, for the defence of their liberties against the invasions of the House of Austria. In 1315 the Confederacy included 8 Cantons. In 1513 the number of thirteen was compleated by the accession of Appenzel.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.298

The General Diet representing the United Cantons is composed of two deputies from each. Some of their allies, as the Abbe St. Gall, &c., are allowed by long usage to attend by their deputies.—Id.

Writings of Madison, Volume 1: 1769-1793, p.298

All general Diets are held at such time and place as Zurich, which is first in rank and the depository of the common archives, shall name in a circular summons. But the occasion of annual conferences for the administration of their dependent bailages has fixed the same time, to wit, the feast of St. John, for the General Diet, and the city of Frauenfeld, in Turgovia, is now the place of meeting. Formerly it was the city of Baden.—Id.

Writings of Madison, Volume 1: 1769-1793, p.298

The Diet is opened by a complimentary address of the first deputy of each canton by turns, called the Helvetic salutation. It consists in a congratulatory review of circumstances and events favorable to their common interest, and exhortations to Union and patriotism.

Writings of Madison, Volume 1: 1769-1793, p.298

The deputies of the first canton, Zurich, propose the matters to be discussed. Questions are decided by plurality of voices. In case of division, the Bailiff of Turgovia has the casting one. The session of the Diet continues about a month.—Id.

Writings of Madison, Volume 1: 1769-1793, p.299

After the objects of universal concern are despatched, such of the deputies whose constituents have no share in the dependent bailages withdraw, and the Diet then becomes a representation of the cantons to whom these bailages belong, and proceeds to the consideration of the business relating thereto.—Id.

Writings of Madison, Volume 1: 1769-1793, p.299

Extraordinary Diets for incidental business, or giving audience to foreign ministers, may be called at any time by any one of the cantons, or by any foreign minister who will defray the expence of meeting. Seldom a year without an extraordinary Diet.—Stanyan's Switzerland.

Writings of Madison, Volume 1: 1769-1793, p.299

There is an annual Diet of 12 cantons, by one deputy from each, for the affairs of the ultramontane bailages.—Code de l'Human.

Writings of Madison, Volume 1: 1769-1793, p.299

Particular cantons also have their diets for their particular affairs, the time and place for whose meeting are settled by their particular treaties.

Writings of Madison, Volume 1: 1769-1793, p.299

All public affairs are now treated, not in General Diet, but in the particular assemblies of protestant and catholic cantons.—D'Albon.

Writings of Madison, Volume 1: 1769-1793, p.299

Federal Authority.

Writings of Madison, Volume 1: 1769-1793, p.299

The title of Republican and Sovereign State improperly given to this Confederacy, which has no concentered authority, the Diets being only a Congress of Delegates from some or all of the cantons, and having no fixt objects that are national.—Dictionnaire de Suisse.

Writings of Madison, Volume 1: 1769-1793, p.299

The 13 cantons do not make one Commonwealth like the United Provinces, but are so many independent Commonwealths in strict alliance. There is not so much as any common instrument by which they are all reciprocally bound together. The 3 primitive cantons alone being each directly allied to the other twelve. The others, in many instances, are connected indirectly\* only, as allies of allies. In this mode, any one canton may draw in all the others to make a common cause in its defence.—Stanyan.

Writings of Madison, Volume 1: 1769-1793, p.300

The confederacy has no common Treasury, no common troops, no common coin, no common Judicatory, nor any other common mark of sovereignty.—Id.

Writings of Madison, Volume 1: 1769-1793, p.300

The General Diet cannot terminate any interesting affair without special instructions and powers, and the deputies accordingly take most matters proposed ad referendum.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.300

The Cantons individually exercise the right of sending and receiving ambassadors, making treaties, coining money, proscribing the money of one another, prohibiting the importation and exportation of merchandise, furnishing troops to foreign States, and doing everything else which does not wound the liberty of any other canton. Excepting few cases specified in the alliances, and which directly concern the object of the league, no canton is subject to the Resolutions of the plurality.—Id.

Writings of Madison, Volume 1: 1769-1793, p.300

The only establishment truly national is that of a federal army, as regulated in 1668, and which is no more than an eventual plan of defence adopted among so many allied States.—Id.

Writings of Madison, Volume 1: 1769-1793, p.300

1. The league consists in a perpetual defensive engagement against external attacks and internal troubles. It may be regarded as an axiom in the public law of the confederacy, that the federal engagements are precedent to all other political engagements of the cantons.—Id.

Writings of Madison, Volume 1: 1769-1793, p.300

2. Another axiom is, that there are no particular or common possessions of the cantons for the defence of which the others are not bound as Guarantees, or auxiliaries of Guarantees.—Id.

Writings of Madison, Volume 1: 1769-1793, p.300

3. All disputes are to be submitted to neutral cantons, who may employ force, if necessary, in execution of their decrees.—Id. Each party to choose 4 Judges, who may, in case of disagreement, choose umpire, and these, under oath of impartiality, to pronounce definitive sentence, which all cantons are to enforce.—D'Albon and Stanyan.

Writings of Madison, Volume 1: 1769-1793, p.300

4. No canton ought to form new alliances without the consent of the others; [this was stipulated in consequence of an improper alliance in 1442, by Zurich, with the House of Austria.]—Id.

Writings of Madison, Volume 1: 1769-1793, p.301

5. It is an essential object of the league to preserve interior tranquillity by the reciprocal protection of the form of Government established in each Canton, so that each is armed with the force of the whole corps for the suppression of rebellions and revolts, and the history of Switzerland affords frequent instances of mutual succors for these purposes.—Dictre de Suisse.

Writings of Madison, Volume 1: 1769-1793, p.301

6. The Cantons are bound not to give shelter to fugitives from Justice, in consequence of which each Canton can at this day banish malefactors from all the territories of the League.—Id.

Writings of Madison, Volume 1: 1769-1793, p.301

7. Though each Canton may prohibit the exportation and importation of merchandise, it must allow it to pass through from one neighboring Canton to another without any augmentation of the tolls.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.301

8. In claiming succors against foreign powers, the 8 Elder Cantons have a more extensive right than the 5 junior ones. The former may demand them of one another without explaining the motives of the quarrel. The latter cannot intermeddle but as mediators or auxiliaries; nor can they commence hostilities without the sanction of the Confederates; and if cited by their adversaries, cannot refuse to accept the other Cantons for arbiters or Judges.—Dictre de Suisse.

Writings of Madison, Volume 1: 1769-1793, p.301

9. In general, each Canton is to pay its own forces, without compensation from the whole, or the succoured party. But in case a siege is to be formed for the benefit of a particular Canton, this is to defray the expence of it, and if for the common benefit, each is to pay its just proportion.—D'Albon. On no pretext is a Canton to be forced to march its troops out of the limits of Switzerland.—Stanyan.

Writings of Madison, Volume 1: 1769-1793, p.301

10. Foreign Ministers from different Nations reside in different Cantons. Such of them as have letters of credence for the whole Confederacy address them to Zurich, the chief Canton. The Ambassador of France, who has most to do with the Confederacy, is complimented at his quarters by deputies from the whole body.

Writings of Madison, Volume 1: 1769-1793, p.302

Vices of the Constitution.

1. Disparity in size of Cantons.

2. Different principles of Government in different Cantons.

3. Intolerance in Religion.

4. Weakness of the Union. The common bailages, which served as a cement, sometimes become occasions of quarrels'—Dietre de Suisse.

Writings of Madison, Volume 1: 1769-1793, p.302

In a treaty in 1683 with Victor Amadoeus, of Savoy, it is stipulated that he shall interpose as mediator in disputes between the Cantons, and, if necessary, use force against the party refusing to submit to the sentence.—Dictre de Suisse. A striking proof of the want of authority in the whole over its parts.

Writings of Madison, Volume 1: 1769-1793, p.302

Belgic Confederacy.

Writings of Madison, Volume 1: 1769-1793, p.302

Established in 1679, by the Treaty called the Union of Utrecht.—Code de l'Humanité.

Writings of Madison, Volume 1: 1769-1793, p.302

The provinces came into this Union slowly. Guelderland, the smallest of them, made many difficulties. Even some of the Cities and Towns pretended to annex conditions to their acceding.—Id.

Writings of Madison, Volume 1: 1769-1793, p.302

When the Union was originally established, a committee, composed of deputies from each province, was appointed to regulate affairs, and to convoke the provinces according to article XIX of the Treaty. Out of this Committee grew the States General, (Id.,) who, strictly speaking, are only the Representatives of the States General, who amount to 800 members.—Temple, p. 112.

Writings of Madison, Volume 1: 1769-1793, p.302

The number of Deputies to the States General from each province not limited, but have only a single voice. They amount commonly, altogether, to 40 or 50. They hold their seats, some for life, some for 6, 3, and 1 years, and those of Groningen and Overyssel during pleasure. They are paid, but very moderately, by their respective constituents, and are amenable to their Tribunals only.—Code de l'Hum. No military man is deputable to the States General.—Id.

Writings of Madison, Volume 1: 1769-1793, p.302

Ambassadors of Republic have session and deliberation, but no suffrage in States Genl.—Id. The grand pensioner of Holland, as ordinary deputy from Holland, attends always in the States General, and makes the propositions of that province to States General—Id.

Writings of Madison, Volume 1: 1769-1793, p.303

They sit constantly at the Hague since 1593, and every day in the week except Saturday and Sunday. The States of Holland, in granting this residence, reserve, by way of protestation. the rights, the honors, and prerogatives, belonging to them as sovereigns of the province, yielding the States General only a rank in certain public ceremonics.—Id.

Writings of Madison, Volume 1: 1769-1793, p.303

The eldest deputy from each province presides for a week by turns. The President receives letters, &c., from the Minister's of the Republic at foreign Courts, and of foreign Ministers residing at the Hague, as well as of all petitions presented to the Assembly; all which he causes to be read by the Secretary.—Id.

Writings of Madison, Volume 1: 1769-1793, p.303

The Secretary, besides correcting and recording the Resolutions, prepares and despatches instructions to Ministers abroad and letters to foreign powers. He assists, also, at conferences held with foreign Ministers, and the, there gives his voice. lie has a deputy when there is not a second Secretary. The agent of the States General is charged with the Archives, and is also employed on occasions of receiving foreign Ministers or sending; Messages to them.—Id.

Writings of Madison, Volume 1: 1769-1793, p.303

Federal Anthority.

Writings of Madison, Volume 1: 1769-1793, p.303

The avowed objects of the Treaty of Union: 1. To fortify the Union. 2. To repel the common enemy.—Id.

Writings of Madison, Volume 1: 1769-1793, p.303

The Union is to be perpetual in the same manner as if the Confederates formed one province only, without prejudice, how. ever, to the privileges and rights of each province and City.-Id.

Writings of Madison, Volume 1: 1769-1793, p.303

Differences between provinces and between cities are to be settled by the ordinary Judges, by arbitration, by amicable agreement, without the interference of other provinces, other wise than by way of accommodation. The Stadtholder is to decide such differences in the last resort.—Id.

Writings of Madison, Volume 1: 1769-1793, p.303

No change to be made in the articles of Union without uuan. imous consent of tho parties, and everything done contrary to them to be null and void.—Id.

Writings of Madison, Volume 1: 1769-1793, p.303

States General.

Writings of Madison, Volume 1: 1769-1793, p.304

1. Execute, without consulting their constituents, treaties and alliances already formed.—Id.

Writings of Madison, Volume 1: 1769-1793, p.304

2. Take oaths from Generals and Governors, and appoint Field Deputies.

Writings of Madison, Volume 1: 1769-1793, p.304

3. The collection of duties on imports and exports, and the expedition of safe conducts, are in their name and by their officers.—ld.

Writings of Madison, Volume 1: 1769-1793, p.304

4. They superintend and examine accounts of the E. India Company.—Id.

Writings of Madison, Volume 1: 1769-1793, p.304

5. Inspect the Mint, appoint les Maitres de la Monnoye, fix la taille and la valeur of the coin, having always regard to the regular rights of the provinces within their own Territories.-Id.

Writings of Madison, Volume 1: 1769-1793, p.304

6. Appoint a Treasurer General and Receiver General of the Quotas furnished by the provinces.—Id.

Writings of Madison, Volume 1: 1769-1793, p.304

7. Elect., out of a double nomination, the fiscal and other officers within the departments of the admiralties, except that the High officers of the fleet are appointed by the Admiral General, to whom the maritime provinces have ceded this right.—Id. The Navy, supported by duties on foreign trade, appropriated thereto by the maritime provinces, for the benefit of the whole Republic.—Id.

Writings of Madison, Volume 1: 1769-1793, p.304

8. They govern as sovereigns the dependent territories, according to the several capitulations.—Id.

Writings of Madison, Volume 1: 1769-1793, p.304

9. They form Committees of their own body, of a member from each deputation, for foreign affairs, finances, marine, and other matters. At all these conferences the Grand pensioner of Holland and the secretary of the States General attend, and have a deciding voice.—Id.

Writings of Madison, Volume 1: 1769-1793, p.304

10. Appoint and receive Ambassadors, negociate with foreign powers, deliberate on war, peace, alliances, the raising forces, care of fortifications, military affairs to a certain degree, the equipment of fleets, Building of ships, directions concerning money.—Id. But they can neither make peace, nor war, nor truces, nor treaties, nor raise troops, nor impose taxes, nor do other acts requiring unanimity, without consulting and obtaining the sanction of the Provinces.—Id. Coining money also requires unanimity and express sanction of provinccs.—Temple. Repealing an old law on same footing.—Burrish. Batav. illustrata. In points not enumerated in this article, plurality of voices decides.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.305

11. Composition and publication of edicts and proclamations relative both to the objects expressed in the articles of union and to the measures taken for the common good, are in the name of the States; and altho' they are addressed to the States of the Provinces, who announce them with their sanction, still it is in the name of the States General that obedience is required of all the inhabitants of the Provinces.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.305

The Provinces have reserved to themselves—

Writings of Madison, Volume 1: 1769-1793, p.305

1. Their sovereignty within their own limits in general.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.305

2. The right of coining money, as essential to sovereignty; lint agreed, at the same time, that the money which should be current throughout the Republic should have the same intrinsic value. To give effect to which regulation a mint is established at the Hague, under a chamber which has the inspection of all money struck, either in name of States General or particular provinces, as also of foreign coin.—Id. Coining money not in provinces or cities, but in the generality of union, by common agreement.—Temple.

Writings of Madison, Volume 1: 1769-1793, p.305

3. Every province raises what money and by what means it pleases, and sends its quota to Receiver General.—Temple.

Writings of Madison, Volume 1: 1769-1793, p.305

The quotas were not settled without great difficulty.—Id.

Writings of Madison, Volume 1: 1769-1793, p.305

4. The naming to Governments of Towns within themselves; keeping keys, and giving word to Magistrates; a power over troops in all things not military; conferring Cols. commissions and inferior posts in such Regiments as are paid by the provinces; respectively taking oath of fidelity; concerning a revocation of all which the States General are not permitted to deliberate.—Id.

Writings of Madison, Volume 1: 1769-1793, p.305

The provinces are restricted—

Writings of Madison, Volume 1: 1769-1793, p.305

1. From entering into any foreign treaties without consent of the rest.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.306

2. From establishing imposts prejudicial to others without general consent.—Id.

Writings of Madison, Volume 1: 1769-1793, p.306

3. From charging their neighbors with higher duties than their own subjects.—Id.

Writings of Madison, Volume 1: 1769-1793, p.306

Council of State composed of deputies from the provinces, in different proportions. 3 of them are for life; the rest generally for 3 years; they vote per capita.—Temple.

Writings of Madison, Volume 1: 1769-1793, p.306

They are subordinate to the States General, who frequently, however, consult with them. In matters of war which require secrecy they act of themselves. Military and fiscal matters are the objects of their administration.

Writings of Madison, Volume 1: 1769-1793, p.306

They execute the Resolutions of the States General, propose requisitions of men and money, and superintend the fortifications, &c., and the affairs, revenues, and Governments, of the conquered possessions.—Temple.

Writings of Madison, Volume 1: 1769-1793, p.306

Chamber of Accounts was erected for the ease of the Council of State. It is subordinate to the States General; is composed of two deputies from each province, who are changed triennially. They examine and state all accounts of the several Receivers; controul and register orders of Council of State disposing of the finances.—Id.

Writings of Madison, Volume 1: 1769-1793, p.306

College of Admiralty, established by the States General, 1597, is subdivided into five, of which three are in Holland, one in Zealand, one in Friezland, each composed of seven deputies, four appointed by the province where the admiralty resides, and three by the other provinces. The vice admiral presides in all of them when he is present.—Temple.

Writings of Madison, Volume 1: 1769-1793, p.306

They take final cognizance of all crimes and prizes at sea; of all frauds in customs; provide quota officers resolved on by States General; appoint Captains and superior officers of each squadron; take final cognizance, also, of civil matters within 600 florins, an appeal lying to States General for matters beyond that sum.—Code de l'Hum. and Temple.

Writings of Madison, Volume 1: 1769-1793, p.306

The authority of States General in Admiralty Department is much limited by the influence and privileges of maritime provinces, and the jurisdiction herein is full of confusion and contradiction.—Codc de l'Humanité.

Writings of Madison, Volume 1: 1769-1793, p.307

Stadtholder, who is now hereditary, in his political capacity is authorized—

Writings of Madison, Volume 1: 1769-1793, p.307

1. To settle differences between provinces, provisionally, till other methods can be agreed on, which having never been, this prerogative may be deemed a permanent one.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.307

2. Assists at deliberations of States General and their particular conferences; recommends and influences appointment of Ambassadors.—Id.

Writings of Madison, Volume 1: 1769-1793, p.307

3. Has seat and suffrage in Council of State.—Id.

Writings of Madison, Volume 1: 1769-1793, p.307

4. Presiding in the provincial Courts of Justice, where his name is prefixed to all public acts.—Id.

Writings of Madison, Volume 1: 1769-1793, p.307

5. Supreme Creator of most of the Universities.—Id.

Writings of Madison, Volume 1: 1769-1793, p.307

6. As Stadtholder of the provinces, has considerable rights partaking of the sovereignty; as appointing town magistrates, on presentation made to him of a certain number. Executing provincial decrees, &c.—Id. and Mably; Etud. de l'hist.

Writings of Madison, Volume 1: 1769-1793, p.307

7. Gives audiences to Ambassadors, and may have agents with their Sovereigns for his private affairs.—Mab. Ibid. 8. Exercises power of pardon.—Temple.

Writings of Madison, Volume 1: 1769-1793, p.307

In his Military capacity as Captain Geueral—

Writings of Madison, Volume 1: 1769-1793, p.307

1. Commands forces; directs marches; provides for garrisons; and, in general, regulates military affairs.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.307

2. Disposes of all appointments, from Ensigns to Cols. The Council of State having surrendered to him the appointments within their disposal, (Id.,) and the States General appoint the higher grades on his recommendation.—Id.

Writings of Madison, Volume 1: 1769-1793, p.307

3. Disposes of the Governments, &c., of the fortified towns, tho' the commissions issue from the States General.—Id. In his Marine capacity as Admiral General—

Writings of Madison, Volume 1: 1769-1793, p.307

1. Superintends and directs everything relative to naval forces and other affairs within Admiralty.—Id.

Writings of Madison, Volume 1: 1769-1793, p.307

2. Presides in the admiralties in person or by proxy.—Id.

Writings of Madison, Volume 1: 1769-1793, p.307

3. Appoints Lieut. Admirals and officers under them.—Id.

Writings of Madison, Volume 1: 1769-1793, p.307

4. Establishes Councils of war, whose sentences are in the name of the States General and his Highness, and are not executed till he approves.—Id.

Writings of Madison, Volume 1: 1769-1793, p.308

The Stadtholder has a general and secret influence on the great machine which cannot be defined.—Id.

Writings of Madison, Volume 1: 1769-1793, p.308

His revenue from appointments amounts to 300,000 florins, to which is to be added his extensive patrimonies.—Id.

Writings of Madison, Volume 1: 1769-1793, p.308

The standing army of the Republic, 40,000 men.

Writings of Madison, Volume 1: 1769-1793, p.308

Vices of the Constitution.

Writings of Madison, Volume 1: 1769-1793, p.308

The Union of Utrecht imports an authority in the States General seemingly sufficient to secure harmony; but the jealousy in each province of its sovereignty renders the practice very different from the Theory.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.308

It is clear that the delay occasioned by recurring to seven independent provinces, including about 52 voting Cities, &c., is a vice in the Belgic Republic which exposes it to the most fatal inconveniences. Accordingly, the fathers of their country have endeavored to remedy it, in the extraordinary assemblies of the States General in 1584, in 1651, 1716, 1717, hut, unhappily, without effect. This vice is, notwithstanding, deplorable.—Id. Among other evils, it gives foreign Ministers the means of arresting the most important deliberations by gaining a single Province or City. This was done by France in 1726, when the Treaty of Hanover was delayed a whole year. In 1688 the States concluded a Treaty of themselves, but at the risk of their heads.—Id. it is the practice, also, in matters of contribution or subsidy, to pass over this article of the Union; for where delay would be dangerous, the consenting provinces furnish their quotas without waiting for the others; but by such means the Union is weakened, and, if often repeated, must be dissolved.—Id.

Writings of Madison, Volume 1: 1769-1793, p.308

Foreign Ministers elude mutters taken ad referendum, by tampering with the Provinces and Cities.—Temple, p. 116.

Writings of Madison, Volume 1: 1769-1793, p.308

Treaty of Union obliges each Province to levy certain contributions. But this article never could and probably never will be executed, because the inland provinces, who have little commerce, cannot pay an equal Quota.—Burrish. Bat. illustrat.

Writings of Madison, Volume 1: 1769-1793, p.309

Deputations from agreeing to disagreeing Provinces frequent.—Tem.

Writings of Madison, Volume 1: 1769-1793, p.309

It is certain that so many independent corps and interests could not be kept together without such a center of union as the Stadtholdcrship, as has been allowed and repeated in so many solemn acts.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.309

In the intermission of the Stadtholdership, Holland, by her riches and authority, which drew the others into a sort of dependence, supplied the place.—Temple.

Writings of Madison, Volume 1: 1769-1793, p.309

With such a Government the Union never could have subsisted, if, in effect, the provinces had not within themselves a spring capable of quickening their tardiness and impelling them to the same way of thinking. This spring is the Stadtholder. His prerogatives are immense—I, &c., &c. A strange effect of human contradictions. Men too jealous to confide their liberty to their representatives, who are their equals, abandoned it to a Prince, who might the more easily abuse it, as the affairs of the Republic were important, and had not then fixed themselves.—Mably Etude D'Hist., 205—6.

Writings of Madison, Volume 1: 1769-1793, p.309

Grotius has said that the hatred of his countrymen against the House of Austria kept them from being destroyed by the vices of their Constitution.—ibid.

Writings of Madison, Volume 1: 1769-1793, p.309

The difficulty of procuring unanimity has produced a breach of fundamentals in several instances. Treaty of Westphalia was concluded without consent of Zealand, &c.—D'Albon and Temple. These tend to alter the constitution.—D'Albon.

Writings of Madison, Volume 1: 1769-1793, p.309

It appears by several articles of the Union that the confederates had formed the design of establishing a General tax, [Im-p7. Ban of the Empire. 8. Admission of new princes. 9. The Supreme tribunals. 10. Disposition of grand fiefs and grand charges. In all these points the Emperor and Diet must concur.—Id.

Writings of Madison, Volume 1: 1769-1793, p.309

The Ban of the Empire is a sort of proscription, by which the disturbers of the public peace are punished. The offender's life and goods are at the mercy of every one; formerly, the Emperors themselves pronounced the ban against those who offended them. It has been since regulated that no one shall be exposed to the ban without the examination and consent of the Diet.—Encyclop.

Writings of Madison, Volume 1: 1769-1793, p.309

By the Ban the party is outlawed, degraded from all his federal rights, his subjects absolved from their allegiance, and his possessions forfeited.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.309

The Ban is incurred when the Emperor or one of the supreme Tribunals address an order to any one, on pain, in case of disobedience, of being proscribed ipso facto.—Id.

Writings of Madison, Volume 1: 1769-1793, p.309

The Circles, formerly, were in number six only. There are now ten. They were instituted for the more effectual preservation of the public peace, and the execution of decrees of Diet and supreme Tribunals against contumacious members, for which purposes they have their particular diets, with the chief Prince of the circle at their head, have particular officers for commanding the forces of the Circle, levy contributions, see that justice is duly administered, that the coin is not debased, that the customs are not unduly raised.—Savage, vol. 2, p. 35.

Writings of Madison, Volume 1: 1769-1793, p.312

If a circle fail to send its due succours, it is to pay damages suffered therefrom to its neighbours. If a member of the circle refuse, the Col. of the circle is to admonish; and if this be insufficient, the delinquent party is to be compelled under a sentence from the Imperial Chamber.—Id.

Writings of Madison, Volume 1: 1769-1793, p.312

Imperial Chamber, established in 1495 by the Diet, as a means of public peace, by deciding controversies between members of the Empire.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.312

This is the first Tribunal of the Empire. It has an appellate jurisdiction in all Civil and fiscal causes, or where the public peace may be concerned. It has a concurrent jurisdiction with the Aulic Council, and causes cannot be removed from one to the other.—Id.

Writings of Madison, Volume 1: 1769-1793, p.312

The Judges of this Tribunal are appointed partly by the Emperor, partly by Electors, partly by circles; are supported by all the States of the Empire, excepting the Emperor. They are badly paid, though great salaries are annexed to their offices.-Id.

Writings of Madison, Volume 1: 1769-1793, p.312

In every action, real or personal, The Diet, Imperial Chamber, and Aulic Council, are so many supreme Courts, to which none of the States can demur. The jurisprudence by which they govern themselves are, according to the subject-matter: 1. The provincial laws of Germany. 2. The Scripture. 3. The law of nature. 4. Law of Nations. 5. The Roman law. 6. The canon law. 7. The foedal law of the Lombards.—Id.

Writings of Madison, Volume 1: 1769-1793, p.312

Members of Diet, as such, are subject in all public affairs to be judged by Emperor and Diet; as individuals in private capacity, are subject to Aulic Council and Imperial Chamber.—Id.

Writings of Madison, Volume 1: 1769-1793, p.312

The members have reserved to themselves the right—1. To enter into war and peace with foreign powers. 2. To enter into alliances with foreign powers and with one another, not prejudicial to their engagements to the Empire.—Code de l'Hum. 3. To make laws, levy taxes, raise troops, to determine on life and death.—Savage. 4. Coin money.—Id. 5. Exert territorial sovereignty within their limits in their own name.—Code de l'Hum. 6. To grant pardons.—Savage, p. 44. 7. To furnish their quotas of troops, equipped, mounted, and armed, and to provide for sustenance of them, as if they served at home.—Code de l'Hum.

Aulic Council, [established by Diet in 1512.—Encyclop.,] composed of members appointed by the Emperor.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.313

Its cognizance is restrained to matters above 2,000 crowns; is concurrent with the jurisdiction of the Imperial Chamber in controversies between the States; also, in those of subjects of the Empire by way of appeal from subaltern Tribunals of the Empire, and from sovereign Tribunals of Princes.—Id. Arms are to be used for carrying its decrees into execution, as was done in 1718 by the troops of the Circle of upper Rhine, in a controversy between Landgrave of Hesse Cassel and Prince of Hesse of Rhinfitz.—Id.

Writings of Madison, Volume 1: 1769-1793, p.313

Members of Empire restricted—

Writings of Madison, Volume 1: 1769-1793, p.313

1. From entering into Confederacies prejudicial to the Empire.

Writings of Madison, Volume 1: 1769-1793, p.313

2. From laying tolls or customs upon bridges, rivers, or passages, to which strangers are subject, without consent of the Emperor in full diet.

Writings of Madison, Volume 1: 1769-1793, p.313

3. Cannot give any other value to money, nor make any other kind of money, than what is allowed by the Empire.-Savage, vol. 2, p. 45.

Writings of Madison, Volume 1: 1769-1793, p.313

4. (By edict of 1548, particularly,) from taking arms one against another; from doing themselves justice; from affording retreat, much more assistance, to infractors of the public peace; the ban of the Empire being denounced against the transgressors of these prohibitions, besides a fine of 2,000 marks of Gold and loss of regalities.—Code d'Hum.

Writings of Madison, Volume 1: 1769-1793, p.313

Emperor has the prerogative—1. Of exclusively making propositions to the Diet. 2. Presiding in all Assemblies and Tribunals of the Empire when he chooses. 3. Of giving suffrage in all affairs treated in the Diet. 4. Of negativing their resolutions. 5. Of issuing them in his own name. 6. Of watching over the safety of the Empire. 7. Of naming Ambassadors to negociate within the Empire, as well as at foreign Courts, affairs concerning the Germanic Corps. 8. Of re-establishing in good fame persons dishonored by Council of war and civil Tribunals.—Code d'Hum. 9. Of giving investiture of the principal immediate fiefs of the Empire; which is not, indeed, of much consequence. 10. Of conferring vacant electorates. 11. Of preventing subjects from being withdrawn from the jurisdiction of their proper judge. 12. Of conferring charges of the Empire. 13. Of conferring dignities and titles, as of Kings, &c. 14. Of instituting military orders. 15. Of granting the dernier resort. 16. Of judging differences and controversies touching tolls. 17. Of deciding contests between Catholic and Protestant States, touching precedence, &c.—Id. 18. Of founding Universities within the lands of the States, so far as to make the person endowed with Academic honors therein be regarded as such throughout Germany. 19. Of granting all sorts of privileges not injurious to the States of the Empire. 20. Of establishing great fairs. 21. Of receiving the droit des Postes generales. 22. Of striking money, but without augmenting or diminishing its value. 23. Of permitting strangers to enlist soldiers, conformably to Recess of 1654.—Id. 24. Of receiving and applying Revenues of Empire.—Savage, p. He cannot make war or peace, nor laws, nor levy taxes, nor alter the denomination of money, nor weights or measures.—Savage, v. 2, p. 35. The Emperor, as such, does not properly possess any territory within the Empire, nor derive any revenue for his support.—Code de l'Hum.

Writings of Madison, Volume 1: 1769-1793, p.314

Vices of the Constitution.

Writings of Madison, Volume 1: 1769-1793, p.314

1. The Quotas are complained of, and supplied very irregularly and defectively.—Code de l'Hum. Provision is made by decree of diet for enforcing them, but it is a delicate matter to execute it against the powerful members.—Id.

Writings of Madison, Volume 1: 1769-1793, p.314

2. The establishment of the Imperial Chamber has not been found an efficacious remedy against civil wars. It has committed faults. The Ressortissans have not always been docile.-Id.

Writings of Madison, Volume 1: 1769-1793, p.315

3. Altho' the establishment of Imperial Chambers, &c., give a more regular form to the police of the fiefs, it is not to be supposed they are capable of giving a certain force to the laws and maintaining the peace of the Empire, if the House of Austria had not acquired power enough to maintain itself on the Imperial Throne, to make itself respected, and to give orders which it might be imprudent to despise, as the laws were therefore despised.—Mably Etude de hist., p. 130.

Writings of Madison, Volume 1: 1769-1793, p.315

[Jealousy of the Imperial authority seems to have been a great cement of the Confederacy.]

To James Monroe.

NEW YORK, April 19th, 1787.

Writings of Madison, Volume 1: 1769-1793, p.315

DEAR SIR,—No definitive steps are yet taken for the transportation of your furniture. I fear we shall be obliged to make use of a conveyance to Norfolk as soon as one shall offer. I have examined the workmanship of the man in Chappel street. The face of it is certainly superior to that of your workman. Whether it may prove much so for substantial purposes, I do not undertake to say. Should Mrs. Monroe not be pleased with the articles. I would recommend that you dispose of them, which may be done, probably, without loss, and send us a commission to replace them. I think we could please you both, and on terms not dearer than that of your purchase. We learn nothing yet of a remittance from S. Carolina.

Writings of Madison, Volume 1: 1769-1793, p.315

The business of the Mississippi will, I think, come to a point in a few days. You shall know the result in due time.

Writings of Madison, Volume 1: 1769-1793, p.315

A motion was lately made to remove shortly to Philadelphia; six States would have been for it. Rhode Island was so at first, and would have been a seventh. One of the delegation was overpowered by exertions of Iris Eastern brethren. I need not rehearse to you the considerations which operated on both sides. Your conjectures will not mistake them. My own opinion is, that there are strong objections against the moment, [movement?] objections which nothing would supersede but the difficulty of bringing the sense of the Union to an efficient vote in Congress, and the danger of losing altogether a proper measure by waiting for a proper time. middle way would have been my choice; that is, to fix philadelphia for the meeting of the ensuing Congress, and to remain here in the mean time. This would have given time for all preliminary arrangements, would have steered clear of the Convention, and, by selecting a natural period for the event, and transferring the operation of it to our successors in office, all insinuations of suddenness, and of personal views, would have been repelled.

Writings of Madison, Volume 1: 1769-1793, p.316

I hear with great pleasure that you are to aid the deliberations of the next Assembly, and with much concern that paper money will probably be among the bad measures which you will have to battle. Wishing you success in this and all your other labours for the public and for yourself, I remain, with best respects to Mrs. Monroe,

Writings of Madison, Volume 1: 1769-1793, p.316

Yours affectionately.

To Edmund Pendleton.

NEW YORK, April 22nd, 1787.

Writings of Madison, Volume 1: 1769-1793, p.316

MY DEAR SIR,—The period since my last has afforded such scanty materials for a letter, that I have postponed it till I have now to thank you for yours of the 7th instant, which came to hand two days ago. I always feel pleasure in hearing from you, but particularly when my concern for your doubtful health is relieved by such an evidence in its favor. At the same time, I must repeat my wishes to forego this pleasure whenever it may interfere with the attention which you owe to your ease, your business, or your other friends.

Writings of Madison, Volume 1: 1769-1793, p.316

I do not learn that any symptoms yet appear of a return of the insurgent spirit in Massachusetts. On the contrary, it is said that the malcontents are trying their strength in a more regular form. This is the crisis of their elections; and if they can muster sufficient numbers, their wicked measures are to be sheltered under the forms of the Constitution. How far their influence may predominate in the current appointments is uncertain; but it is pretty certain that a great change in the rulers of that State is taking place, and that a paper emission, if nothing worse, is strongly apprehended. Governor Bowdoin is already displaced in favor of Mr. Hancock, whose acknowledged merits are not a little tainted by an obsequiousness to popular follies. A great change has also taken place in the Senate, and a still greater is prognosticated in the other branch of the Legislature.

Writings of Madison, Volume 1: 1769-1793, p.317

We are flattered with the prospect of a pretty full and very respectable meeting in next month. All the States have made appointments, except Connecticut, Maryland, and Rhode Island. The last has refused. Maryland will certainly concur. The temper of Connecticut is equivocal. The turn of her elections, which are now going on, is said to be rather unpropitious. The absence of one or two States, however, will not materially affect the deliberations of the Convention. Disagreement in opinion among the present is much more likely to embarrass us. The nearer the crisis approaches, the more I tremble for the issue. The necessity of gaining the concurrence of the Convention in some system that will answer the purpose, the subsequent approbation of Congress, and the final sanction of the States, present a series of chances which would inspire despair in any case where the alternative was less formidable. The difficulty, too, is not a little increased by the necessity which will be produced, by encroachments on the State Constitutions, of obtaining not merely the assent of the Legislatures, but the ratification of the people themselves. Indeed, if such encroachments could be avoided, a higher sanction than the Legislative authority would be necessary to render the laws of the Confederacy paramount to the acts of its members.

Writings of Madison, Volume 1: 1769-1793, p.317

I inclose a late act of Congress, which will shew you the light in which they view and inculcate a compliance with the Treaty of peace. We were not unaware of the bitterness of the pill to many of our countrymen, but national considerations overruled that objection. An investigation of the subject had proved that the violations on our part were not only most numerous and important, but were of earliest date. And the assurances on the other part are explicit, that a reparation of our wrongful measures shall be followed by an immediate and faithful execution of the Treaty by Great Britain.

Writings of Madison, Volume 1: 1769-1793, p.318

Congress are at present deliberating on the most proper plan for disposing of the Western lands, and providing a criminal and civil administration for the Western settlements beyond the Ohio. The latter subject involves great difficulties. On the former, also, opinions are various. Between 6 and 700,000 acres have been surveyed in Townships, and are to be sold as soon as they shall be duly advertised. The sale was at first to have been distributed throughout the States. This plan is now exchanged for the opposite extreme. The sale is to be made where Congress sit. Unquestionably, reference ought to have been had, in fixing on the place, either to the center of the Union or to the proximity of the premises. In providing for the unsurveyed lands, the difficulty arises from the Eastern attachment to townships, and the Southern, to indiscriminate locations. A copper coinage was agreed on yesterday, to the amount of upwards of two hundred thousand dollars; 15 per cent. is to be drawn into the federal Treasury from this operation.

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Our affair with Spain is on a very delicate footing. It is not easy to say what precise steps would be most proper to be taken on our side, and extremely difficult to say what will be actually taken. Many circumstances threaten an Indian war, lint the certainty of it is not established. A British officer was lately here from Canada, as has been propagated, but not on a mission to Congress. His business was unknown, if he had any that was important.

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I am extremely concerned, though not much surprised, at the danger of a paper emission in Virginia. If Mr. Henry should erect the standard, he will certainly be joined by sufficient force to accomplish it. Remorse and shame are but too feeble restraints on interested individuals against unjust measures, and are rarely felt at all by interested multitudes.

To Thomas Jefferson

April 23d, 1787.

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DEAR SIR,—The vigorous measures finally pursued by the Government of Massachusetts against the insurgents had the intended effect of dispersing them. By some it was feared that they would re-embody on the return of favorable weather. As yet, no symptom of such a design has appeared. It would seem that they mean to try their strength in another way; that is, by endeavoring to give the elections such a turn as may promote their views under the auspices of Constitutional forms. How far they may succeed is not yet reducible to certainty. That a great change will be effected in the component members of the Government is certain, but the degree of influence im-putable to the malcontents cannot be well known till some specimen shall be given of the temper of the new rulers. A great proportion of the Senate is changed, and a greater proportion of the other branch it is expected will be changed. A paper emission, at least, is apprehended from this revolution in their councils.

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Considerable changes are taking place, I hear, in the County elections in Virginia, and a strong itch beginning to return for paper money. Mr. Henry is said to have the measure in contemplation, and to be laying his train for it already. He will, however, be powerfully opposed by Col. Mason, if he should be elected and be able to serve; by Monroe, Marshall, and Ludwell Lee, (son of R. H. Lee,) who are already elected; and sundry others of inferior rank. Mr. Harrison, the late Governor, has so far regained the favor of Charles City as to be reinstated a representative. The part which he will take is uncertain. From his repeated declarations he ought to be adverse to a paper emission.

Notes on the Confederacy.—April, 1787.

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Vices of the Political system of the U. States.

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Observations by J. M.

Writings of Madison, Volume 1: 1769-1793, p.320

1. Failure of the States to comly with the Constitutional requisitions.

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1. This evil has been so fully experienced both during the war and since the peace, results so naturally from the number and independent authority of the States, and has been so uniformly exemplified in every similar Confederacy, that it may be considered as not less radically and permanently inherent in, than it is fatal to the object of, the present system.

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2. Encroachments by the States on the federal authority.

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2. Examples of this are numerous, and repetitions may be foreseen in almost every ease where any favorite object of a State shall present a temptation. Among these examples are tho wars and treaties of Georgia with the Indians, the unlicensed compacts between Virginia and Maryland, and between Pennsylvania and New Jersey, the troops raised and to be kept up by Massachusetts.

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3. Violations of the law of nations and of treaties.

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3. From the number of Legislatures, the sphere of life from which most of their members are taken, and the circumstances under which their legislative business is carried on, irregularities of this kind must frequently happen. Accordingly, not a year has passed without instances of them in some one or other of the States. The Treaty of Peace, the treaty with France, the treaty with Holland, have each been violated. [See the complaints to Congress on these subjects.] The causes of these irregularities must necessarily produce frequent violations of the law of nations in other respects.

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As yet, foreign powers have not been rigorous in animadverting on us. This moderation, however, cannot be mistaken for a permanent partiality to our hulls, or a permanent security against those disputes with other nations, which, being among the greatest of public calamities, it ought to be least in the power of any part of the community to bring on the whole.

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4. Trespasses of the States on the rights of each other.

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4. These are alarming symptoms, and may be daily apprehended, as we are admonished by daily experience. See the law of Virginia restricting foreign vessels to certain ports; of Maryland in favor of vessels belonging to her own citizens; of N. York in favor of the same.

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Paper money, instalments of debts, occlusion of courts, making property a legal tender, may likewise be deemed aggressions on the rights of other States. As the citizens of every State, aggregately taken, stand more or less in the relation of credit. ors or debtors to the citizens of every other State, acts of the debtor State in favor of debtors affect the creditor State in the same manner as they do its own citizens, who are, relatively, creditors towards other citizens. This remark may be extended to foreign nations. If the exclusive regulation of the value and alloy of coin was properly delegated to the federal authority, the policy of it equally requires a controul on the States in the cases above mentioned. It must have been meant—1. To preserve uniformity in the circulating medium throughout the nation. 2. To prevent those frauds on the citizens of other States, and the subjects of foreign powers, which might disturb the tranquillity at home, or involve the union in foreign contests.

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The practice of many States in restricting the commercial intercourse with other States, and putting their productions and manufactures on the same footing with those of foreign nations, though not contrary to the federal articles, is certainly adverse to tho spirit of the Union, and tends to beget retaliating regulations, not less expensive and vexatious in themselves than they are destructive of the general harmony.

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5. Want of concert in matters where common interest requires it.

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5. This defect is strongly illustrated in the state of our commercial affairs. How much has the national dignity, interest, and revenue, suffered from this cause? Instances of inferior moment are the want of uniformity in the laws concerning naturalization and literary property; of provision for national seminaries; for grants of incorporation for national purposes, for canals, and other works of general utility; which may at present be defeated by the perverseness of particular States whose concurrence is necessary.

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6. Want of Guaranty to the States of their Constitutions and laws against internal violence.

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6. The Confederation is silent on this point, and therefore by the second article the hands of the federal authority are tied. According to Republican Theory, Right and power, being both vested in the majority, are held to be synonymous. According to fact and experience, a minority may, in an appeal to force, be an overmatch for the majority: 1. If the minority happen to include all such as possess the skill and habits of military life, and such as possess the great pecuniary resources, one-third only may conquer the remaining two-thirds. 2. One-third of those who participate in the choice of the rulers may be rendered a majority by the accession of those whose poverty excludes them from a right of suffrage, and who, for obvious reasons, will be more likely to join the standard of sedition than that of the established Government. 3. Where slavery exists, the republican Theory becomes still more fallacious.

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7. Want of sanction to the laws, and of coercion in the Government of the Confederacy.

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7. A sanction is essential to the idea of law, as coercion is to that of Government. The federal system being destitute of both, wants the great vital principles of a Political Constitution. Under the form of such a Constitution, it is in fact nothing more than a treaty of amity, of commerce, and of alliance, between independent and Sovereign States. From what cause could so fatal an omission have happened in the articles of Confederation? From a mistaken confidence that the justice, the good faith, the honor, the sound policy of the several legislative assemblies would render superfluous any appeal to the ordinary motives by which the laws secure the obedience of individuals; a confidence which does honor to the enthusiastic virtue of the compilers, as much as the inexperience of the crisis apologizes for their errors. The time which has since elapsed has had the double effect of increasing the light and tempering the warmth with which the arduous work may be revised. It is no longer doubted that a unanimous and punctual obedience of 13 independent bodies to the acts of the federal Government ought not to be calculated on. Even during the war, when external danger supplied in some degree the defect of legal and coercive sanctions, how imperfectly did the States fulfil their obligations to the Union? In time of peace we see already what is to be expected. How, indeed, could it be otherwise? In the first place, every general act of the Union must necessarily bear unequally hard on some particular member or members of it; secondly, the partiality of the members to their own interests and rights, a partiality which will be fostered by the courtiers of popularity, will naturally exaggerate the inequality where it exists, and even suspect it where it has no existence; thirdly, a distrust of the voluntary compliance of each other may prevent the compliance of any, although it should be the latent disposition of all. Here are causes and pretexts which will never fail to render federal measures abortive. If the laws of the States were merely recommendatory to their citizens, or if they were to be rejudged by county authorities, what security, what probability would exist that they would be carried into execution? Is the security or probability greater in favor of the acts of Congress, which depending for their execution on the will of the State legislatures, are, tho' nominally authoritative, in fact recommendatory only?

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8. Want of ratification by the people or' the articles of Confederation.

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8. In some of the States the Confederation is recognized by and forms a part of the Constitution. In others, however, it has received no other sanction than that of the legislative authority. From this defect two evils result: 1. Whenever a law of a State happens to be repugnant to an act of Congress, particularly when the latter is of posterior date to the former, it will be at least questionable whether the latter must not prevail; and as the question must be decided by the Tribunals of the State, they will be most likely to lean on the side of the State.

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2. As far as the union of the States is to be regarded as a league of sovereign powers, and not as a political Constitution, by virtue of which they are become one sovereign power, so far it seems to follow, from the doctrine of compacts, that a breach of any of the articles of the Confederation by any of the parties to it absolves the other parties from their respective obligations, and gives then a right, if they choose to exert it, of dissolving the Union altogether.

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9. Multiplicity of laws in the several States.

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9. In developing the evils which viciate the political system of the United States, it is proper to include those which are found within the States individually, as well as those which directly affect the States collectively, since the former class have an indirect influence on tim general malady, and must not be overlooked in forming a compleat remedy. Among the evils, then, of our situation, may well be ranked the multiplicity of laws, from which no State is exempt. As far as laws are necessary to mark with precision the duties of those who are to obey them, and to take from those who are to administer them a discretion which might be abused, their number is the price of liberty. As far as laws exceed this limit they are a nuisance; a nuisance of the most pestilent kind. Try the Codes of the several States by this test, and what a luxuriancy of legislation do they present. The short period of independency has filled as many pages as the century which preceded it. Every year, almost every session, adds a new volume. This may be the effect in part, but it can only be in part, of the situation in which the revolution has placed us. A review of the several Codes will shew that every necessary and useful part of the least voluminous of them might be compressed into one-tenth of the compass, and at the same time be rendered ten-fold as perspicuous.

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10. Mutability of the laws of the States.

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10. This evil is intimately connected with the former, yet deserves a. distinct notice, as it emphatically denotes a vicious legislation. We daily see laws repealed or superseded before any trial can have been made of their merits, and even before a knowledge of them can have reached the remoter districts within which they were to operate. In the regulations of trade, this instability becomes a snare not only to our citizens, but to foreigners also.

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11. Injustice of the laws of the States.

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11. If the multiplicity and mutability of laws prove a want of wisdom, their injustice betrays a defect still more alarming; more alarming, not merely because it is a greater evil in itself, but because it brings more into question the fundamental principle of republican Government, that the majority who rule in such Governments are the safest guardians both of public good and of private rights. To what causes is this evil to be ascribed?

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These causes lie—1. In the representative bodies. 2. In the people themselves.

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1. Representative appointments are sought from 3 motives: 1. Ambition. 2. Personal interest. 3. Public good. Unhappily, the two first are proved by experience to be most prevalent. Hence, the candidates who feel them, particularly the second, are most industrious and most. successful in pursuing their object; and forming often a majority in the legislative Councils, with interested views, contrary to the interest and views of their constituents, join in a perfidious sacrifice of the latter to the former. A succeeding election, it might be supposed, would displace the offenders, and repair the mischief. But how easily are base and selfish measures masked by pre-texts of public good and apparent expediency? How frequently will a repetition of the same arts and industry which succeeded in the first instance again prevail on the unwary to misplace their confidence?

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How frequently, too, will the honest but unenlightened representative be the dupe of a favorite leader, veiling his selfish views under the professions of public good, and varnishing his sophistical arguments with the glowing colours of popular eloquence?

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2. A still more fatal, if not more frequent cause, lies among the people themselves. All civilized societies are divided into different interests and factions, as they happen to be creditors or debtors, rich or poor, husbandmen, merchants, or manufactuters, members of different religious sects, followers of different political leaders, inhabitants of different districts, owners of different kinds of property, &c. &c. In republican Government, the majority, however composed, ultimately give the law. Whenever, therefore, an apparent interest or common passion unites a majority, what is to restrain them from unjust violations of the rights and interests of the minority, or of individuals? Three motives only: 1. A prudent regard to their own good, as involved in the general and permanent good of the community. This consideration, although of decisive weight in itself, is found by experience to be too often unheeded. It is too often forgotten, by nations as well as by individuals, that honesty is the best policy. 2dly. Respect for character. However strong this motive may be in individuals, it is considered as very insufficient to restrain them from injustice. In a multitude its efficacy is diminished in proportion to the number which is to share the praise or the blame. Besides, as it has reference to public opinion, which, within a particular society, is the opinion of the majority, the standard is fixed by those whose conduct is to be measured by it. The public opinion without the society will be little respected by the people at large of any Country. Individuals of extended views and of national pride may bring the public proceedings to this standard. but the example will never be followed by the multitude. Is it to be imagined that an ordinary citizen or even Assemblyman of R. Island, in estimating the policy of paper money, ever considered or cared in what light the measure would be viewed in France or Holland, or even in Massachusetts or Connecticut? It was a sufficient. temptation to both that it was for their interest; it was a sufficient sanction to the latter that it was popular in the State; to the former, that it was so in the neighbourhood. 3dly. Will Religion, the only remaining motive, be a sufficient restraint? It is not pretended to be such, on men individually considered. Will its effect be greater on them considered in an aggregate view? Quite the reverse. The conduct of every popular assembly acting on oath, the strongest of religious ties, proves that individuals join without remorse in sets against which their consciences would revolt if proposed to them under the like sanction, separately, in their closets. When, indeed, Religion is kindled into enthusiasm, its force, like that of other passions, is increased by the sympathy of a multitude. But enthusiasm is only a temporary state of religion, and, while it lasts, will hardly be seen with pleasure at the helm of Government. Besides, as religion in its coolest state is not infallible, it may become a motive to oppression as well as a restraint from injustice. Place three individuals in a situation wherein the interest of each depends on the voice of the others, and give to two of them an interest opposed to the rights of the third. Will the latter be secure? The prudence of every man would shun the danger. The rules and forms of justice suppose and guard against it. Will two thousand in a like situation be less likely to encroach on the rights of one thousand? The contrary is witnessed by the notorious factions and oppressions which take place in corporate towns, limited as the opportunities are, and in little republics, when uncontrouled by apprehensions of external danger. If an enlargement of the sphere is found to lessen the insecurity of private rights, it is not because the impulse of a common interest or passion is less predominant in this ease with the majority, but because a common interest or passion is less apt to be felt, and the requisite combinations less easy to be formed, by a great than by a small number. The society becomes broken into a greater variety of interests and pursuits of passions, which check each other, whilst those who may feel a common sentiment have less opportunity of communication and concert. It may be inferred that the inconveniences of popular States, contrary to the prevailing Theory, are in proportion not to the extent, but to the narrowness of their limits.

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The great desideratum in Government is such a modification of the sovereignty as will render it sufficiently neutral between the different interests and factions to controul one part of the society from invading the rights of another, and, at the same time, sufficiently controuled itself from setting up an interest adverse to that of the whole society. In absolute Monarchies the prince is sufficiently neutral towards his subjects, but frequently sacrifices their happiness to his ambition or his avarice. In small Republics, the sovereign will is sufficiently controuled from such a sacrifice of the entire Society, but is not sufficiently neutral towards the parts composing it. As a limited monarchy tempers the evils of an absolute one, so an extensive Republic meliorates the administration of a small Republic.

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An auxiliary desideratum for the melioration of the Republican form is such a process of elections as will most certainly extract from the mass of the society the purest and noblest characters which it contains; such as will at once feel most strongly the proper motives to pursue the end of their appointment, and be most capable to devise the proper means of attaining it.

To Thomas Jefferson.

PHILADELPHIA, May 15, 1787.

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DEAR SIR,—Monday last was the day for the meeting of the Convention. The number as yet assembled is but small. Among the few is General Washington, who arrived on Sunday evening, amidst the acclamations of the people, as well as more sober marks of the affection and veneration which continues to be felt for his character. The Governor, Messrs. Wythe and Blair, and Doctor McClurg, are also here. Col. Mason is to be here in a day or two. There is a prospect of a pretty full meeting on the whole, though there is less punctuality in the outset than was to be wished. Of this the late bad weather has been the principal cause. I mention these circumstances because it is possible this may reach you before you hear from me through any other channel, and I add no others because it is merely possible.

To Honble Edmund Pendleton.

PHILADELPHIA, May 27, 1787.

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DEAR SIR,—I have put off, from day to day, writing to my friends from this place, in hopes of being able to say something of the Convention. Contrary to every previous calculation, the bare quorum of seven States was not made up till the day before yesterday. The States composing it are New York, New Jersey, Pennsylvania, Delaware, Virginia, North Carolina, and South Carolina. Individual members are here from Massachusetts, Maryland, and Georgia, and our intelligence promises a complete addition of the first and last, as also of Connecticut, by to-morrow. General Washington was called to the chair by a unanimous voice, and has accepted it. The secretary is a Major Jackson. This is all that has yet been done, except the appointment of a committee for preparing the rules by which the Convention is to be governed in their proceedings. A few days will now furnish some data for calculating the probable result of the meeting. In general, the members seem to accord in viewing our situation as peculiarly critical, and on being averse to temporizing expedients. I wish they may as readily agree when particulars are brought forward. Congress are reduced to five or six States, and are not likely to do anything during the term of the Convention.

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A packet has lately arrived from France, but brings no news. I learnt with great pleasure, by the Governor, that you continued to enjoy a comfortable degree of health, and heartily wish this may find it still further confirmed; being, with sincere affection and the highest esteem,

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Your obedt friend and serv.

To Col. James Madison.

PHILADELPHIA, May 27th, 1787.

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HOND SIR,—We have been here for some time, suffering a daily disappointment from the failure of the deputies to assemble for the Convention. Seven States were not made up till the day before yesterday. Our intelligence from New York promises an addition of three more by to-morrow. General Washington was unanimously called to the chair, and has accepted it. It is impossible, as yet, to form a judgment of the result of this experiment. Every reflecting man becomes daily more alarmed at our situation. The unwise and wicked proceedings of the Governments of some States, and the unruly temper of the people of others, must, if persevered in, soon produce some new scenes among us.

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My enquiries concerning the iron do not promise any supply from the quarter you wished it., nor do I find the advantage which formerly existed in sending the other articles. The late regulations of Trade here and in Virginia, particularly the act of the latter requiring the cargoes destined to Frediksburg, &c., to be deposited, in the first instance, at ports below, are obstructions to the intercourse. Tobacco, however, of the first quality, may be sent hither to advantage. Old Tobacco of this description will command six dollars. Mine, which has arrived safe, being new, will not, I fear, fetch me more than 32s., Virginia currency.

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Mr. William Strother, who was lately here, gave me the first information of the event of the election. I was not more concerned than surprised at the rejection of Major Moore. I am unable, utterly, to account for so sudden and great a change in the disposition of the people towards him. False reports occur as the most probable cause.

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I have enjoyed good health since I left Virginia., and learnt with much pleasure, from Mr. Strother, that he had heard nothing otherwise with respect to my friends in general in Orange.

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Remember me affectionately to my mother and the rest of the family, and accept of the dutiful regards of,

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Your son.

To Thomas Jefferson.

PHILADELPHIA, June 6th, 1787.

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DEAR SIR,—The day fixed for the meeting of the Convention was the 14th ultimo. On the 25th, and not before seven States were assembled, General Washington was placed, una voce, in the chair. The secretaryship was given to Major Jackson. The members present are: from Massachusetts; Mr. Gerry, Mr. Gorham, Mr. King, Mr. Strong. From Connecticut; Mr. Sherman, Doctor S. Johnson, Mr. Ellsworth. From New York; Judge Yates, Mr. Lansing, Mr. Hamilton. New Jersey; Governor Livingston, Judge Brearley, Mr. Patterson, Attorney General; [Mr. Houston and Mr. Clarke are absent members.] From Pennsylvania; Dr. Franklin, Mr. Morris, Mr. Wilson, Mr. Fitzsimmons, Mr. G. Clymer, General Mifflin, Mr. Gouverneur Morris, Mr. Ingersoll. From Delaware; Mr. John Dickenson, Mr. Reed, Mr. Bedford, Mr. Broome, Mr. Bassett. From Maryland; Major Jenifer only. Mr. McHenry, Mr. Daniel Carroll, Mr. John Mercer, Mr. Luther Martin, are absent members. The three last have supplied the resignations of Mr. Stone, Mr. Carroll of Carrolton, and Mr. T. Johnson, as I have understood the case. From Virginia; General Washington, Governor Randolph, Mr. Blair, Col. Mason, Doctor McClurg, J. Madison. Mr. Wythe left us yesterday, being called home by the serious declension of his lady's health. From North Carolina; Col. Martin, late Governor, Doctor Williamson, Mr. Spaight, Col. Davy; Col. Blount is another member, but is detained by indisposition at New York. From South Carolina; Mr. John Ritledge, General Pinckney, Mr. Charles Pinckney, Major Pierce Butler; Mr. Laurens is in the Commission from that State, but will be kept away by the want of health. From Georgia; Col. Few, Major Pierce, formerly of Williamsburg, and aid to General Greene, Mr. Houston. Mr. Baldwin will be added to them in a few days. Welton and Pendleton are also in the deputation. New Hampshire has appointed Deputies, but they are not expected, the State treasury being empty, it is said, and a substitution of private resources being inconvenient or impracticable. I mention this circumstance to take off the appearance of backwardness, which that State is not in the least chargeable with, if we are rightly informed of her disposition. Rhode Island has not yet acceded to the measure. As their Legislature meet very frequently, and can at any time be got together in a week, it is possible that caprice, if no other motive, may yet produce a unanimity of the States in this experiment.

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In furnishing you with this list of names, I have exhausted all the means which I can make use of for gratifying your curiosity. It was thought expedient, in order to secure unbiassed discussion within doors, and to prevent misconceptions and misconstructions without, to establish some rules of caution, which will for no short time restrain even a confidential communication of our proceedings. The names of the members will satisfy you that the States have been serious in this business. The attendance of General Washington is a proof of the light in which he regards it. The whole community is big with expectation, and there can be no doubt but that the result will in some way or other have a powerful effect on our destiny.

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Mr. Adams' book, which has been in your bands, of course has excited a good deal of attention. An edition has come out here, and another is in the press at N. York. It will probably be much read, particularly in the Eastern States, and contribute, with other circumstances, to revive the predelictions of this country for the British Constitution. Men of learning find nothing new in it; men of taste many things to criticise; and men without either, not a few things which they will not understand. It will, nevertheless, be read and praised, and become a powerful engine in forming the public opinion. The name and character of the author, with the critical situation of our affairs, naturally account for such an effect. The book also has merit, and I wish many of the remarks in it which are unfriendly to republicanism may not receive fresh weight from the operations of our governments.

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I learn from Virginia that the appetite for paper money grows stronger every day. Mr. Henry is an avowed patron of the scheme, and will not fail, I think, to carry it through, unless the County [Prince Edward] which be is to represent shall bind him hand and foot by instructions. I am told that this is in contemplation. He is also said to be unfriendly to an acceleration of Justice. There is good reason to believe that he is hostile to the object of the Convention, and that he wishes either a partition or total dissolution of the Confederacy.

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I sent you a few days ago, by a vessel going to France, a box with peccan nuts planted in it. Mr. John Vaughan was so good as to make arrangements with the captain, both for their preservation during the voyage and the conveyance of them afterwards. I had before sent you, via England, a few nuts sealed up in a letter.

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Mr. Wythe gave me favorable accounts of your nephew in Williamsburg; and from the President of Hampden Sidney, who was here a few days ago, I received information equally pleasing of your younger nephew.

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I must beg you to communicate my affectionate respects to our friend Mazzei, and to let him know that I have taken every step for securing his claim on Dorman which I judged most likely to succeed. There is little doubt that Congress will allow him more than he owes Mr. Mazzei, and I have got from him such a draught on the Treasury board as I think will ensure him the chance of that fund. Dorman is at present in Virginia, where he has also some claims and expectations, but they are not in a transferable situation. I intended to have written to Mazzei, and must beg his pardon for not doing it. It is really out of my power at this time.

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Adieu. Yours affectionately.

To Thomas Jefferson.

PHILADELPHIA., July 18th, 1787.

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DEAR SIR,—The Convention continue to sit, and have been closely employed since the commencement of the session. I am still under the mortification of being restrained from disclosing any part of their proceedings. As soon as I am at liberty, I will endeavour to make amends for my silence, and if I ever have the pleasure of seeing you, shall be able to give you pretty full gratification. I have taken lengthy notes of everything that has yet passed, and mean to go on with the drudgery, if no indisposition obliges me to discontinue it. It is not possible to form any judgment of the future duration of the session. I am led by sundry circumstances to guess that the residue of the work will not be very quickly despatched. The public mind is very impatient for the event, and various reports are circulating which tend to inflame curiosity. I do not learn, however, that any discontent is expressed at the concealment; and have little doubt that the people will be as ready to receive as we shall be able to propose a Government that will secure their liberties and happiness.

Writings of Madison, Volume 1: 1769-1793, p.334

I am not able to give you any account of what is doing at New York. Your correspondents there will no doubt supply the omission. The paper money here ceased to circulate very suddenly a few days ago. It had been for some time vibrating between a depreciation of 12 and of 20 per cent. Its entire stagnation is said to have proceeded from a combination of a few people with whom the country people deal on market days against receiving it. The consequence was that it was refused in the market, and great distress brought on the poorer citizens. Some of the latter began in turn to form combinations of a more serious nature, in order to take revenge on the supposed authors of the stagnation. The timely interposition of some influential characters prevented a riot, and prevailed on the persons who were opposed to the paper to publish their willingness to receive it. This has stifled the popular rage, and got the paper into circulation again. It is, however, still considerably below par, and must have received a wound which will not easily be healed. Nothing but evil springs from this imaginary money wherever it is tried, and yet the appetite for it where it has not been tried continues to be felt. There is great reason to fear that the bitterness of the evil must be tasted in Virginia before the appetite there will be at an end.

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The wheat harvest throughout the continent has been uncommonly fine, both in point of quantity and quality. The crops of corn and Tobacco on the ground in Virginia are very different in different places. I rather fear that in general they are both bad, particularly the former. I have just received a letter from Orange, which complains much of appearances in that neighborhood, but says nothing of them in the parts adjacent.

Writings of Madison, Volume 1: 1769-1793, p.335

Present my best respects to Mr. Short and Mr. Mazzei. Nothing has been done since my last to the latter with regard to his affair with Dorman.

Writings of Madison, Volume 1: 1769-1793, p.335

Wishing you all happiness, I am, dear sir, your affectionate friend and serv.

To Col. James Madison.

PHILADELPHIA, July 28th, 1787.

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HOND SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.335

I am sorry that I cannot gratify your wish to be informed of the proceedings of the Convention. An order of secrecy leaves me at liberty merely to tell you that nothing definitive is yet done, that the Session will probably continue for some time yet, that an adjournment took place on thursday last until Monday week, and that a Committee is to be at work in the mean time. Late information from Europe presents a sad picture of things in Holland. Civil blood has been already spilt, and various circumstances threaten a torrent of it. Many, it is said, are flying with their property to England. How much is it to be lamented that America does not present a more inviting asylum!

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Congress have been occupied for some time past on Western affairs. They have provided for the Government of the Country by an ordinance, of which a copy is herewith inclosed. They have on the anvil, at present, some projects for the most advantageous sale of the lands. Col. Carrington informs me that Indian affairs wear a very hostile appearance; that money must in all probability be expended in further treaties; that a General Confederacy has been formed of all the nations and tribes from the six nations, inclusive, to the Mississippi, under the auspices of Brandt; that a General Council was held in December last in form, near Detroit, in which was considered as grievances the surveying of lands on the North West side of the Ohio, the pretext being, as usual, that the treaties which preceded that measure were made by parts only of the Nations whose consent was necessary, and that a united representation of this grievance has been received by Congress. That as to the hostilities on Kentucky, the superintendent of Indian affairs, or, in ease of his inability to go, Col. Harmar, is ordered to proceed immediately to some convenient place for holding a Treaty with the hostile tribes, and by that means restore, if possible, peace in that quarter. In the mean time, Col. Harmer is so to fort the federal troops as to provide the best defence for the country, and to call for such aids of Militia as he shall find necessary.

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The crops of wheat in this and the neighbouring States, and, indeed, throughout the Continent, as far as I can learn, have been remarkably fine. I am sorry to hear that your crops of corn are likely to be so much shortened by the dry weather. The weather has been dry in spots in this quarter. At present it is extremely seasonable just here, and I do not know that it is otherwise elsewhere. I hope Virginia partakes of the blessing.

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A letter from my brother gave me the first notice of your indisposition. It is my most fervent wish that this may find your health thoroughly re-established, and that of my mother and the rest of the family unimpaired. Being, with entire affection, your dutiful son.

To James Madison, Senr.

PHILADELPHIA, Septr 4th, 1787.

Writings of Madison, Volume 1: 1769-1793, p.336

HOND SIR,—The Convention has not yet broken up, but its session will probably continue but a short time longer. Its proceedings are still under the injunction of secrecy. We hear that a spirit of insurrection has shown itself in the County of Green Briar. Some other Counties have been added by report as infected with the same spirit; but the silence of the letters from Richmond on this latter fact gives us hopes that the letters port is not well rounded. We understand, also, that the upper parts of the country have suffered extremely from the drought, and that the crops will not suffice for the subsistence of the inhabitants. I hope the account is exaggerated, and wait with some impatience for a confirmation of this hope.

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The crops of wheat in this quarter have been uncommonly fine, and the latter rains have been so seasonable for the corn that the prospect of that crop is tolerably good. The price of good Tobacco here at present is 40s., Virginia money.

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As soon as the tie of secrecy shall be dissolved I will forward the proceedings of the Convention. In the mean time, with my affectionate regards for all the family,

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I remain, your dutiful son.

To Thomas Jefferson.

PHILADELPHIA, Septr 6th, 1787.

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DEAR SIR,—My last was intended for the August packet, and put into the hands of Commodore Paul Jones. Some disappointments prevented his going, and as he did not know but its contents might be unfit for the ordinary conveyance, he retained it. The precaution was unnecessary. For the same reason the delay has been of little consequence. Tho rule of secrecy in the Convention rendered that, as it will this letter, barren of those communications which might otherwise be made. As the Convention will shortly rise, I should feel little scruple in disclosing what will be public here before it could reach you, were it practicable for me to guard by cypher against an intermediate discovery. But I am deprived of this resource by the shortness of the interval between the receipt of your letter of June 20 and the date of this. This is the first day which has been free from Committee service, both before and after the hours of the House, and the last that is allowed me by the time advertised for the sailing of the packet.

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The Convention consists now, as it has generally done, of eleven States. There has been no intermission of its session since a house was formed, except an interval of about ten days allowed a committee appointed to detail the general propositions agreed on in the House. The term of its dissolution cannot be more than one or two weeks distant. A Government will probably be submitted to the people of the States, consisting of a President, cloathed with Executive power; a Senate chosen by the Legislatures, and another House chosen by the people of the States, jointly possessing the Legislative power; and a regular Judiciary establishent. The mode of constituting the Executive is among the few points not yet finally settled. The Senate will consist of two members from each State, and appointed sexennially. The other House, of members appointed biennially by the people of the States, in proportion to their number. The Legislative power will extend to taxation, trade, and sundry other general matters. The powers of Congress will be distributed, according to their nature, among the several departments. The States will be restricted from paper money, and in a few other instances. These are the outlines. The extent of them may, perhaps, surprize you. I hazard an opinion, nevertheless, that the plan, should it be adopted, will neither effectually answer its national object, nor prevent the local mischiefs which everywhere excite disgusts against the State Governments. The grounds of this opinion will be the subject of a future letter.

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I have written to a friend in Congress, intimating, in a covert manner, the necessity of deciding and notifying the intentions of Congress with regard to their foreign Ministers after May next, and have dropped a hint on the communications of Dumas.

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Congress have taken some measures for disposing of the public land, and have actually sold a considerable tract. Another bargain, I learn, is on foot for a further sale.

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Nothing can exceed the universal anxiety for the event of the meeting here. Reports and conjectures abound concerning the nature of the plan which is to be proposed. The public, however, is certainly in the dark with regard to it. The Convention is equally in the dark as to the reception which may be given to it on its publication. All the prepossessions are on the right side, but it may well be expected that certain charactors will wage war against any reform whatever. My own idea is, that the public mind will now, or in a very little time, receive anything that promises stability to the public Councils and security to private rights, and that no regard ought to be had to local prejudices or temporary considerations. If the present moment be lost, it is hard to say what may be our fate.

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Our information from Virginia is far from being agreeable. In many parts of tim Country the drought has been extremely injurious to the Corn. I fear, tho' I have no certain information, that Orange and Albemarle share in the distress. The people, also, are said to be generally discontented. A paper emission is again a topic among them; so is an instalment of all debts, in some places, and the making property a tender in others. The taxes are another source of discontent. Tho weight of them is complained of, and the abuses in collecting them still more so. In several Counties the prisons, and Court Houses, and Clerks' offices, have been wilfully burnt. In Green Briar, the course of Justice has been mutinously stopped, and associations entered into against the payment of taxes. No other County has yet followed the example. The approaching meeting of the Assembly will probably allay the discontents on one side by measures which will excite them on another.

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Mr. Wythe has never returned to us. His lady, whose illness carried him away, died some time after he got home. The other deaths in Virginia are Col. A. Gary, and a few days ago, Mrs. Harrison, wife of Benjamin Harrison, Junr, and sister of J. F. Mercer.

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Wishing you all happiness, I remain, dear sir, yours affectionately.

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Give my best wishes to Mazzei. I have received his letter and book, and will write by the next packet to him. Dorman is still in Virginia. Congress have done nothing for him in his affair. I am not sure that 9 States have been assembled of late. At present, it is doubtful whether there are seven.

To Edmund Pendleton.

PHILADELPHIA, September 20th. 1787.

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DEAR SIR,—The privilege of franking having ceased with the Convention. I have waited for this opportunity of inclosing you a copy of the proposed Constitution for the United States. I forbear to make any observations on it, either on the side of its merits or its faults. The best judges of both will be those who can combine with a knowledge of the collective and permanent interest of America a freedom from the bias resulting from a participation in the work. If the plan proposed be worthy of adoption, the degree of unanimity attained in the Convention is a circumstance as fortunate as the very respectable dissent on the part of Virginia is a subject of regret. The double object of blending a proper stability and energy in the Government with the essential characters of the republican form and of tracing a proper line of demarkation between the national and State authorities, was necessarily found to be as difficult as it was desirable, and to admit of an infinite diversity concerning the means among those who were unanimously agreed concerning the end.

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I find, by a letter from my father, that he and my uncle Erasmus have lately paid their respects to Edmundsbury. I infer from his silence as to your health that no unfavorable change had happened in it. That this may find it perfectly re-established is the sincere and affectionate wish of,

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Dear sir, your friend and humble servt.

To James Madison, Senr.

NEW YORK, Septr 30th, 1787.

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HOND SIR,—By Mr. Blair, who left Philadelphia immediately after the rising of the Convention, I sent to the care of Mr. F. Maury a copy of the new Constitution proposed for the U. S. Mr. Blair set out in such haste that I had no time to write by him, and I thought the omission of the less consequence, as vour last letter led me to suppose that you must, about that time, be absent on your trip to Frederick.

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I arrived here on monday last. The act of the Convention was then before Congress. It has been since taken up, and by a unanimous vote forwarded to the States, to be proceeded on as recommended by the Convention. What reception this new system will generally meet with cannot yet be pronounced. For obvious reasons, opposition is as likely to arise in Virginia as anywhere. The city of Philadelphia has warmly espoused it. Both parties there, it is said, have united on the occasion. It may happen, nevertheless, that a country party may spring up and give a preponderancy to the opposite scale. In this city the general voice coincides with that of Philadelphia, but there is less apparent unanimity, and it is pretty certain that the party in power will be active in defeating the new system. In Boston the reception given to it is extremely favorable, we are told, but more will depend on the country than the town. The echo from Connecticut and New Jersey, as far as it has reached us, denotes a favorable disposition in those States.

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I inclose a few plumb-stones from an excellent tree. I am aware that this is not the true mode of propagating the fruit, but it sometimes succeeds, and sometimes even improves the fruit.

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With my affectionate regards to my mother and the family, I remain, your dutiful son.

To General Washington.

NEW YORK, October 14, 1787.

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DEAR SIR,—The letter herewith enclosed was put into my hands yesterday by Mr. de Crevecoeur, who belongs to the Consular establishment of France in this country. I add to it a pamphlet which Mr. Pinckney has submitted to the public, or rather, as he professes, to the perusal of his friends, and a printed sheet containing his ideas on a very delicate subject, too delicate, in my opinion, to have been properly confided to the press. He conceives that his precautions against any further circulation of the piece than he himself authorizes are so effectual as to justify the step. I wish be may not be disappointed. In communicating a copy to you, I fulfil his wishes only.

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No decisive indications of the public mind in the Northern and middle States can yet. be collected. The reports continue to be rather favorable to the act of the Convention from every quarter; lint its adversaries will naturally be latest in shewing themselves. Boston is certainly friendly. An opposition is known to be in petto in Connecticut. but it is said not to be much dreaded by the other side. Rhode Island will be divided on this subject in the same manner that it has been on the question of paper money. The newspapers here have contained sundry publications animadverting on the proposed Consitution, and it is known that the Government party are hostile to it. There are on the other side so many able and weighty advocates, and the conduct of the Eastern States, if favorable, will add so much force to their arguments, that there is at least as much ground for hope as for apprehension. I do not learn that any opposition is likely to be made in New Jersey. The temper of Pennsylvania will be best known to you from the direct information which you cannot fail to receive through the newspapers and other channels.

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Congress have been of late employed chiefly in settling the requisition, and in making some arrangements for the Western country. The latter consist of the appointment of a Governor and Secretary, and the allotment of a sum of money for Indian treaties, if they should be found necessary. The requisition, so far as it varies our fiscal system, makes the proportion of Indents receivable independently of specie, and those of different years indiscriminately receivable for any year, and does not, as heretofore, tie down the States to a particular mode of obtaining them. Mr. Adams has been permitted to return home after February next, and Mr. Jefferson's appointment continued for three years longer.

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With the most perfect esteem, and most affectionate regard, I remain, dear sir,

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Your obt friend and servt.

To Thomas Jefferson.

NEW YORK, Octr 24th, 1787.

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DEAR SIR,—My two last, though written for the two last packets, have unluckily been delayed till this conveyance. The first of them was sent from Philadelphia to Commodore Jones, in consequence of information that he was certainly to go by the packet then about to sail. Being detained here by his business with Congress, and being unwilling to put the letter into the mail without my approbation, which could not be obtained in time, he detained the letter also. The second was sent from Philadelphia to Col. Carrington, with a view that it might go by the last packet, at all events, in case Commodore Jones should meet with further detention here. By ill luck he was out of Town, and did not return till it was too late to make use of the opportunity. Neither of the letters were, indeed, of much consequence at the time, and are still less so now. I let them go forward, nevertheless, as they may mention some circumstances not at present in my recollection, and as they will prevent a chasm in my part of a correspondence which I have so many motives to cherish by an exact punctuality.

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You will herewith receive the result of the Convention, which continued its session till the 17th of September. I take the liberty of making some observations on the subject, which will help to make up a letter, if they should answer no other purpose.

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It appeared to be the sincere and unanimous wish of the Convention to cherish and preserve the Union of the States. No proposition was made, no suggestion was thrown out, in favor of a partition of the Empire into two or more Confederacies.

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It was generally agreed that the objects of the Union could not be secured by any system rounded on the principle of a confederation of Sovereign States. A voluntary observance of the federal law by all the members could never be hoped for. A compulsive one could evidently never be reduced to practice, and if it could, involved equal calamities to the innocent and the guilty, the necessity of a military force, both obnoxious and dangerous, and, in general, a scene resembling much more a civil war than the administration of a regular Government.

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Hence was embraced the alternative of a Government which, instead of operating on the States, should operate without their intervention on the individuals composing them; and hence the change in the principle and proportion of representation.

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This ground-work being laid, the great objects which presented themselves were: 1. To unite a proper energy in the Executive, and a proper stability in the Legislative departments, with the essential characters of Republican Government. 2. To draw a line of demarkation which would give to the General Government every power requisite for general purposes, and leave to the States every power which might be most beneficially administered by them. 3. To provide for the different interests of different parts of the Union. 4. To adjust the clashing pretensions of the large and small States. Each of these objects was pregnant with difficulties. The whole of them together formed a task more difficult than can be well conceived by those who were not concerned in the execution of it. Adding to these considerations the natural diversity of human opinions on all new and complicated subjects, it is impossible to consider the degree of concord which ultimately prevailed as less than a miracle.

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The first of these objects, as respects the Executive, was peculiarly embarrassing. On the question whether it should consist of a single person or a plurality of co-ordinate members, on the mode of appointment, on the duration in office, on the degree of power, on the re-eligibility, tedious and reiterated discussions took place. The plurality of co-ordinate members had finally but few advocates. Governor Randolph was at the head of them. The modes of appointment proposed were various: as by the people at large, by electors chosen by the people, by the Executives of the States, by the Congress; some preferring a joint ballot of the two Houses; some, a separate concurrent ballot, allowing to each a negative on the other house; some, a nomination of several candidates by one House, out of whom a choice should be made by the other. Several other modifications were started. The expedient at length adopted seemed to give pretty general satisfaction to the members. As to the duration in office, a few would have preferred a tenure during good behaviour; a considerable number would have done so in case an easy and effectual removal by impeachment could be settled.

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It was much agitated whether a long term, seven years for example, with a subsequent and perpetual ineligibility, or a short term, with a capacity to be re-elected, should be fixed. In favor of the first opinion were urged the danger of a gradual degeneracy of re-elections from time to time, into first a life and then a hereditary tenure, and the favorable effect of an incapacity to be reappointed on the independent exercise of the Executive authority. On the other side it was contended that the prospect of necessary degradation would discourage the most dignified characters from aspiring to the office; would take away the principal motive to the faithful discharge of its duties- the hope of being rewarded with a reappointment; would stimulate ambition to violent efforts for holding over the Constitutional term; and instead of producing an independent administration and a firmer defence of the constitutional rights of the department, would render the officer more indifferent to the importance of a place which he would soon be obliged to quit forever, and more ready to yield to the enchroachments of the Legislature, of which he might again be a member.

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The questions concerning the degree of power turned chiefly on the appointment to offices, and the controul on the Legislature. An absolute appointment to all offices, to some offices, to no offices, formed the scale of opinions on the first point. On the second, some contended for an absolute negative, as the only possible mean of reducing to practice the theory of a free Government, which forbids a mixture of the Legislative and Executive powers. Others would be content with a revisionary power, to be overruled by three-fourths of both Houses. It was warmly urged that the judiciary department should be associated in the revision. The idea of some was, that a separate revision should be given to the two departments; that if either objected, two-thirds, if both, three-fourths, should be necessary to overrule.

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In forming the Senate, the great anchor of the government, the questions, as they come within the first. object, turned mostly on the mode of appointment, and the duration of it. The different modes proposed were: 1. By the House of Representatives. 2. By the Executive. 3. By electors chosen by the people for the purpose. 4. By the State Legislatures. On the point of durations, the propositions descended from good behaviour to four years, through the intermediate terms of nine, seven, six, and five years. The election of the other branch was first determined to be triennial, and afterwards reduced to biennial.

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The second object, the due partition of power between the General and local Governments, was perhaps, of all, the most nice and difficult. A few contended for an entire abolition of the States; some, for indefinite power of Legislation in the Congress, with a negative on the laws of the States; some, for such a power without a negative; some, for a limited power of legislation, with such a negative; the majority, finally, for a limited power without the negative. The question with regard to the negative underwent repeated discussions, and was finally rejected by a bare majority. As I formerly intimated to you my opinion in favor of this ingredient, I will take this occasion of explaining myself on the subject. Such a check on the States appears to me necessary—1. To prevent encroachments on the General authority. 2. To prevent instability and injustice in the legislation of the States.

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1. Without such a check in the whole over the parts, our system involves the evil of imperia in imperio. If a compleat supremacy somewhere is not necessary in every society, a con-troultug power at. least is so, by which the general authority may be defended against encroachments of the subordinate authorities, and by which the latter may be restrained from encroachments on each other. If the supremacy of the British Parliament is not necessary, as has been contended, for the harmony of that Empire, it is evident, I think, that without the royal negative, or some equivalent cotroul, the unity of the system would be destroyed. The want of some such provision seems to have been mortal to the antient confederacies, and to be the disease of the modern. Of the Lycian confederacy little is known. That of the Amphictyons is well known to have been rendered of little use whilst it lasted, and, in the end, to have been destroyed by the predominance of the local over the federal authority. The same observation may be made, on the authority of Polybius, with regard to the Ache'an League. The Helvetic System scarcely amounts to a confederacy, and is distinguished by too many peculiarities to be a ground of comparison.

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The case of the United Netherlands is in point. The authority of a Statdholder, the influence of a standing Army, the common interest in the conquered possessions, the pressure of surrounding danger, the guarantee of foreign powers, are not sufficient to secure the authority and interest of the generality against the anti-federal tendency of the provincial sovereignties. The German Empire is another example. A Hereditary chief, with vast independent resources of wealth and power, a federal Diet, with ample parchment authority, a regular Judiciary establishment, the influence of the neighbourhood of great and formidable nations, have been found unable either to maintain the subordination of the members, or to prevent their mutual contests and encroachments. Still more to the purpose is our own experience, both during the war and since the peace. Encroachments of the States on the general authority, sacrifices of national to local interests, interferences of the measures of different States, form a great part of the history of our political system.

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It may be said that the new Constitution is founded on different principles, and will have a different operation. I admit the difference to be material. It presents the aspect rather of a feudal system of republics, if such a phrase may be used, than of a Confederacy of independent States. And what has been the progress and event of the feudal Constitutions? In all of them a continual struggle between the head and the inferior members, until a final victory has been gained, in some instances by one, in others, by the other of them. In one respect, indeed, there is a remarkable variance between the two cases. In the feudal system, the sovereign, though limited, was independent; and having no particular sympathy of interests with the great Barons, his ambition had as full play as theirs in the mutual projects of usurpation. In the American Constitution, the general authority will be derived entirely from the subordinate authorities. The Senate will represent the States in their political capacity; the other House will represent the people of the States in their individual capacity. The former will be accountable to their constituents at moderate, the latter at Short periods. The President also derives his appointment from the States, and is periodically accountable to them. This dependence of the General on the local authorities seems effectually to guard the latter against any dangerous encroachments of the former; whilst the latter, within their respective limits, will be continually sensible of the abridgement. of their power, and be stimulated by ambition to resume the surrendered portion of it.

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We find the representatives of Counties and Corporations in the Legislatures of the States much more disposed to sacrifice the aggregate interest, and even authority, to the local views of their constituents, than the latter to the former. I mean not by these remarks to insinuate that an esprit de corps will not exist in the National Government, or that opportunities may not occur of extending its jurisdiction in some points. I mean only that the danger of encroachments is much greater from the other side, and that the impossibility of dividing powers of legislation in such a manner as to be free from different constructions by different interests, or even from ambiguity in the judgment of the impartial, requires some such expedient as I contend for. Many illustrations might be given of this impossibility. How long has it taken to fix, and how imperfectly is yet fixed, the legislative power of corporations, though that power is subordinate in the most compleat manner? The line of distinction between the power of regulating trade and that of drawing revenue from it, which was once considered the barrier of our liberties, was found, on fair discussion, to be absolutely indefinable. No distinction seems to be more obvious than that between spiritual and temporal matters. Yet, wherever they have been made objects of Legislation, they have clashed and contended with each other. till one or the other has gained the supremacy. Even the boundaries between the Executive, Legislative, and judiciary powers, though in general so strongly marked in themselves, consist, in many instances, of mere shades of difference.

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It may be said that the Judicial authority, under our new system, will keep the States within their proper limits, and supply the place of a negative on their laws. The answer is, that it is more convenient to prevent the passage of a law than to declare it void after it, is passed; that this will be particularly the case where the law aggrieves individuals, who may be unable to support an appeal against a State to the Supreme Judiciary; that a State which would violate the Legislative rights of the Union would not be very ready to obey a Judicial decree in support of them; and that a recurrence to force, which, in the event of disobedience, would be necessary, is an evil which the new Constitution meant to exclude as far as possible.

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2. A Constitutional negative on the laws of the States seems equally necessary to secure individuals against encroachments on their rights. The mutability of the laws of the States is found to be a serious evil. The injustice of them has been so frequent and so flagrant as to alarm the most stedfast friends of Republicanism. I am persuaded I do not err in saying that the evils issuing from these sources contributed more to that uneasiness which produced the Convention, and prepared the public mind for a general reform, than those which accrued to our national character and interest from the inadequacy of the Confederation to its immediate objects. A reform, therefore, which does not make provision for private rights, must be materially defective. The restraints against paper emissions and violations of contracts are not sufficient. Supposing them to be effectual as far as they go, they are short of the mark. Injustice may be effected by such an infinitude of legislative expedients, that where the disposition exists, it can only be controuled by some provision which reaches all cases whatsoever. The partial provision made supposes the disposition which will evade it.

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It may be asked how private rights will be more secure under the Guardianship of the General Government than under the State Governments, since they are both rounded on the republican principle which refers the ultimate decision to the will of the majority, and are distinguished rather by the extent within which they will operate, than by any material difference in their structure. A full discussion of this question would, if I mistake not, unfold the true principles of Republican Government, and prove, in contradiction to the concurrent opinions of the theoretical writers, that this form of Government, in order to effect its purposes, must operate not within a small but an extensive sphere. I will state some of the ideas which have occurred to me on this subject.

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Those who contend for a simple democracy, or a pure republic, actuated by the sense of the majority, and operating within narrow limits, assume or suppose a ease which is altogether fictitious. They found their reasoning on the idea that the people composing the Society enjoy not only an equality of political rights, but that they have all precisely the same interests and the same feelings in every respect. Were this in reality the case, their reasoning would be conclusive. The interest of the majority would be that of the minority also; the decisions could only turn on mere opinion concerning the good of the whole, of which the major voice would be the safest criterion; and within a small sphere, this voice could be most easily collected, and the public affairs most accurately managed.

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We know, however, that no society ever did, or can, consist of so homogeneous a mass of Citizens. In the Savage state, indeed, an approach is made towards it, but in that state little or no Government is necessary. In all civilized societies, distinctions are various and unavoidable. A distinction of property results from that very protection which a free Government gives to unequal faculties of acquiring it. There will be rich and poor; creditors and debtors; a landed interest, a monied interest, a mercantile interest, a manufacturing interest. These classes may again be subdivided according to the different productions of different situations and soils, and according to different branches of commerce and of manufactures. In addition to these natural distinctions, artificial ones will be founded on accidental differences in political, religious, or other opinions, or an attachment to the persons of leading individuals. However erroneous or ridiculous these grounds of dissention and faction may appear to the enlightened Statesman or the benevolent philosopher, the bulk of mankind, who are neither States-men nor philosophers, will continue to view them in a different light.

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It remains, then, to be enquired, whether a majority having any common interest, or feeling any common passion, will find sufficient motives to restrain them from oppressing the minority. An individual is never allowed to be a judge, or even a witness, in his own cause. If two individuals are under the bias of interest or enmity against a third, the rights of the latter could never be safely referred to the majority of the three. Will two thousand individuals be less apt to oppress one thousand, or two hundred thousand one hundred thousand?

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Three motives only can restrain in such eases: 1. A prudent regard to private or partial good, as essentially involved in the general and permanent good of the whole. This ought, no doubt, to be sufficient of itself. Experience, however, shews that it has little effect on individuals, and perhaps still less on a collection of individuals, and least of all on a majority with the public authority in their hands. If the former are ready to forget that honesty is the best policy, the last do more. They often proceed on the converse of the maxim, that whatever is politic is honest. 2. Respect for character. This motive is not found sufficient to restrain individuals from injustice, and loses its efficacy in proportion to the number which is to divide the pain or the blame. Besides, as it has reference to public opinion, which is that of the majority, the standard is fixed by those whose conduct is to be measured by it. 3. Religion. The in-efficacy of this restraint on individuals is well known. The conduct of every popular assembly, acting on oath, the strongest of religious ties, shews that individuals join without remorse in acts against which their consciences would revolt, if proposed to them, separately, in their closets. When, indeed, Religion is kindled into enthusiasm, its force, like that of other passions, is increased by the sympathy of a multitude. But enthusiasm is only a temporary state of Religion, and whilst it lasts will hardly be seen with pleasure at the helm. Even in its coolest state, it has been much oftener a motive to oppression than a restraint from it.

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If, then, there must be different interests and parties in society, and a majority, when united by a common interest or passion, cannot be restrained from oppressing the minority, what remedy can be found in a republican Government, where the majority must ultimately decide, but that of giving such an extent to its sphere, that no common interest or passion will be likely to unite a majority of the whole number in an unjust pursuit? In a large society, the people are broken into so many interests and parties, that a common sentiment is less likely to be felt, and the requisite concert less likely to be formed, by a majority of the whole. The same security seems requisite for the civil as for the religious rights of individuals. If the same sect form a majority, and have the power, other sects will be sure to be depressed. Divide et impera, the reprobated axiom of tyranny, is, under certain qualifications, the only policy by which a republic can be administered on just principles.

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It must be observed, however, that this doctrine can only hold within a sphere of a mean extent. As in too small a sphere oppressive combinations may be too easily formed against the weaker party, so in too extensive a one a defensive concert may be rendered too difficult against the oppression of those entrusted with the administration. The great desideratum in Government is so to modify the sovereignty as that it may be sufficiently neutral between different parts of the society to controul one part from invading the rights of another, and at the same time sufficiently controuled itself from setting up an interest adverse to that of the entire society. In absolute monarchies, the prince may be tolerably neutral towards different classes of his subjects. but may sacrifice the happiness of all to his personal ambition or avarice. In small republics, the sovereign will is controuled from such a sacrifice of the entire society, but is not sufficiently neutral towards the parts composing it. In the extended Republic of the United States, the General Government would hold a pretty even balance between the parties of particular States, and be at the same time sufficiently restrained, by its dependence on the community, from betraying its general interests.

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Begging pardon for this immoderate digression, I return to the third object above mentioned, the adjustments of the different interests of different parts of the continent. Some contended for an unlimited power over trade, including exports as well as imports, and over slaves as well as other imports; some, for such a power, provided the concurrence of two-thirds of both Houses were required; some, for such a qualification of the power, with an exemption of exports and slaves; others, for an exemption of exports only. The result is seen in the Constitution. South Carolina and Georgia were inflexible on the point of the Slaves.

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The remaining object created more embarrassment, and a greater alarm for the issue of the Convention, than all the rest put together. The little States insisted on retaining their equality in both branches, unless a compleat abolition of the State Governments should take place; and made an equality in the Senate a sine qua non. The large States, on the other hand, urged that as the new Government was to be drawn principally from the people immediately, and was to operate directly on them, not on the States; and, consequently, as the States would lose that importance which is now proportioned to the importance of their voluntary compliance with the requisitions of Congress, it was necessary that the representation in both Houses should be in proportion to their size. It ended in the compromise which you will see, but very much to the dissatisfaction of several members from the large States.

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It will not escape you that three names only from Virginia are subscribed to the act. Mr. Wythe did not return after the death of his lady. Doctor McClurg left the Convention some time before the adjournment. The Governor and Col. Mason refused to be parties to it. Mr. Gerry was the only other member who refused. The objections of the Governor turn principally on the latitude of the general powers, and on the connection established between the President and the Senate. He wished that the plan should be proposed to the States, with liberty to them to suggest alterations, which should all be referred to another General Convention, to be incorporated into the plan as far as might be judged expedient. He was not inveterate in his opposition, and grounded his refusal to subscribe pretty much on his unwillingness to commit himself, so as not to be at liberty to be governed by further lights on the subject.

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Col. Mason left Philadelphia in an exceeding ill humour indeed. A number of little circumstances, arising in part from the impatience which prevailed towards the close of the business, conspired to whet his acrimony. He returned to Virginia with a fixed disposition to prevent the adoption of the plan, if possible. He considers the want of a Bill of Rights as a fatal objection. His other objections are to the substitution of the Senate in place of an Executive Council, and to the powers vested in that body; to the powers of the Judiciary; to the vice president being made president of the Senate; to the smallness of the number of Representatives; to the restriction on the States with regard to ex post facto laws; and most of all, probably, to the power of regulating trade by a majority only of each House. He has some other lesser objections. Being now under the necessity of justifying his refusal to sign, he will, of course, muster every possible one. His conduct has given great umbrage to the County of Fairfax, and particularly to the Town of Alexandria. He is already instructed to promote in the Assembly the calling a Convention, and will probably be either not deputed to the Convention, or be tied up by express instructions. He did not object in general to the powers vested in the National Government so much as to the modification. In some respects he admitted that some further powers would have improved the system. He acknowledged, in particular, that a negative on the State laws and the appointment of the State Executives ought to be ingredients; but supposed that the public mind would not now bear them, and that experience would hereafter produce these amendments.

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The final reception which will be given by the people at large to the proposed system cannot yet be decided. The Legislature of New Hampshire was sitting when it reached that State, and was well pleased with it. As far as the sense of the people there has been expressed, it is generally favorable. Boston is warm and almost unanimous in embracing it. The impression on the country is not yet known. No symptoms of disapprobation have appeared. The Legislature of that State is now sitting, through which the sense of the people at large will soon be promulged with tolerable certainty. The paper-money faction in Rhode Island is hostile. The other party zealously attached to it. Its passage through Connecticut is likely to be very smooth and easy. There seems to be less agitation in this State [New York] than anywhere. The discussion of the subject seems confined to the Newspapers. The principal characters are known to be friendly. The Governour's party, which has hitherto been the popular and most numerous one, is supposed to be on the opposite side; but considerable reserve is practiced, of which he sets the example. New Jersey takes the affirmative side, of course. Meetings of the people are declaring their approbation and instructing their representatives.

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Pennsylvania will be divided. The City of philadelphia, the Republican party, the Quakers, and most of the Germans, espouse the Constitution. Some of the Constitutional leaders, backed by the Western Country, will oppose. An unlucky ferment on the subject in their Assembly just before its late adjournment has irritated both sides, particularly the opposition, and by reboubling the exertions of that party may render the event doubtful. The voice of Maryland, I understand from pretty good authority, is, as far as it has been declared, strongly in favor of the Constitution. Mr. Chase is an enemy, but the Town of Baltimore, which he now represents, is warmly attached to it, and will shackle him as far as it can. Mr. Paca will probably be, as usual, in the politics of Chase.

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My information from Virginia is as yet extremely imperfect. I have a letter from General Washington, which speaks favorably of the impression within a circle of some extent; and another from Chancellor Pendleton, which expresses his full acceptance of the plan, and the popularity of it in his district. I am told, also, that Innes and Marshall are patrons of it. In the opposite scale are Mr. James Mercer, Mr. R. H. Lee, Doctor Lee, and their connections, of course, Mr. M. Page, according to report, and most of the Judges and bar of the General Court. The part which Mr. Henry will take is unknown here. Much will depend on it. I had taken it for granted, from a variety of circumstances, that he would be in the opposition, and still think that will be the case. There are reports, however, which favor a contrary supposition.

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From the States South of Virginia nothing has been heard. As the deputation from South Carolina consisted of some of its weightiest characters, who have returned unanimously zealous in favor of the Constitution, it is probable that State will readily embrace it. It is not less probable that North Carolina will follow tho example, unless that of Virginia should counterbalance it. Upon the whole, although the public mind will not be fully known, nor finally settled, for a considerable time, appearances at present augur a more prompt and general adoption of the plan than could have been well expected.

November 1. Commodore Paul Jones having preferred another vessel to the packet, has remained here till this time. The interval has produced little necessary to be added to tho above. The Legislature of Massachusetts have, it seems, taken up the act of the Convention, and have appointed, or probably will appoint, an early day for its State Convention. There are letters, also, from Georgia, which denote a favorable disposition. I am informed from Richmond that the new Election law from the Revised Code produced a pretty full House of Delegates, as well as a Senate, on the first day. It had previously had equal effect in producing full meetings of the freeholders for the county elections. A very decided majority of the Assembly is said to be zealous in favor of the New Constitution. Tho same is said of the Country at large. It appears, however, that. individuals of great weight, both within and without the Legislature, are opposed to it. A letter I just have from Mr. A. Stuart names Mr. Henry, General Nelson, W. Nelson, the family of Cabells. St George Tucker, John Taylor, and the Judges of the General Court, except P. Carrington. Tho other opponents he describes as of too little note to be mentioned, which gives a negative information of tho characters on the other side. All are agreed that the plan must be submitted to a Convention.

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We hear from Georgia that that State is threatened with a dangerous war with the Creek Indians. The alarm is of so serious a nature that law-martial has been proclaimed, and they are proceeding to fortify even the town of Savannah. The idea there is, that the Indians derive their motives as well as their means from their Spanish neighbours. Individuals complain, also, that their fugitive slaves are encouraged by East Florida. The policy of this is explained by supposing that it is considered as a discouragement to the Georgians to form settlements near the Spanish boundaries.

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There are but few States on the spot here which will survive the expiration of the federal year, and it is extremely uncertain when a Congress will again be formed. We have not yet heard who are to be in the appointment of Virginia for the next year.

To Edmund Pendleton.

NEW YORK, October 2Sth, 1787.

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DEAR SIR,—I have received, and acknowledge with great pleasure, your favor of the 8th inst. The remarks which you make on the act of the Convention appear to me to be in general extremely well rounded. Your criticism on the clause exempting vessels bound to and from a State from being obliged to enter, de., in another, is particularly so. This provision was dictated by the jealousy of some particular States, and was inserted pretty late in the Session. The object of it was what you conjecture. The expression is certainly not accurate. Is not a religious test, as far as it is necessary, or would operate, involved in the oath itself? If the person swearing believes in the Supreme Being, who is invoked, and in the penal consequences of offending him, either in this or a future world, or both, he will be under the same restraint. from perjury as if he had previously subscribed a test requiring this belief. If the person in question be an unbeliever in these points, and would, notwithstanding, take the oath, a previous test could have no effect. He would subscribe it as he would take the oath, without any principle that could be affected by either.

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I find, by a letter from Mr. Dawson, that the proposed Constitution is received by the Assembly with a more prompt and general approbation than could well have been expected. The example of Virginia will have great weight, and the more so, as the disagreement of the deputation will give it more the appearance of being the unbiassed expression of the public mind. It would be truly mortifying if anything should occur to prevent or retard the concurrence of a State which has generally taken the lead on great occasions. And it would be the more so in this case, as it is generally believed that nine of the States at least will embrace the plan, and, consequently, that the tardy remainder must be reduced to the dilemma of either shifting for themselves, or coming in without any credit for it.

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There is reason to believe that the Eastern States, Rhode Island excepted, will be among the foremost in adopting the system. No particular information is yet received from New Hampshire. The presumptive evidence of its good disposition, however, is satisfactory. The Legislature of Massachusetts is now sitting, and letters from good authority say that everything goes well. Connecticut has unanimously called a Convention, and left no room to doubt her favorable disposition. This State has long lind the character of being anti-federal. Whether she will purge herself of it on this occasion, or not, is yet to be ascertained. Most of the respectable characters are zealous on the right side. The party in power is suspected, on good grounds, to be on the wrong one. New Jersey adopts eagerly the Constitution. Pennsylvania is considerably divided; but the majority are, as yet, clearly with the Convention. I have no very late information from Maryland. The reports are, that the opposition will make no great figure. Not a word has been heard from the States South of Virginia, except from the lower parts of North Carolina, where the Constitution was well received. There can be little doubt, I think, that the three Southern States will go right, unless the conduct of Virginia were to mislead them. I enclose two of the last newspapers of this place, to which I add one of Philada, containing the report of a late important decision of the Supreme Court there. If the report be faithful, I suspect it will not give you a high idea of the chancery knowledge of the Chief Justice.

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I am, dear sir, with sincere affection, your obt friend and servt.

To General Washington.

NEW YORK, November 18, 1787.

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DEAR SIR,—Your favour of the 5th instant found me in Philadelphia, whither I had proceeded, under arrangements for proceeding to Virginia or returning to this place, as I might there decide. I did not acknowledge it in Philadelphia, because I had nothing to communicate which you would not receive more fully and correctly from the Mr. Mortises, who were setting out for Virginia.

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All my informations from Richmond concur in representing the enthusiasm in favor of the new Constitution as subsiding, and giving place to a spirit of criticism. I was fearful of such an event from the influence and co-operation of some of the adversaries. I do not learn, however, that the cause has lost its majority in the Legislature, and still less among the people at large.

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I have nothing to add to the information heretofore given concerning the progress of the Constitution in other States. Mr. Gerry has presented his objections to the Legislature in a letter addressed to them, and signified his readiness, if desired, to give the particular reasons on which they were founded. The Legislature, it seems, decline the explanation, either from a supposition that they have nothing further to do in the business, having handed it over to the Convention, or from an unwillingness to countenance Mr. Gerry's conduct, or from both of these considerations. It is supposed that the promulgation of this letter will shake the confidence of some, and embolden the opposition of others in that State; but I cannot discover any ground for distrusting the prompt and decided concurrence of a large majority.

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I enclose herewith the seven first numbers of the Federalist, a paper addressed to the people of this State. They relate entirely to the importance of the Union. If the whole plan should be executed, it will present to the public a full discussion of the merits of the proposed Constitution in all its relations. From the opinion I have formed of the views of a party in Virginia, I am inclined to think that the observations on the first branch of the subject may not be superfluous antidotes in that State, any more than in this. If you concur with me, Perhaps the papers may be put into the hands of some of your confidential correspondents at Richmond, who would have them reprinted there. I will not conceal from you that I am likely to have such a degree of connection with the publication here as to afford a restraint of delicacy from interesting myself directly in the republication elsewhere. You will recognize one of the pens concerned in the task. There are three in the whole. A fourth may possibly bear a part.

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The intelligence by the packet, as far as I have collected it, is contained in the Gazette of yesterday.

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Virginia is the only State represented, as yet. When a Congress will be formed is altogether uncertain. It is not very improbable, I think, that the interregnum may continue through. out the winter.

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With every sentiment, &c.

To General Washington.

NEW YORK, November 20, 1787.

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DEAR SIR,—My last enclosed the seven first numbers of the paper of which I gave you some account. I now add the seven following numbers, which close the first branch of the subject. the importance of the Union. The succeeding papers shall be forwarded from time to time as they come out.

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The latest authentic information from Europe places the Dutch in a wretched situation. The patriots will Probably depend, in the event, on external politics for the degree of security and power that may be left them. The Turks and Russians have begun a war in that quarter, and a general one is not improbable.

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I have heard nothing of consequence lately concerning the progress of the new Constitution. The Pennsylvania Convention has probably by this time come to a decision, but it is not known here.

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Not more than two or three States are yet convened. The prospect of a quorum during the winter continues precarious.

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With every sentiment of respect and attachment, I remain, Dear Sir, your affecte, humble servt.

To General Washington.

NEW YORK, December 7, 1787.

Writings of Madison, Volume 1: 1769-1793, p.362

DEAR SIR,—My last enclosed a continuation of the Federalist to number 14, inclusive. I now add the numbers which have succeeded.

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No authentic information has yet arrived concerning the posture of Europe. Reports, with some less doubtful symptoms, countenance the suspicions of war.

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I understand that the Constitution will certainly be adopted in Connecticut, the returns of the Deputies being now known, and a very great majority found to be its declared and firm friends. There will be more opposition in Massachusetts, but its friends there continue to be very sanguine of victory. New Hampshire, as far as I can learn, may be set down on the right list.

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I remain, dear Sir, with the highest respect and the most unfeigned attachment, your obedient, humble servant.

To Thomas Jefferson.

NEW YORK, December 9th, 1787.

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DEAR SIR,—Your favor of the 17th of September, with sundry other letters and packets, came duly by the last packet. Such of them as were addressed to others were duly forwarded. The three boxes, marked I. M., G. W., and A. D. it appears, were never shipped from Havre. Whenever they arrive your commands with regard to the two last shall be attended to, as well as those relating to some of the contents of the first. I have not been able to get any satisfactory account of William S. Browne. Alderman Broom tells me that he professed to receive the money from him for the use of Mr. Burke. I shall not lose sight of the subject, and will give you the earliest information of the result of my enquiries.

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The annexed list of trees will shew you that I have ventured to substitute half a dozen sorts of apples in place of the pippins alone, and to add 8 other sorts of American Trees, including twenty of the Sugar maple. They were obtained from a Mr. Prince, in the neighborhood of this city, who deals largely in this way, and is considered as a man of worth. I learn from him that he has executed various commissions for Europe and the West Indies, as well as places less distant, and that be has been generally very successful in preserving the trees from perishing by such distant transplantations. tie does not use moss, as .you prescribe, but encloses the roots in a bag of earth. As moss is not to be got, he says, it is uncertain whether necessity or choice gives the preference to the latter. I enclose a catalogue of his nursery, and annex the price of the sample I scud you, that you may, if you incline, give orders for any other supply. I doubt whether the Virginia Red Birds are found in this part of America. Opossums are not rare in the milder parts of New Jersey, but are very rare this far Northward. I shall, nevertheless, avail myself of any opportunities which may happen for procuring and forwarding both.

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Along with the box of trees, I send by the packet, to the care of Mr. Limosin, two barrels of New-town pippins, and two of Cranberries. In one of the latter the Cranberries are put up dry, in the other in water; the opinions and accounts differing as to the best mode, you will note the event of the experiment.

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The Constitution proposed by the late Convention engrosses almost the whole political attention of America. All the Legislatures, except that of Rhode Island, which has assembled, have agreed in submitting it to State Conventions. Virginia has set the example of opening a door for amendments, if the Convention there should chuse to propose them. Maryland has copied it. The States which preceded referred the Constitution, as recommended by the General Convention, to be ratified or rejected as it stands. The Convention of Pennsylvania is now sitting. There are about 44 or 45 on the affirmative, and about half that number on the opposite side; a considerable number of the Constitutional party, as it was called, having joined the other party in espousing the Federal Constitution. The returns of deputies for the Convention of Connecticut are known, and prove, as is said by those who know the men, that a very great majority will adopt it in that State.

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The event in Massachusetts lies in greater uncertainty. The friends of the New Government continue to be sanguine. New Hampshire, from every account, as well as from some general inducements felt there, will pretty certainly be on the affirmative side. So will New Jersey and Delaware. New York is much divided. She will hardly dissent from New England, particularly if the conduct of the latter should coincide with that of New Jersey and Pennsylvania. A more formidable opposition is likely to be made in Maryland than was at first conjectured. Mr. Mercer, it seems, who was a member of the Convention, though his attendance was but for a short time, is become an auxiliary to Chase. Johnson, the Carrolls, Governor Lee, and most of the other characters of weight, are on the other side. Mr. T. Stone died a little before the Government was promulged.

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The body of the people in Virginia, particularly in the upper and lower Country, and in the Northern neck, are, as far as I can gather, much disposed to adopt the New Constitution. The middle Country, and the South side of James River, are principally in the opposition to it. As yet a large majority of the people are under the first description; as yet, also, are a majority of the Assembly. What change may be produced by the united influence and exertions of Mr. Henry, Mr. Mason, and the Governor, with some pretty able auxiliaries, is uncertain. My information leads me to suppose there must be three parties in Virginia. The first, for adopting without attempting amendments. This includes General Washington and the other deputies who signed the Constitution, Mr. Pendleton, (Mr. Marshall, I believe,) Mr. Nicholas, Mr. Corbin, Mr. Zachy Johnson, Col. Innes, (Mr. B. Randolph, as I understand,) Mr. Harvey, Mr. Gabriel Jones, Doctor Jones, &c., &c. At the head of the second party, which urges amendments, are the Governor and Mr. Mason. These do not object to the substance of the Government, but contend for a few additional guards in favor of the rights of the States and of the people. I am not able to enumerate the characters which fall in with their ideas, as distinguished from those of a third class, at the head of which is Mr. Henry. This class concurs at present with the patrons of amendments, but will probably contend for such as strike at the essence of the system, and must lead to an adherence to the principle of the existing confederation, which most thinking men are convinced is a visionary one, or to a partition of the Union into several Confederacies.

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Mr. Harrison, the late Governor, is with Mr. Henry. So are a number of others. The General and Admiralty Courts, with most of the Bar, oppose the Constitution, but on what particular grounds I am unable to say. General Nelson, Mr. John Page, Col. Bland, &c., are also opponents, but on what principle and to what extent I am equally at a loss to say. In general, I must note that I speak with respect to many of these names from information that may not be accurate, and merely as I should do in a free and confidential conversation with you. I have not yet heard Mr. Wythe's sentiments on the subject. Doctor McClurg, the other absent deputy, is a very strenuous defender of the new Government. Mr. Henry is the great adversary who will render the event precarious. He is, I find, with his usual address, working up every possible interest into a spirit of opposition.

Writings of Madison, Volume 1: 1769-1793, p.365

It is worthy of remark, that whilst in Virginia, and some of the other States in the middle and Southern Districts of the Union, the men of intelligence, patriotism, property, and independent circumstances, are thus divided, all of this description, with a few exceptions, in the Eastern States, and most of the Middle States, are zealously attached to the proposed Constitution. In New England, the men of letters, the principal officers of Government, the Judges and lawyers, the Clergy, and men of property, furnish only here and there an adversary. It is not less worthy of remark, that in Virginia, where the mass of the people have been so much accustomed to be guided by their rulers on all new and intricate questions, they should on the present, which certainly surpasses the judgment of the greater part of them, not only go before, but contrary to their most popular leaders. And the phenomenon is the more wonderful, as a popular ground is taken by all the adversaries to the new Constitution. Perhaps the solution in both these cases would not be very difficult; but it would lead to observations too diffusive, and to you unnecessary. I will barely observe that the case in Virginia seems to prove that the body of sober and steady people, even of the lower order, are tired of the vicissitudes, injustice, and follies, which have so much characterized public measures, and are impatient for some change which promises stability and repose.

Writings of Madison, Volume 1: 1769-1793, p.366

The proceedings of the present Assembly are more likely to cherish than remove this disposition. I find Mr. Henry has carried a Resolution for prohibiting the importation of Rum, brandy, and other ardent spirits; and if I am not misinformed, all manufactured leather, hats, and sundry other articles, are included in the prohibition. Enormous duties, at least, are likely to take place on the last and many other articles. A project of this sort, without the concurrence of the other States, is little short of madness. With such concurrence, it is not practicable without resorting to expedients equally noxious to liberty and economy. The consequences of the experiment in a single State as unprepared for manufactures as Virginia may easily be preconceived.

Writings of Madison, Volume 1: 1769-1793, p.366

The Revised Code will not be resumed. Mr. Henry is an inveterate adversary to it. Col. Mason made a regular and powerful attack on the port Bill, but was left in a very small minority. I found at the last session that that regulation was not to be shaken, though it certainly owes its success less to its principal merits than to collateral and casual considerations. The popular ideas are, that by favoring the collection of duties on imports, it saves the solid property from direct taxes; and that it injures Great Britain by lessening the advantage she has over other nations in the trade of Virginia.

Writings of Madison, Volume 1: 1769-1793, p.367

We have no certain information from the three Southern States concerning the temper relative to the new Government. It is in general favorable, according to the vague accounts we have. Opposition, however, will be made in each. Mr. Wiley Jones and Governor Gaswell have been named as opponents in North Carolina.

Writings of Madison, Volume 1: 1769-1793, p.367

So few particulars have come to hand concerning the state of things in Georgia, that I have nothing to add, on that subject, to the contents of my last by Commodore Jones.

Writings of Madison, Volume 1: 1769-1793, p.367

We have two or three States only yet met for Congress. As many more can be called in, when their attendance will make a quorum. It continues to be problematical whether the interregnum will not be spun out through the winter.

Writings of Madison, Volume 1: 1769-1793, p.367

"We remain in great uncertainty here with regard to a war in Europe. Reports and suspicions are strongly on the side of one. Such an event may be considered in various relations to this country. It is pretty certain, I think, that if the present lax state of our General Government should continue, we shall not only lose certain capital advantages which might be drawn from it, but be in danger of being plunged into difficulties, which may have a very serious effect on our future fortunes.

To General Washington.

NEW YORK, December 14, 1787.

Writings of Madison, Volume 1: 1769-1793, p.367

DEAR SIR,—Along with this are enclosed a few copies of the latest gazettes, containing the additional papers in favor of the federal Constitution.

Writings of Madison, Volume 1: 1769-1793, p.367

I find by letters from Richmond that the proceedings of the Assembly are, as usual, rapidly degenerating with the progress of the Session; and particularly that the force opposed to the act of the Convention has gained the ascendance. There is still, nevertheless, a hope left that different characters and a different spirit may prevail in their successors, who are to make the final decision. In one point of view, the present Assembly may, perhaps, be regarded as pleading most powerfully the cause of the new government, for it is impossible for stronger proofs to be found than in their conduct of the necessity of some such anchor against the fluctuations which threaten to shipwreck our liberty.

Writings of Madison, Volume 1: 1769-1793, p.368

I am, dear Sir, with the most sincere and perfect esteem, your affecte and obt humble servant.

To General Washington.

NEW YORK, December 26, 1787.

Writings of Madison, Volume 1: 1769-1793, p.368

DEAR SIR,—I am just informed by a Delegate from New Hampshire that he has a letter from President Sullivan, which tells him that the Legislature had unanimously agreed to call a Convention, as recommended, to meet in February. The second Wednesday is the day, if I have not mistaken it. We have no further information of much importance from Massachusetts. It appears that Cambridge, the residence of Mr. Gerry, has left him out of the choice for the Convention, and put in Mr. Dana, formerly Minister of the United States in Europe, and another gentleman, both of them firmly opposed to Mr. Gerry's politics. I observe, too, in a Massachusetts paper, that the omission of Col. Mason's objection with regard to commerce, in the first publication of his objections, has been supplied. This will more than undo the effect of the mutilated view of them. New Jersey, the newspapers tell us, has adopted the Constitution unanimously. Our European intelligence remains perfectly as it stood at the date of my last.

Writings of Madison, Volume 1: 1769-1793, p.368

With the most affectionate esteem and attachment, I am, Dr Sir, your obt and very humble servt.

1788

To General Washington.

NEW YORK, January 14, 1788.

Writings of Madison, Volume 1: 1769-1793, p.369

DEAR SIR,—The daily Advertiser of this date contains several important articles of information, which need only to be referred to. I enclose it, with a few other late papers. Neither French nor English packet is yet arrived, and the present weather would prevent their getting in if they should be on the coast. I have heard nothing of consequence from Massachusetts since my last. The accounts from New Hampshire continue to be as favorable as could be wished. From South Carolina we get no material information. A letter from Georgia of the 25th of December says that the Convention was getting together at Augusta, and that everything wore a federal complexion. North Carolina, it seems, has been so complaisant to Virginia as to postpone her Convention 'till July. We are without a Congress.

Writings of Madison, Volume 1: 1769-1793, p.369

With perfect esteem and attachment, I remain, Dear Sir, your most obedt humble servant.

To General Washington.

NEW YORK, January 20, 1788.

Writings of Madison, Volume 1: 1769-1793, p.369

DEAR SIR,—The Count de Moustier arrived here a few days ago, as successor to the Chevalier de la Luzerne. His passage has been so tedious that I am not sure that the despatches from Mr. Jefferson make any considerable addition to former intelligence. I have not yet seen them, but am told that this is the case. In general, it appears that the affairs of Holland are put into a pacific train. The Prussian troops are to be withdrawn, and the event settled by negotiations. But it is still possible that the war between the Russians and Turks may spread a general flame throughout Europe.

Writings of Madison, Volume 1: 1769-1793, p.369

The intelligence from Massachusetts begins to be very ominous to the Constitution. The anti-federal party is reinforced by the insurgents, and by the province of Maine, which apprehends greater obstacles to the scheme of a separate government from the new system than may be otherwise experienced; and, according to the prospect at the date of the last letters, there was very great reason to fear that the voice of that State would be in the negative. The operation of such an event on this State may easily be foreseen. Its Legislature is now sitting, and is much divided. A majority of the Assembly are said to be friendly to the merits of the Constitution. A majority of the Senators actually convened are opposed to a submission of it to a Convention. The arrival of the absent members will render the voice of that branch uncertain on the point of a Convention. The decision of Massachusetts either way will involve the result in this State. The minority in Pennsylvania is very restless under their defeat. If they can get an assembly to their wish, they will endeavour to undermine what has been done there. If backed by Massachusetts, they will probably be emboldened to make some more rash experiment. The information from Georgia continues to be favorable. The little we get from South Carolina is of the same complexion.

Writings of Madison, Volume 1: 1769-1793, p.370

If I am not misinformed as to the arrival of some members for Congress, a quorum is at length made up.

Writings of Madison, Volume 1: 1769-1793, p.370

With the most perfect esteem and attachment, I remain, dear sir, your obt and humble servant.

To General Washington.

NEW YORK, January 25, 1788.

Writings of Madison, Volume 1: 1769-1793, p.370

DEAR SIR,—I have been favored since my last with yours of the 10th instant, with a copy of the Governor's letter to the Assembly. I do not know what impression the letter may make in Virginia. It is generally understood here that the arguments contained in it in favor of the Constitution are much stronger than the objections which prevented his assent. His arguments are forcible in all places, and with all persons. His objections are connected with his particular way of thinking on the subject, in which many of the adversaries to the Constitution do not concur.

Writings of Madison, Volume 1: 1769-1793, p.371

The information from Boston by the mail on the evening before last has not removed our suspense. The following is an extract of a letter from Mr. King, dated on the 16th instant:

Writings of Madison, Volume 1: 1769-1793, p.371

"We may have 360 members in our Convention. Not more than 330 have yet taken their seats. Immediately after the settlement of elections, the Convention resolved that they would consider and freely debate on each paragraph, without taking a question on any of them individually; and that on the question whether they would ratify, each member should be at liberty to discuss the plan at large. This Resolution seems to preclude the idea of amendments; and hitherto the measure has not been suggested. I, however, do not, from this circumstance, conclude that it may not hereafter occur. The opponents of the Constitution moved that Mr. Gerry should be requested to take a seat in the Convention, to answer such enquiries as the Convention should make concerning facts which happened in the passing of the Constitution. Although this seems to be a very irregular proposal, yet, considering the jealousies which prevail with those who made it, who are certainly not the most enlightened part of the Convention, and the doubt of the issue had it been made a trial of strength, several friends of the Constitution united with the opponents, and the resolution was agreed to, and Mr. Gerry has taken his seat. To-morrow, we are told, certain enquiries are to be moved for by the opposition, and that Mr. Gerry, under the idea of stating facts, is to state his reasons, &c. This will be opposed, and we shall, on the division, be able to form some idea of our relative strength. From the men who are in favor of the Constitution every reasonable explanation will be given, and arguments really new, and in my judgment most excellent, have been and will be produced in its support. But what will be its fate, I confess I am unable to discern. No question ever classed the people of this State in a more extraordinary manner, or With more apparent firmness."

Writings of Madison, Volume 1: 1769-1793, p.372

A Congress of seven States was made up on Monday. Mr. C. Griffin has been placed in the chair. This is the only step yet taken.

Writings of Madison, Volume 1: 1769-1793, p.372

I remain, with the highest respect and attachment, yours affectionately.

To General Washington.

NEW YORK, January 28, 1788.

Writings of Madison, Volume 1: 1769-1793, p.372

DEAR SIR,—The information which I have by the Eastern mail rather increases than removes the anxiety produced by the last. I give it to you as I have received it, in the words of Mr. King: "BOSTON, 20 January, 1788.

Writings of Madison, Volume 1: 1769-1793, p.372

"Our Convention proceeds slowly. An apprehension that the liberties of the people are in danger, and a distrust of men of property or education, have a more powerful effect upon the minds of our opponents than any specific objections against the Constitution. If the opposition was grounded on any precise points, I am persuaded that it might be weakened, if not entirely overcome. But any attempt to remove their fixed and violent jealousy seems hitherto to operate as a confirmation of that baneful passion. The opponents affirm to each other that they have an unalterable majority on their side. The friends doubt the strength of their adversaries, but are not entirely confident of their own. An event has taken place relative to Mr. Gerry, which, without great caution, may throw us into confusion. I informed you by the last post on what terms Mr. Gerry took a seat in the Convention. Yesterday, in the course of Debate on the Construction of the Senate, Mr. G., unasked, informed the Convention that he had some information to give the Convention on the subject then under discussion. Mr. Dana and a number of the most respectable members remarked upon the impropriety of Mr. G.'s conduct. Mr. G. rose with a view to justify himself. He was immediately prevented by a number objectors. This brought on an irregular conversation whether Mr. G. should be heard. The hour of adjournment arrived, and the President adjourned the House. Mr. Gerry immediately charged Mr. Dana with a design of injuring his reputation by partial information, and preventing his having an opportunity to communicate important truths to the Convention. This charge drew a warm reply from Mr. Dana. The members collected about them, took sides as they were for or against the Constitution, and we were in danger of the utmost confusion. However, the gentlemen separated, and I suppose to-morrow morning will renew the discussion before the Convention. I shall be better able to conjecture the final issue by next post."

Writings of Madison, Volume 1: 1769-1793, p.373

There are other letters of the same date from other gentlemen on the spot, which exhibit rather a more favorable prospect. Some of them, I am told, are even flattering. Accounts will always vary in such cases, because they must be rounded on different opportunities of remarking the general complexion, where they take no tincture from the opinions or temper of the writer.

Writings of Madison, Volume 1: 1769-1793, p.373

I remain, dear Sir, with the most perfect esteem and attachment, your obt servt.

To General Washington.

NEW YORK, February 1, 1788.

Writings of Madison, Volume 1: 1769-1793, p.373

DEAR SIR,—The eastern mail which arrived yesterday brought me a letter from Mr. King, of which a copy follows:

Writings of Madison, Volume 1: 1769-1793, p.373

"Our prospects are gloomy, but hope is not entirely extinguished. Gerry has not returned to the Convention, and I think will not again be invited. We are now thinking of amendments to be submitted, not as a condition of our assent and ratification, but as the opinion of the Convention subjoined to their ratification. This scheme may gain a few members, but the issue is doubtful."

Writings of Madison, Volume 1: 1769-1793, p.373

In this case, as in the last, Mr. King's information is accompanied with letters from other persons on the spot, which dwell more on the favorable side of the prospect. His anxiety on the subject may give a greater activity to his fears than to his hopes, and he would naturally lean to the cautious side. These circumstances encourage me to put as favorable a construction on his letter as it will bear.

Writings of Madison, Volume 1: 1769-1793, p.374

A vessel is arrived here from Charleston, which brings letters that speak with confidence of an adoption of the federal Constitution in that State, and make it very probable that Georgia had actually adopted it. Some letters from North Carolina speak a very equivocal language as to the prospect there.

Writings of Madison, Volume 1: 1769-1793, p.374

The French Packet arrived yesterday. As she has been out since early in November, little news can be expected by her. I have not yet got my letters, if there be any for me, and I have heard the contents of no others.

Writings of Madison, Volume 1: 1769-1793, p.374

I remain, Dear Sir, with the utmost respect and attachment, your affectionate servt.

To General Washington.

NEW YORK, February 8, 1788.

Writings of Madison, Volume 1: 1769-1793, p.374

DEAR SIR,—The prospect in Massachusetts seems to brighten, if I view in the true light the following representation of it: "This day, (January 30,) for the first time, our President, Mr. Hancock, took his scat in Convention, and we shall probably terminate our business on Saturday or tuesday next. I cannot predict the issue, but our hopes are increasing. If Mr. Hancock does not disappoint our present expectations, our wishes will be gratified." Several reflections are suggested by this paragraph which countenance a favorable inference from it. I hope, from the rapid advance towards a conclusion of the business, that even the project of recommendatory alterations has been dispensed with.

Writings of Madison, Volume 1: 1769-1793, p.374

The form of the ratification of Georgia is contained in one of the papers herewith enclosed. Every information from South Carolina continues to be favorable. I have seen a letter from North Carolina, of pretty late date, which admits that a very formidable opposition exists, but leans towards a federal result in that State. As far as I can discover, the state of the question in North Carolina is pretty analogous to that in Virginia. The body of the people are better disposed than some of a superior order. The Resolutions of New York for calling a convention appear, by the paper, to have passed by a majority of two only in the House of Assembly. I am told this proceeded in some degree from an injudicious form in which the business was conducted, and which threw some of the federalists into the opposition.

Writings of Madison, Volume 1: 1769-1793, p.375

I am just informed by a gentleman who has seen another letter from Boston, of the same date with mine, that the plan of recommendatory alterations has not been abandoned, but that they will be put into a harmless form, and will be the means of saving the Constitution from all risk in Massachusetts.

Writings of Madison, Volume 1: 1769-1793, p.375

With the highest respect and attachment, I remain, Dear Sir, yr affecte and humle servt.

To General Washington.

NEW YORK, February 11, 1788.

Writings of Madison, Volume 1: 1769-1793, p.375

DEAR SIR,—The newspaper enclosed, with the letter which follows, comprises the information brought me by the mail of yesterday:

Writings of Madison, Volume 1: 1769-1793, p.375

"BOSTON, Feby 3.

Writings of Madison, Volume 1: 1769-1793, p.375

"I enclose a newspaper containing the propositions communicated by Mr. Hancock to the Convention on Thursday last. Mr. Samuel Adams, who, contrary to his own sentiments, has been hitherto silent in Convention, has given his public and explicit approbation of Mr. Hancock's propositions. We flatter ourselves that the weight of these two characters will ensure our success, but the event is not absolutely certain. Yesterday a committee was appointed, on the motion of a doubtful character, to consider the propositions of Mr. Hancock, and to report to-morrow afternoon. We have a majority of federalists on this committee, and flatter ourselves the result will be favorable.

Writings of Madison, Volume 1: 1769-1793, p.376

"P. S. We shall probably decide on thursday or friday next, when our numbers will amount to about 363."

Writings of Madison, Volume 1: 1769-1793, p.376

With greatest esteem and attachment, I am, Dr Sir, your obt and affect' servt.

To General Washington.

NEW YORK, February 15, 1788.

Writings of Madison, Volume 1: 1769-1793, p.376

DEAR SIR,—I have at length the pleasure to enclose you the favorable result of the Convention at Boston. The amendments are a blemish, but are in the least offensive form. The minority, also, is very disagreeably large, but the temper of it is some atonement. I am assured by Mr. King that the leaders of it, as well as the members of it in general, are in good humor, and will countenance no irregular opposition, there or elsewhere. The Convention of New Hampshire is now sitting. There seems to be no question that the issue there will add a seventh pillar, as the phrase now is, to the federal Temple.

Writings of Madison, Volume 1: 1769-1793, p.376

With the greatest respect and attachment, I am, Dear Sir, yrs.

To Thomas Jefferson.

NEW YORK, February 19th, 1788.

Writings of Madison, Volume 1: 1769-1793, p.376

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.376

The public here continues to be much agitated by the proposed federal Constitution, and to be attentive to little else. At the date of my last, Delaware, Pennsylvania, and New Jersey, had adopted it. It has been since adopted by Connecticut, Georgia, and Massachusetts. In the first, the minority consisted of 40 against 127. In Georgia, the adoption was unanimous. In Massachusetts, the conflict was tedious and the event extremely doubtful. On the final. question the vote stood 187 against 168, a majority of 19 only being in favor of the Constitution.

Writings of Madison, Volume 1: 1769-1793, p.377

The prevailing party comprized, however, all the men of abilities, of property, and of influence. In the opposite multitude there was not a single character capable of uniting their wills or directing their measures. It was made up, partly of deputies from the province of Maine, who apprehended difficulties from the new Government to their scheme of separation, partly of men who had espoused the disaffection of Shay's, and partly of ignorant and jealous men, who had been taught, or had fancied, that the Convention at Philadelphia had entered into a conspiracy against the liberties of the people at large, in order to erect an aristocracy for the rich, the well born, and the men of Education. They had no plan whatever. They looked no farther than to put a negative on the Constitution and return home. The amendments, as recommended by the Convention, were, as I am well informed, not so much calculated for the minority in the Convention, on whom they had little effect, as for the people of the State. You will find the amendments in the newspapers which are sent from the office of foreign affairs. It appears, from a variety of circumstances, that disappointment had produced no asperity in the minority, and that they will probably not only acquiesce in the event, but endeavour to reconcile their constituents to it. This was the public declaration of several who were called the leaders of the party.

Writings of Madison, Volume 1: 1769-1793, p.377

The minority of Connecticut behaved with equal moderation. That of Pennsylvania has been extremely intemperate, and continues to use a very bold and menacing language. Had the decision in Massachusetts been adverse to the Constitution, it is not improbable that some very violent measures would have followed in that State. The cause of the inflammation, however, is much more in their State factions than in the system proposed by the Convention. New Hampshire is now deliberating on the Constitution. It is generally understood that an adoption is a matter of certainty. South Carolina and Maryland have fixed on April or May for their Conventions. The former, it is currently said, will be one of the ratifying States. Mr. Chase, and a few others, will raise a considerable opposition in the latter. But the weight of personal influence is on the side of the Constitution, and the present expectation is, that the opposition will be outnumbered by a great majority. This State is much divided in its sentiments. Its Convention is to be held in June. The decision of Massachusetts will give the turn in favor of the Constitution, unless an idea should prevail, or the fact should appear, that the voice of the State is opposed to the result of its Convention. North Carolina has put off her Convention till July. The State is much divided, it is said.

Writings of Madison, Volume 1: 1769-1793, p.378

The temper of Virginia, as far as I can learn, has undergone but little change of late. At first, there was an enthusiasm for the Constitution. The tide next took a sudden and strong turn in the opposite direction. The influence and exertions of Mr. Henry and Col. Mason, and some others, will account for this. Subsequent information again represented the Constitution as regaining, in some degree, its lost ground. The people at large have been uniformly said to be more friendly to the Constitution than the Assembly. But it is probable that the dispersion of the latter will have a considerable influence on the opinions of the former. The previous adoption of nine States must have a very persuasive effect on the minds of the opposition, though I am told that a very bold language is held by Mr. Henry and some of his partizans. Great stress is laid on the self-sufficiency of that State, and the prospect of external props is alluded to.

Writings of Madison, Volume 1: 1769-1793, p.378

Congress have done no business of consequence yet, nor is it probable that much more of any sort will precede the event of the great question before the public.

Writings of Madison, Volume 1: 1769-1793, p.378

The Assembly of Virginia have passed the district Bill, of which I formerly gave you an account. There are 18 districts, with 4 new Judges, Mr. Gabriel Jones, Richard Parker, St George Tucker, and Jos. Prentis. They have reduced much the taxes, and provided some indulgences for debtors. The question of British debts underwent great vicissitudes. It was, after long discussion, resolved by a majority of 30, against the utmost exertions of Mr. Henry, that they should be paid as soon as the other States should have complied with the Treaty. A few days afterwards he carried his point by a majority of 50, that Great Britain should first comply.

Writings of Madison, Volume 1: 1769-1793, p.379

Adieu. Yrs affecty.

Writings of Madison, Volume 1: 1769-1793, p.379

P. S. Mr. St. John has given me a very interesting description of a "System of Nature," lately published at Paris. Will you add it for me?

To General Washington.

NEW YORK, February 20, 1788.

Writings of Madison, Volume 1: 1769-1793, p.379

DEAR SIR,—I am just favored with yours of the 7th instant, and will attend to your wishes as to the political essays in the press.

Writings of Madison, Volume 1: 1769-1793, p.379

I have given notice to my friends in Orange that the County may command my services in the Convention if it pleases. I can say with great truth, however, that in this overture I sacrifice every private inclination to considerations not of a selfish nature. I foresee that the undertaking will involve me in very laborious and irksome discussions; that public opposition to several very respectable characters, whose esteem and friendship I greatly prize, may unintentionally endanger the subsisting connection; and that disagreeable misconstructions, of which samples have been already given, may be the fruit of those exertions which fidelity will impose. But I have made up my determination on the subject; and if I am informed that my presence at the election in the County be indispensable, shall submit to that condition also; although it is my particular wish to decline it, as well to avoid apparent solicitude on the occasion as a journey of such length at a very unpleasant season.

Writings of Madison, Volume 1: 1769-1793, p.380

I had seen the extract of your letter to Col. Carter, and had supposed, from the place where it first made its appearance, that its publication was the effect of the zeal of a correspondent. I cannot but think, on the whole, that it may have been of service, notwithstanding the scandalous misinterpretations of it which have been attempted. As it has evidently the air of a paragraph to a familiar friend, the omission of an argumentative support of the opinion given will appear to no candid reader unnatural or improper.

Writings of Madison, Volume 1: 1769-1793, p.380

We have no late information from Europe except through the English papers, which represent the affairs of France as in the most ticklish state. The facts have every appearance of authenticity, and we wait with great impatience for the packet which is daily expected. It can be little doubted that the patriots have been abandoned, whether from impotency in France, misconduct in them, or from what other cause, is not altogether clear. The French apologists are visibly embarrassed by the dilemma of submitting to the appearance of either weakness or the want of faith. They seem generally to allege that their engagements being with the Republic, the nation could not oppose the regular authority of the country by supporting a single province, or, perhaps, a party in it only. The validity of this excuse will depend much on the real connection between France and the patriots, and the assurances given as an encouragement to the latter. From the British King's speech, it would seem that France had avowed her purpose of supporting her Dutch friends, though it is possible her menaces to England might be carried further than her real promises to the patriots. All these circumstances, however, must have galled the pride of France, and I have little doubt that a war will prove it as soon as her condition will admit of it; perhaps she may be the sooner forced into it on account of her being in a contrary situation.

Writings of Madison, Volume 1: 1769-1793, p.380

I hear nothing yet from the Convention of New Hampshire. I remain, yours most respectfully and affectionately,

To Edmund Pendleton.

NEW YORK, Feby 21st, 1788.

Writings of Madison, Volume 1: 1769-1793, p.381

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.381

Your representation of the politics of the State coincides with the information from every other quarter. Great fluctuations and divisions of opinion naturally result in Virginia from the causes which you describe, but they are not the less ominous on that account. I have, for some time, been persuaded that the question on which the proposed Constitution must turn is the simple one, whether the Union shall or shall not be continued. There is, in my opinion, no middle ground to be taken. The opposition with some has disunion assuredly for its object, and with all for its real tendency.

Writings of Madison, Volume 1: 1769-1793, p.381

Events have demonstrated that no coalition can ever take place in favor of a new plan among the adversaries to the proposed one. The grounds of objection among the non-signing members of the Convention are by no means the same. The disapproving members who were absent, but who have since published their objections, differ irreconcileably from each of them. The writers against the Constitution are as little agreed with one another; and the principles which have been disclosed by the several minorities, where the Constitution has not been unanimously adopted, are as heterogeneous as can be imagined. That of Massachusetts, as far as I can learn, was averse to any Government that deserved the name, and, it is certain, looked no farther than to reject the Constitution in toto and return home in triumph. The men of abilities, of property, of character, with every judge, lawyer of eminence, and the clergy of all sects, were, with scarce an exception deserving notice, as unanimous in that State as the same description of characters are divided and opposed to one another in Virginia. This contrast does not arise from circumstances of local interest, but from causes which will, in my opinion, produce much regret hereafter in the opponents in Virginia, if they should succeed in their opposition.

Writings of Madison, Volume 1: 1769-1793, p.381

New Hampshire is now in Convention. It is expected that the result will be in favor of the Constitution. Rhode Island takes no notice of the matter. New York is much divided. The weight of abilities and of property is on the side of the Constitution. She must go with the Eastern States, let the direction be what it may. By a vessel just from Charleston, we understand that opposition will be made there. Mr. Lowndes is the leader of it.

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A British packet brings a picture of affairs in France which indicates some approaching events in that Kingdom, which may almost amount to a Revolution in the form of its Government. The authority is in itself suspicious; but it coincides with a variety of proofs that the spirit of liberty has made a progress which must lead to some remarkable conclusion of the scene. The Dutch patriots seem to have been the victims partly of their own folly, and partly of something amiss in their friends. The present state of that Confederacy is, or ought to be a very emphatic lesson to the United States. The want of union and a capable Government is the source of all their calamities, and particularly of that dependence on foreign powers which is as dishonorable to their character as it is destructive of their tranquillity.

To Edmund Pendleton.

NEW YORK, March 3d, 1788.

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DEAR SIR,—The Convention of New Hampshire have disappointed much the general expectation. Instead of adopting the Constitution, they have adjourned, without any final decision, until June, this expedient being found necessary to prevent a rejection. It seems that a majority of three or four members would have voted in the negative, but in this majority were a number who had been proselyted by the discussions, but were bound by positive instructions. These concurred with the federalists in the adjournment, and carried it by a majority of fifty-seven against forty-seven. It is not much doubted that, in the event, New Hampshire will be among the adopting States. But the influence of this check will be very considerable in this State, (New York,) and in several others. I have enquired whether June was preferred for the second meeting from any reference to Virginia or New York, and am informed that it was merely an accommodation to the intermediate annual elections and Courts.

To General Washington.

NEW YORK, March 3, 1788.

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DEAR SIR,—The Convention of New Hampshire has afforded a very disagreeable subject of communication. It has not rejected the Constitution, but it has failed to adopt it. Contrary to all calculations that had been made, it appeared, on a meeting of the members, that a majority of three or four was adverse to the object before them, and that, on a final question on the merits, the decision would be in the negative. In this critical state of things, the federalists thought it best to attempt an adjournment; and having proselyted some of the members who were Positively instructed, against the Constitution, the attempt succeeded by a majority of 57 against 47, if my information as to the numbers be correct. It seems to be fully expected that some of the instructed members will prevail on their towns to unfetter them, and that, in the event, New Hampshire will be among the adopting States. The mischief elsewhere will, in the mean time, be of a serious nature. The second meeting is to be in June. This circumstance will probably be construed in Virginia as making contemporary arrangements with her. It is explained to me, however, as having reference merely to the conveniency of the members, whose attendance at their annual elections and courts would not consist with an earlier period. The opposition, I understand, is composed precisely of the same description of characters with that of Massachusetts, and stands contrasted to all the wealth, abilities, and respectability of the State.

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I am preparing to set out for Orange, and promise myself the pleasure of taking Mount Vernon in the way.

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I remain, yours most respectfully and affectionately.

To General Washington.

ORANGE, April 10, 1788.

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DEAR SIR,—Having seen a part only of the names returned for the Convention, and being unacquainted with the political characters of many of them, I am a very incompetent prophet of the fate of the Constitution. My hopes, however, are much encouraged by my present conjectures. Those who have more, data for their calculations than I have augur a flattering issue to the deliberations of June. I find that Col. Nicholas, who is among the best judges, thinks, on the whole, that a majority in the Convention will be on the list of federalists; but very properly takes into view the turn that may be given to the event by the weight of Kentucky, if thrown into the wrong scale, and by the proceedings of Maryland and South Carolina, if they should terminate in either a rejection or postponement of the question. The impression on Kentucky, like that on the rest of the State, was at first answerable to our wishes; but, as elsewhere, the torch of discord has been thrown in, and has found the materials but too inflammable. I have written several letters since my arrival to correspondents in that district, with a view to counteract anti-federal machinations. I have little expectation, however, that they will have much effect, unless the communications that may go from Mr. Brown in Congress should happen to breathe the same spirit; and I am not without apprehensions that his mind may have taken an unlucky tincture from the difficulties thrown in the way of the separation of the District, as well as from some antecedent proceedings of Congress. I have taken the liberty of writing, also, to a friend in South Carolina, on the critical importance of a right decision there to a favorable one here. The enclosed letter, which I leave unsealed, will shew you that I am doing the same with respect to Maryland. Will you be so good as to put a wafer in it, and send it to the post office for Georgetown, or to change the address to Annapolis, if you should have reason to conclude that Mr. Carroll will be there? I have written a similar letter to Doctor McHenry. The difference between even a postponement and adoption in Maryland may, in the nice balance of parties here, possibly give a fatal advantage to that which opposes the Constitution.

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I have done nothing yet in preparing answers to the queries. As facts are to be ascertained, as well as opinions formed, delay will be of course counted upon.

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With every sentiment of respect and attachment, I remain, Dear Sir, your obt and humble sert.

To Edmund Randolph.

ORANGE, Apt 10th 1788.

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MY DEAR FRIEND,—I view the amendments of Massachusetts pretty nearly in the same light that you do. They were meant for the people at large, not for the minority in the Convention. The latter were not affected by them, their objections being levelled against the very essence of the proposed Government. I do not see that the 2d amendment, if I understand its scope, can be more exceptionable to the Southern States than the others. I take it to mean that the number of Representatives shall be limited to two hundred, who will be apportioned from time to time according to a census; not that the apportionment first made, when the Representatives amount to that number, shall be perpetual. The 9th amendment, I have understood, was made a very serious point of by S. Adams.

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I do not know of anything in the new Constitution that can change the obligations of the public with regard to the old money. The principle on which it is to be settled seems to be equally in the power of that as of the existing one. The claim of the Indiana Company cannot, I should suppose, be any more validated by the new system than that of all the creditors and others who have been aggrieved by unjust laws. You do not mention what part of the Constitution could give colour to such a doctrine. The condemnation of retrospective laws, if that be the part, does not appear to me to admit, on any principle, of such a retrospective construction. As to the religious test, I should conceive that it can imply at most nothing more than that, without that exception, a power would have been given to impose an oath, involving a religious test as a qualification for office. The constitution of necessary offices being given to the Congress, the proper qualificationsseem to be evidently involved. I think, too, there are several other satisfactory points of view in which the exception might be placed.

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I shall be extremely happy to see a coalition among all the real federalists. Recommendatory alterations are the only. ground that occurs to me. A conditional ratification or a second Convention appears to me utterly irreconcileable, in the present state of things, with the dictates of prudence and safety. I am confirmed by a comparative view of the publications on the subject, and still more of the debates in the several Conventions, that a second experiment would be either wholly abortive, or would end in something much more remote from your ideas, and those of others who wish a salutary Government, than the plan now before the public. It is to be considered, also, that besides the local and personal pride that would stand in the way, it could not be a very easy matter to bring about a reconsideration and recision of what will certainly have been done in six, and probably eight States, and in several of them by unanimous votes. Add to all this the extreme facility with which those who secretly aim at disunion (and there are probably some such in most, if not all the States) will be able to carry on their schemes, under the mask of contending for alterations, popular in some places, and known to be inadmissible in others. Every danger of this sort might be justly dreaded from such men as this State and New York only could furnish, playing for such a purpose into each others' hands. The declaration of Henry, mentioned in your letter, is a proof to me that desperate measures will be his game. If report does not more than usually exaggerate, Mason, also, is ripening fast for going every length. His licentiousness of animadversion, it is said, no longer spares even the moderate opponents of the Constitution.

To Thomas Jefferson.

ORANGE, April 22d, 1788.

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DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

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The proposed Constitution still engrosses the public attention. The elections for the Convention here are but just over and promulged. From the returns, (excepting those from Kentucky, which are not yet known,) it seems probable, though not absolutely certain, that a majority of the members elect are friends to the Constitution. The superiority of abilities, at least, seems to lie on that side. The characters of most note which occur to me are marshaled thus: For the Constitution, Pendleton, Wythe, Blair, Innes, Marshall, Doctor W. Jones, G. Nicholas, Wilson Nicholas, Gabl Jones, Thomas Lewis, F. Corbin, Ralph Wormley, Jr., White of Frederick, General Gates, General A. Stephens, Archibald Stuart, ZachY Johnson, Doctor Stuart, Parson Andrews, H. Lee, Jr., Bushrod Washington, considered as a young gentleman of talents; against the Constitution, Mr. Henry, Mason, Harrison, Grayson, Tyler, M. Smith, W. Ronald, Lawson, Bland, Wm. Cabell, Dawson.

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The Governor is so temperate in his opposition, and goes so far with the friends of the Constitution, that he cannot properly be classed with its enemies. Monroe is considered by some as an enemy, but I believe him to be a friend. There are other individuals of weight whose opinions are unknown to me. R. H. Lee is not elected. His brother, F. L. Lee, is a warm friend to the Constitution, as I am told; but, also, is not elected. So are John and Mann Page.

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The adversaries take very different grounds of opposition. Some are opposed to the substance of the plan; others, to particular modifications only. Mr. Henry is supposed to aim at disunion. Col. Mason is growing every day more bitter and outrageous in his efforts to carry his point, and will probably, in the end, be thrown by the violence of his passions into the politics of Mr. Henry. The preliminary question will be, whether previous alterations shall be insisted on or not. Should this be carried in the affirmative, either a conditional ratification or a proposal for a new Convention will ensue. In either event, I think the Constitution and the Union will be both endangered. It is not to be expected that the States which have ratified will reconsider their determinations, and submit to the alterations prescribed by Virginia. And if a second Convention should be formed, it is as little to be expected that the same spirit of compromise will prevail in it as produced an amicable result to the first. It will be easy, also, for those who have latent views of disunion, to carry them on under the mask of contending for alterations, popular in some, but inadmissible in other parts of the United States.

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The real sense of the people of this State cannot be easily ascertained. They are certainly attached, and with warmth, to a continuance of the Union, and I believe a large majority of the most intelligent and independent are equally so to the plan under consideration. On a geographical view of them, almost all the Counties in the Northern Neck have elected federal deputies. The Counties on the South side of James River have pretty generally elected adversaries to the Constitution. The intermediate district is much chequered in this respect. The Counties between the blue ridge and the Alleghany have chosen friends to the Constitution, without a single exception. Those westward of the latter have, as I am informed, generally though not universally, pursued the same rule. Kentucky it is supposed will be divided.

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Having been in Virginia but a few weeks, I can give you little account of other matters, and none of your private affairs or connections, particularly of your two nephews.

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The winter here, as everywhere else in the United States, was very severe, which, added to short crops of corn, threatened a great scarcity and a high price. It is found, however, that neither of these evils has taken place. Corn may be purchased for 2 dollars, and even 10s. per barrel. Tobacco is as low at Fredericksburg as 18s pr c., and not higher at Richmond than 22 or 23s. There is at present a very promising spring, especially in the article of fruit. The night before last was so cold as to produce an alarm for the vegetation of all sorts, but it does not appear that anything less vulnerable than young cucumbers had been injured.

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I shall ask the favor of Mr. Griffin to send you by Mr. Paradise, or if he should be gone by some other hand, the Debates of the Conventions in Pennsylvania and Massachusetts, and any other publications worth your reading.

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I am, dear sir, your affectionate friend and servt.

Additional Memorandum for the Convention of Virginia in 1788, on the Federal Constitution.

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Examples shewing defect of mere Confederacies.

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Amphictyonic League. See

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Lyciando.

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Achæando.

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Germando.

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Swissdo.

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Belgicdo.

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United Colonies. See

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Albany project. See Albany papers.

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Articles of Confederation. See

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Hanseatic do.

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Union of Calmar do.

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England and Scotland formed in 1706, by 32 Commissioners appointed for each Kingdom; they sat from April 18th to middle of July; they were appointed by crown, by acts of two parliaments; restrained from treating of Religion.

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The Scotch had got the notion of a federal Union, like Holland and Switzerland. England opposed decidedly; among other reasons, because of different parliaments; either could break it when pleased.

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Many had despaired of Union, as Burnet himself.

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In Scotland, opposed violently, particularly by those who were for a new revolution, as Union fatal bar to it; carried in parliament by inconsiderable majority. The presbyterians brought into opposition by persuasion that religious rights would be in danger; this argument used most by those known to be most adverse to that Religion, especially Dutchess of Hamilton and Son, who, as next in succession, hoped for Crown, if separate Kingdom.

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General arguments against Union in Scotland:

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1. Antiquity and dignity of Kingdom to be given up and sold.

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2. Departing from independent State, and to be swallowed by Engd.

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3. Would be outvoted in all questions by Engd's superiority in Parlt.\*

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4. Scotland no more be regarded by foreign nations. 5. Danger to the Kirk.

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Finally, Scotch parliament prevailed on to annex conditions which advisers thought would never be agreed to, and thus the plan be defeated.

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Opposers of Union, finding majority against them, endeavoured to raise a storm out of doors; petitions, addresses, and remonstrances came up from all quarters, instigated by minority; even riots excited about parliament House.

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In England, alarm also for Religion, and act passed to secure it. House of Commons unanimous; Lords, 50 and 20.

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Writ of error lies from B. R., in Ireland, to B. R., in Engd.\_\_ Blackst.

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Do. do., from Wales to B. R.—Jenkins Cent., and 1 W. and M., c. 27.

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As to Scotland into Parliament, see 6 Ann., c. 26, sect. 12.

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Difficulty of drawing line between laws apparent in Act of Union between Engd and Scotland.

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"Art. 18. The laws concerning regulation of trade, Customs, &c. See abridgmt by Cay., vol. 2, 384, under Scotland." For line between Courts, see Art. 19.

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Sweden.

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Two remarkable circumstances: 1. Citizens elect by votes the multiples of their property; some rich merchants have several hundred votes. 2. Country gentlemen, between nobles and peasants, have no votes in electing the latter order; are not represented nor eligible at all. Constitution, prior to 1772, alternately Monarchical and aristocratic. Foreign powers had chief agency in producing the Revolution of 1772. The King had, about that time, only two companies of guards; [power of King reduced to its lowest ebb about the time of the Revolution.—Sheridan.] [The power of peasants predominant originally; hence alternate anarchy and tyranny.—Id.] On death of Charles XII, all prerogatives of Executive abolished; hence legislative soon exercised Executive and Judicial power both; any 3 out of 4 houses competent to legislation. The Revolution of '72, owing to unpopularity of diet, owing to abuse of power from union of Executive and Judicial with Legislative, factions, venality, and foreign influence. The people favoured the enterprize of the King.

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Denmark.

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The change in 1660, produced by the aversion to the nobility, who, as feudal lords, had almost all power, the peasants being slaves to them; the two other orders being the clergy and commons or representatives of towns. The Clergy were the great agents in the Revolution, and the King rather passive. Lord Molesworth saith Denmark differed little from an aristocracy when it become an absolute Monarchy.

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France.

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The 3d estate was composed, according to Robertson, of Representatives of Cities, &c., within the King's demesne only; .and the tillers of the earth, the greatest body in all countries, nothing, or represented by the Nobles.

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Spain.

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Peasants never represented in Cortes.—Quere.

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Poland.

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153 Senators; about 200 Nuncios.

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Examples of hostile consequences of rival communities not united by one Government.

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All the antient and modern Confederacies.

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Saxon Heptarchy.a England and Scotland.b G.B. and Ireland. England and Wales. Antient Republics of Italy before Roman Empire. Ditto after dissolution of ditto.

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Union at Calmar in 1393—7, of Sweden, Denmark, and Norway, formed by Margaret, Queen of the two last, and elected, also, Queen of the former. She convoked the deputies of the 3 States General at Calmar; 40 from each attended and formed the Union of Treaty; main argument used by the Queen—the contentions and wars when disunited.

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Union consisted of three principal articles:

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1. That the three Kingdoms, which was each elective, should have the same King, to be elected by turns out of each, with an exception, however, in favour of offspring whom the three States might elect.

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2. The King to divide his residence by turns among each, and to spend in each the revenues of each Crown.

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3. The most important, that each should keep its particular Senate, customs, privileges, Governments, magistrates, Generals, Bishops, and even troops and garrisons, to be taken from respective Kingdoms, so that the King should never be allowed to employ subjects of one in another, being mutually regarded as strangers.

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This Union, thus imperfect, increased their mutual animosity, and laid the foundation for fresh and more bitter animosities and miseries.

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Examples of invasions of defenceless coasts. Danger if disunited: 1. Of foreign invasion by sea. 2. Of Eastern invasion on S. States. Such more formidable than by land, because more sudden and easily supported by supplies.

Romans invade England. Egyptians and Phoenicians

a Saxons invade England. invade Greece.

Danes do" Greece do Italy.

Normans do" Carthaginains do

b Danes do France. Italy and Spain.

English. Ireland. Visigoths from Spain. Barbary.

Europeans. America.

Do East Indies.

Do Africa.

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Countries without Navy conquerable in proportion to extent of coast. England more frequently and thoroughly conquered than France or Spain.

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Sparta.

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2 Kings. 28 Senators.

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The two jointly forming a council, with power of life and death.

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1. For life.

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2. Vacancies filled by popular election, out of candidates 60 years old.

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3. Had right of convoking and proposing to Assemblies;. as had Kings.\*

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4. Decrees of no force till ratified by people.

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Kings were for life; in other respects like 2 Consuls; Generals during war; presided in Assemblies and public sacrifices in peace; could propose to Assemblies; dissolve them when convoked by Kings; but could do nothing without consent of the nation; the 2 Kings always jealous, and on ill terms with each other; were watched by field deputies in war.

People.

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Assemblies general and particular; former of all Citizens, latter of Citizens of Sparta alone; had power of peace and war, treaties, great affairs, and election of magistrates.

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Ephori, chosen annually by the people, and concurred in their behalf with Kings and Senate; over both when they had authority.

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They had more authority than Tribunes; presided at elections of Magistrates; demanded account of the administration; could imprison Kings; had the administration of money; superintended Religion; in fine, directed everything.

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Lands divided in 39,000 shares.

Carthage.

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500 years, says Aristotle, without any considerable sedition or tyrant. 3 different authorities—Seffetes, Senate, people.

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Seffetes, like consuls, and annual; does not appear by whom chosen; assembled Senate, presiding; proposing and collecting the votes; presided, also, in judgments of most important affairs; sometimes commanded armies; at going out were made Pretors.

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Senate, composed of persons qualified by age, experience, birth, riches; were the Council of State, and the soul of all public deliberation; number not known; must have been great, since the 100 drawn out of it. Senate treated of great affairs, read letters of Generals, recd plaints of provinces, gave audiences to ambassadors, and decided peace and war. When Senate unanimous, decided finally; in case of division, people decided. Whilst Senate retained its authority, says Polybius, wisdom and success marked everything.

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People, at first, gave way to Senate; at length, intoxicated by wealth and conquests, they assumed all power; then cabals and factions prevailed, and were one of the principal causes of the ruin of the State.

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Tribunal of 100, composed of 104 persons, were in place of Ephori,' at Sparta, according to Aristotle, and instituted to balance the Generals and the Senate; with this difference, that here the Council was perpetual; Generals accounted to them.

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Tribunal of 5, taken out of 100 above; duration of office unknown; like the Council or 10 at Venice; filled vacancies, even in Senate; had 'great power, but no salaries; became tyrannical.

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Rome.

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Power of Senate, (exclusive of People): 1. Care of Religion. 2. To regulate the provinces. 3.\* Over public treasury and expences of Government, with appointment of stipends to Generals; number of troops, and provisions and cloathing for armies. 4.\* Appointed with such instructions, and received ambassadors, and gave such answers as they thought fit. 5. Decreed thanksgivings and conferred honor of triumphs. 6. Enquire into crimes and treasons at Rome and in Italy, and decide disputes among dependent cities. 7. Interpreting, dispensing with, and even abrogating laws. 8. Arm consuls with absolute power, darent operam, &c. 9. Prorogue and postpone assemblies of people; pardon and reward; declared any one enemy.—Middleton on R. Sen.

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Power of Senate—to propose to people who could not originate laws—this taken away by the Tribunes—and Senate not only obliged to allow assemblies at all times to be called, but to agree beforehand to whatever acts of the people.—Idem.

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Power of Senate unlimited almost at first—except legislative power—choice of Magistrates and peace and war—all power in Senate—and a second Senatus consultum is necessary to ratify act of people in consequence of proposition from Senate.—Code d'Hum.

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Senate consisted originally of 100—usually about 300—finally, by Jul. Cæsar, 1,000—not agreed how appointed—whether by consuls and censors—or people, &c.; on extraordinary occasions by Dictator—censors on ordinary, (Middleton,) by people out of annual Magistrates, till there become a regular supply of course.—Middleton. Censors could expel; but other Censors reinstate; and Senators had an appeal from them to people.-Id.

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Vertot thinks people had nothing to do in appointing Senators; power being first in Kings, then Consuls, then Censors, and on extraordinary occasions in Dictator; age required but not ascertained by antiquaries; so estate between £6 and 7,000 sterling; Senate assembled by Kings, Consuls, Dictators, Tribunes.

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Power of Consuls.

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1. Heads of Republic. 2. Command of Armies, levy troops in consequence of authority from comitia. 3. Authority over Italy and provinces, who could appeal to the tribunal, and could cite subjects to Rome, and punish with death. 4. Convene Senate, propose business, count votes, and draw up decrees; nor could any resolution pass if one of the Consuls opposed. 5. Addressed letters to Kings, &c.; gave audience to Ambassadors; introduced them to Senate; and carried into execution decrees touching all these matters. 6. Convoked Comitia; presided therein. 7. Applied money. Had all the power of the Kings; must be 42 years.

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Tribunes.

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Uncertain whether at first 2, 3, or 5; established in 260; increased to 10 in 297. confined to city and one mile; at first had no power but to defend people, their persons being sacred for that purpose—but soon arrogated right to call senate and Assembly of people—and propose to them.

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They were—1. Protectors of people; under which title they interfered in all affairs—released malefactors, and imprisoned principal Magistrates of Republic, as Consuls, and after a time exerted their authority over dictators and censors—(2.) Had the veto to stop the functions of all other Magistrates, and to negative all laws and decrees of the Senate—to dissolve comitia, so that Republic often in anarchy, and once 5 years without other Magistrates than Tribunes—by this veto, particularly as opposed to levies of men by order of Senate, they extorted everything they wanted. (3.) Sacredness of persons, of which they availed themselves much—pretending that it was violated in the persons of their officers. (4.) To convoke Senate and people; at first set at door of Senate waiting to be informed of result of its deliberations, and had no right to assemble people—but Junius Brutus caught at incautious acknowledgment of Consul, got comit. tribut. established in place of centuries where votes unequal—and of curiata, where, as in centuries auspices necessary, and in both concurrence of Senate to the calling them and coming to Resolutions. To these they soon brought trial of principal citizens by appeal, and all sorts of affairs; got plebians voters; made laws by com. trib., which hey managed and ordered as they pleased.\* (5.) Disposed of Governmts and commands of Armies, finances, and lands of the public; Sylla, as Dictator, humbled the Tribunes, but they were restored, and Jul. Cæsar caused himself to be perpetual Tribune; the shadow continued down to Constantine the Great.

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Roman Empire more than 2,000 m. from N. to S., more than 3,000 from W. to E.—Gibbon. Population of do. about 120 millions, including slaves—about 1/2 this more than in Europe.—Id.

Spain, 700 by 500 miles. England, 360 by 300.

France, 600 by 500 " Scotland, 300 by 150.

Italy, 600 by 400 " Denmark, 240 by 180.

Germany, 600 by 500 " Norway, 1,000 by 900.

Poland, 700 by 680 "

Sweden, 800 by 500 "

To General Washington.

RICHMOND, June 4, 1788.

Writings of Madison, Volume 1: 1769-1793, p.398

DEAR SIR,—Your favor of the 2 ult° was not received 'til my arrival here on Monday evening. I found, contrary to my expectation, that not only a very full house had been made on the first day, but that it had proceeded to the appointment of the President and other officers. Mr. Pendleton was put into the chair without opposition. Yesterday, little more was done than settling some forms, and Resolving that no question, general or particular, should be propounded 'til the whole plan should be considered and debated, clause by clause. This was moved by Col. Mason, and, contrary to his expectations, concurred in by the other side. To-day, the discussions commenced in Committee of the whole. The Governor has declared the day of previous amendments passed, and thrown himself fully into the federal scale. Henry and Mason made a lame figure, and appeared to take different and awkward ground. The federalists are a good deal elated by the existing prospect. I dare not, however, speak with certainty as to the decision. Kentucky has been extremely tainted, is supposed to be generally adverse, and every piece of address is going on privately to work on the local interests and prejudices of that and other quarters.

Writings of Madison, Volume 1: 1769-1793, p.398

In haste, I am, Dr Sir, yrs affecty.

To General Washington.

RICHMOND, June 13, 1788.

Writings of Madison, Volume 1: 1769-1793, p.399

DEAR SIR,—Your favor of came to hand by the mail of Wednesday. I did not write by several late returns for two reasons: one, the improbability of your having got back to Mount Vernon; the other, a bilious indisposition, which confined me for several days. I am again tolerably well recovered.

Writings of Madison, Volume 1: 1769-1793, p.399

Appearances at present are less favorable than at the date of my last. Our progress is slow, and every advantage is taken of the delay to work on the local prejudices of particular sets of members. British debts, the Indiana claim, and the Mississippi, are the principal topics of private discussion and intrigue, as well as of public declamation. The members who have served in Congress have been dragged into communications on the last, which could not be justifiable on any other occasion, if on the present. There is reason to believe that the event may depend on the Kentucky members, who seem to lean more against than in favor of the Constitution. The business is in the most ticklish state that can be imagined. The majority will certainly be very small, on whatever side it may finally lie; and I dare not encourage much expectation that it will be on 'the favorable side.

Writings of Madison, Volume 1: 1769-1793, p.399

Oswald, of Philadelphia, has been here with letters for the anti-federal leaders from New York, and probably Philadelphia. He staid a very short time here, during which he was occasionally closeted with H—y, M—s—n, &c. I learn from New York that the elections have proved adverse to the Constitution.

Writings of Madison, Volume 1: 1769-1793, p.399

Yrs affecty.

To General Washington.

RICHMOND, June 18, 1788.

Writings of Madison, Volume 1: 1769-1793, p.400

DEAR SIR,—No question, direct or indirect, has yet been taken by which the state of parties could be determined. Of course, each is left to enjoy the hopes resulting from its own partial calculations. It is probable the majority on either side will not exceed 3, 4, 5, or 6. I indulge a belief that at this time the friends of the Constitution have the advantage in point of number. Great moderation, as yet, marks our proceedings. Whether it be the effect of temper, or of the equality of forces and the uncertainty of victory, will be seen by the event. We are at present on the Executive Department. Mr. H—y has not made any opposition to it, though it was looked for. He may, however, still mean to make one, or he may lay by for an exertion against the Judiciary.

Writings of Madison, Volume 1: 1769-1793, p.400

I find myself not yet restored, and extremely feeble. With my affecte regards, I remain, yrs.

To Col. James Madison.

RICHMOND, June 20th, 1788.

Writings of Madison, Volume 1: 1769-1793, p.400

HOND SIR,—No question has yet been taken by which tho strength of parties can be determined. The calculations on different sides do not accord, each making them under the bias of their particular wishes. I think, however, the friends of the Constitution are most confident of superiority, and am inclined myself to think they have, at this time, the advantage of 3 or 4, or possibly more, in point of number. The final question will probably decide the contest in a few days more. We are now on the Judiciary Department, against which the last efforts of the adversaries seem to be made. How far they will be able to make an impression, I cannot say. It is not probable that many proselytes will be made on either side. As this will be handed to you at Court, you can make its contents known to Major Moore and other friends, to whom I have not time separately to write.

Writings of Madison, Volume 1: 1769-1793, p.401

With my regards to my mother and the family, I remain, your affectionate son.

To General Washington.

RICHMOND, June 23rd, 1788.

Writings of Madison, Volume 1: 1769-1793, p.401

DEAR SIR,—We got through the Constitution by paragraphs to-day. To-morrow, some proposition for closing the business will be made. On our side, a ratification, involving a few declaratory truths not affecting its validity, will be tendered. The opposition will urge previous amendments. Their conversation to-day seemed to betray despair. Col. Mason, in particular, talked in a style which no other sentiment could have produced. He held out the idea of civil convulsions as the effects of obtruding the Government on the people. He was answered by several, and concluded with declaring his determination for himself, to acquiesce in the event whatever it might be. Mr. Henry endeavored to gloss what had fallen from his friend; declared his aversion to the Constitution to be such that he could not take the oath; but that he would remain in peaceable submission to the result. We calculate on a majority, but a bare one. It is possible, nevertheless, that some adverse circumstance may happen.

Writings of Madison, Volume 1: 1769-1793, p.401

I am, dear Sir, in haste, yrs entirely.

To General Washington.

RICHMOND, June 25, 1788.

Writings of Madison, Volume 1: 1769-1793, p.401

DEAR SIR,—On the question to-day for previous amendments, the votes stood—80 ayes, 88 noes. On the final question, the ratification passed—89 ayes, 79 noes. Subsequent amendments will attend the act, but are yet to be settled. The temper of the minority will be better known to-morrow. The proceedings have been without flaw, or pretext of it, and there is no doubt that acquiescence, if not cordiality, will be manifested by the unsuccessful party. Two of the leaders, however, betray the effect of tho disappointment, so far as it is marked in their countenances.

Writings of Madison, Volume 1: 1769-1793, p.402

In haste, yrs.

To General Washington.

RICHMOND, June 27, 1788.

Writings of Madison, Volume 1: 1769-1793, p.402

DEAR SIR,—The Convention came to a final adjournment today. The inclosed is a copy of their act of ratification, with the yeas and nays. A variety of amendments have been since recommended, several of them highly objectionable, but which could not be parried. The minority are to sign an address this evening, which is announced to be of a peace-making complexion. Having not seen it, I can give no opinion of my own. I wish it may not have a further object. Mr. H—y declared, previous to the final question, that altho' he should submit as a quiet citizen, he should seize the first moment that offered for shaking off the yoke in a constitutional way. I suspect the plan will be to engage 2/3 of the Legislatures in the task of undoing the work; or to get a Congress appointed in the first instance that will commit suicide on their own authority.

Writings of Madison, Volume 1: 1769-1793, p.402

Yrs, most affecty and respectfully.

To General Washington.

NEW YORK, July 21, 1788.

Writings of Madison, Volume 1: 1769-1793, p.403

DEAR SIR,—I have deferred writing since my arrival here in the hourly hope of being enabled to communicate the final news from Poughkeepsie. By a letter from Hamilton, dated the day before yesterday, I. find that it is equally uncertain when the business will be closed, and what will be its definitive form. The inclosed gazette states the form which the depending proposition bears. It is not a little strange that the anti-federal party should be reduced to such an expedient, and yet be able to keep their numbers together in the opposition. Nor is it less strange that the other party, as appears to be the case, should hesitate in deciding that the expedient as effectually keeps the State, for the present, out of the new union as the most unqualified rejection could do. The intelligent citizens see clearly that this would be its operation, and are agitated by the double motives of federalism and a zeal to give this City a fair chance for the first meeting of the new Government.

Writings of Madison, Volume 1: 1769-1793, p.403

Congress have deliberated in part on the arrangements for putting the new machine into operation, but have concluded on nothing but the times for choosing electors, &c. Those who wish to make New York the place of meeting studiously promote delay. Others who are not swayed by this consideration do not urge dispatch. They think it would be well to let as many States as possible have an opportunity of deciding on the Constitution; and what is of more consequence, they wish to give opportunities, where they can take place, for as many elections of State Legislatures as can precede a reasonable time for making the appointments and arrangements referred to them. If there be too great an interval between the acts of Congress on this subject and the next election or next meeting of a State Legislature, it may afford a pretext for an intermediate summoning of the existing members, who are everywhere less federal than their successors hereafter to be elected will probably be. This is particularly the ease in Maryland, where the anti-federal temper of the Executive would render an intermediate and extraordinary meeting of the Assembly of that State the more likely to be called. On my way thro' Maryland I found such an event to be much feared by the friends, and wished by the adversaries, of the Constitution. We have no late news from Europe, nor anything from North Carolina.

Writings of Madison, Volume 1: 1769-1793, p.404

With every sentiment of esteem and attachment, I remain, Dr Sir, your obedt and affect. servt.

To Thomas Jefferson.

NEW YORK, 24th July, 1788.

Writings of Madison, Volume 1: 1769-1793, p.404

DEAR SIR,—Your two last unacknowledged favors were of December 20 and February 6. They were received in Virginia, and no opportunity, till the present precarious one by the way of Holland, has enabled me to thank you for them.

Writings of Madison, Volume 1: 1769-1793, p.404

I returned here about ten days ago from Richmond, which I left a day or two after the dissolution of the Convention. The final question on the new Government was put on the 25th of June. It was two-fold: 1. Whether previous amendments should be made a condition of ratification. 2. Directly on the Constitution, in the form it bore. On the first, the decision was in the negative, 88 being no, 80 only ay. On the second and definitive question, the ratification was affirmed by 89 ayes against 79 noes. A number of alterations were then recommended to be considered in the mode pointed out in the Constitution itself. The meeting was remarkably full; two members only being absent, and those known to be on the opposite sides of the question. The debates, also, were conducted on the whole with a very laudable moderation and decorum, and continued until both sides declared themselves ready for the question. And it may be safely concluded that no irregular opposition to the System will follow in that State, at least with the countenance of the leaders on that side. What local eruptions may be occasioned by ill-timed or rigorous executions of the Treaty of peace against British debtors, I will not pretend to say. But although the leaders, particularly Henry and Mason, will give no countenance to popular violences, it is not to be inferred that they are reconciled to the event, or will give it a positive support. On the contrary, both of them declared they could not go that length, and an attempt was made under their auspices to induce the minority to sign an address to the people, which, if it had not been defeated by the general moderation of the party, would probably have done mischief.

Writings of Madison, Volume 1: 1769-1793, p.405

Among a variety of expedients employed by the opponents to to gain proselytes, Mr. Henry first, and after him Col°. Mason, introduced the opinions expressed in a letter from you to a correspondent, [Mr. Donald or Skipwith, I believe,] and endeavored to turn the influence of your name even against parts of which I knew you approved. In this situation, I thought it due to truth, as well as that it would be most agreeable to yourself, and accordingly took the liberty to state some of your opinions on the favorable side. I am informed that copies or extracts of a letter from you were handed about at the Maryland Convention, with a like view of impeding the ratification.

Writings of Madison, Volume 1: 1769-1793, p.405

New Hampshire ratified the Constitution on the 20 ult., and made the ninth State. The votes stood 57 for, and 46 against the measure. South Carolina had previously ratified by a very great majority. The Convention of North Carolina is now sitting. At one moment, the sense of that State was considered as strongly opposed to the system. It is now said that the tide has been for some time turning, which, with the example of other States, and particularly of Virginia, prognosticates a ratification there also. The Convention of New York has been in session ever since the 17th ultimo, without having yet arrived at any final vote. Two-thirds of the members assembled with a determination to reject the Constitution, and are still opposed to it in their hearts. The local situation of New York, the number of ratifying States, and the hope of retaining the federal Government in this City, afford, however, powerful arguments to such men as Jay, Hamilton, the Chancellor, Duane, and several others; and it is not improbable that some form of ratification will yet be devised, by which the dislike of the op. position may be gratified, and the State, notwithstanding, made a member of the new Union.

July 26th.—We just hear that the Convention of this State have determined, by a small majority, to exclude from the ratification anything involving a condition, and to content themselves with recommending the alterations wished for.

Writings of Madison, Volume 1: 1769-1793, p.406

Crops in Virginia, of all sorts, were very promising when I left the State. This was the case also generally throughout the States I passed through, with local exceptions, produced in the wheat fields by a destructive insect, which goes under the name of the Hessian fly. It made its first appearance several years ago on Long Island, from which it has spread over half this State and a great part of New Jersey, and seems to be making an annual progress in every direction.

To Col. James Madison.

NEW YORK, July 27th, 1788.

Writings of Madison, Volume 1: 1769-1793, p.406

HOND SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.406

After a very tedious discussion, the Constitution has been ratified by the Convention of this State. It was carried by a majority of 5, the ayes being 30, the noes 25. Amendments, in general, similar to those of Virginia, are recommended, and a confidence expressed in the act of adoption that they will be incorporated in the Constitution. The Convention of North Carolina has not been heard from since it met. Congress are at present making the arrangements for putting the Government into operation.

To Thomas Jefferson.

NEW YORK, August 10th, 1788.

Writings of Madison, Volume 1: 1769-1793, p.407

DEAR SIR,—Mr. Warville Brissot has just arrived here, and I seize an opportunity suddenly brought to my knowledge to thank you for your several. favors, and particularly for the pedometer. Answers to the letters must be put off for the next opportunity.

Writings of Madison, Volume 1: 1769-1793, p.407

My last went off just as a vote was taken in the Convention of this State, which foretold the ratification of the new Government. The latter act soon followed, and is inclosed. The form of it is remarkable. I inclose, also, a circular address to the other States on the subject of amendments, from which mischiefs are apprehended. The great danger in the present crisis is, that if another Convention should be soon assembled it would terminate in discord, or in alterations of the federal system, which would throw back essential powers into the State Legislatures. The delay of a few years will assuage the jealousies which have been artificially created by designing men, and will at the same time point out the faults which really call for amendment. At present, the public mind is neither sufficiently cool nor sufficiently informed for so delicate an operation.

Writings of Madison, Volume 1: 1769-1793, p.407

The Convention of North Carolina met on the 21st ultimo. Not a word has yet been heard from its deliberations. Rhode Island has not resumed the subject since it was referred to and rejected by the people in their several Towns.

Writings of Madison, Volume 1: 1769-1793, p.407

Congress have been employed for several weeks in the arrangement of time and place for bringing the new Government into agency. The first has been agreed on, though not definitively, and makes it pretty certain that the first meeting will be held in the third week in March. The place has been a subject of much discussion, and continues to be uncertain. Philadelphia, as least eccentric of any place capable of affording due accommodations and a respectable outset to the Government, was the first proposed. The affirmative votes were New Hampshire, Connecticut, Pennsylvania, Maryland, Virginia, and North Carolina. Delaware was present and in favor of that place, but one of its Delegates wishing to have a question on Wilmington previous to a final determination, divided that State and negatived the motion. New York came next in view, to which was opposed first Lancaster, which failed, and then Baltimore, which, to the surprise of every body, was carried by seven States. South Carolina, which had preferred New York to the two other more Southern positions, unexpectedly concurring in this. The vote, however, was soon rescinded; the State of South Carolina receding, the Eastern States remonstrating against, and few seriously urging, the eligibility of Baltimore. At present the question lies as it was originally supposed to do, between New York and philadelphia, and nothing can be more uncertain than the event of it. Rhode Island, which alone was disposed to give the casting vote to New York, has refused to give any final vote for arranging and carrying into effect a system to which that State is opposed, and both the delegates have returned home.

Writings of Madison, Volume 1: 1769-1793, p.408

Col. Carrington tells me has sent you the first volume of the federalist, and adds the second by this conveyance. I believe I never have yet mentioned to you that publication. It was undertaken last fall by Jay, Hamilton, and myself. The proposal came from the two former. The execution was thrown, by the sickness of Jay, mostly on the two others. Though carried on in concert, the writers are not mutually answerable for all the ideas of each other, there being seldom time for even a perusal of the pieces by any but the writer before they were wanted at the press, and sometimes hardly by the writer him self.

Writings of Madison, Volume 1: 1769-1793, p.408

I have not a moment for a line to Mazzei. Tell him I have received his books, and shall attempt to get them disposed of. I fear his calculations will not be fulfilled by the demand for them here in the French language. His affair with Dorman stands as it did. Of his affair with Foster Webb I can say nothing. I suspect it will turn out badly.

Writings of Madison, Volume 1: 1769-1793, p.408

Yours affectionately.

To General Washington.

NEW YORK, August 15, 1788.

Writings of Madison, Volume 1: 1769-1793, p.409

DEAR SIR,—I have been duly favoured with yours of the 3rd instant. The length of the interval since my last has proceeded from a daily expectation of being able to communicate the final arrangements for introducing the new government. The place of meeting has undergone much discussion, as you conjectured, and still remains to be fixed. Philadelphia was first named, and negatived by a voice from Delaware. New York came forward next, Lancaster was opposed to it, and failed. Baltimore was next tried, and, to the surprise of every one, had seven votes. It was easy to see that that ground, had it been free from objections, was not maintainable. Accordingly, the next day New York was inserted in the place of it, with the aid of the vote of Rhode Island. Rhode Island, however, has refused to give a final vote in the business, and has actually retired from Congress. The question will be resumed between New York and Philadelphia. It was much to be wished that a fit place for a respectable outset to the government could be found more central than either. The former is inadmissible, if any regard be to be had to the Southern or Western country. It is so with me for another reason; that it tends to stop the final and permanent seat short of the Potowmac certainly, and probably in the State of New Jersey. I know this to be one of the views of the advocates for New York. The only chance the Potowmac has, is to get things in such a train that a coalition may take place between the southern and Eastern States on the subject, and still more, that the final seat may be undecided for two or three years, within which period the Western and south Western population will enter more into the estimate. Where-ever Congress may be, the choice, if speedily made, will not be sufficiently influenced by that consideration. In this point of view, I am of opinion Baltimore would have been unfriendly to the true object. It would have retained Congress but a moment, so many States being north of it, and dissatisfied with it; and would have produced a coalition among those States, and a precipitate election of the permanent seat, and an intermediate removal to a more northern position.

Writings of Madison, Volume 1: 1769-1793, p.410

You will have seen the circular letter from the Convention of this State. It has a most pestilent tendency. If an early general Convention cannot be parried, it is seriously to be feared that the system which has resisted so many. direct attacks may be at last successfully undermined by its enemies. It is now, perhaps, to be wished that Rhode Island may not accede till this new crisis of danger be over. Some think it would have been better if even New York had held out till the operation of the government could have dissipated the fears which artifice had created, and the attempts resulting from those fears and artifices.

Writings of Madison, Volume 1: 1769-1793, p.410

We hear nothing yet from North Carolina more than comes by the way of Petersburg.

Writings of Madison, Volume 1: 1769-1793, p.410

With the highest respect and attachment, I remain, Dr Sir, your affecte servt.

To Thomas Jefferson.

NEW YORK, August 23d, 1788.

Writings of Madison, Volume 1: 1769-1793, p.410

DEAR SIR,—My last went via England, in the hands era Swiss gentleman, who had married an American lady, and was returning with her to his own Country. He proposed to take Paris in his way. By that opportunity I inclosed copies of the proceedings of this State on the subject of the Constitution.

Writings of Madison, Volume 1: 1769-1793, p.410

North Carolina was then in Convention, and it was generally expected would, in some form or other, have fallen into the general stream. The event has disappointed us. It appears that a large majority has decided against the Constitution as it stands, and, according to the information here received, has made the alterations proposed by Virginia the conditions on which alone that State will unite with the others. Whether this be the precise state of the case, I cannot say. It seems at least certain that she has either rejected the Constitution, or annexed conditions precedent to her ratification. It cannot be doubted that this bold step is to be ascribed in part to the influence of the minority in Virginia, which lies mostly in the Southern part of the State, and to the management of its leader. It is in part ascribed, also, by some, to assurances transmitted from leading individuals here, that New York would set the example of rejection.

Writings of Madison, Volume 1: 1769-1793, p.411

The event, whatever may have been its cause, with the tendency of the circular letter from the Convention of New York, has somewhat changed the aspect of things, and has given fresh hopes and exertions to those who opposed the Constitution. The object with them now will be to effect an early Convention, composed of men who will essentially mutilate the system, particularly in the article of taxation, without which, in my opinion, the system cannot answer the purposes for which it was intended. An early Convention is in every view to be dreaded in the present temper of America. A very short period of delay would produce the double advantage of diminishing the heat and increasing the light of all parties. A trial for one year will probably suggest more real amendments than all the antecedent speculations of our most sagacious politicians.

Writings of Madison, Volume 1: 1769-1793, p.411

Congress have not yet decided on the arrangements for inaugurating the new Government. The place of its first meeting continues to divide the Northern and Southern members, though with a few exceptions to these general descriptions of the parties. The departure of Rhode Island, and the refusal of North Carolina, in consequence of the late event there, to vote in the question, threatens a disagreeable issue to the business, there being now an apparent impossibility of obtaining seven States for any one place. The three Eastern States and New York, reinforced by South Carolina, and as yet by New Jersey, give a plurality of votes in favor of this city. The advocates for a more central position, however, though less numerous, seemed very determined not to yield to what they call a shameful partiality to one extremity of the continent. It will be certainly of far more importance under the proposed than the present system that regard should be had to centrality, whether we consider the number of members belonging to the Government, the diffusive manner in which they will be appointed, or the increased resort of individuals having business with the Legislative, Executive, and Judiciary departments.

Writings of Madison, Volume 1: 1769-1793, p.412

If the Western Country be taken into view, as it certainly ought, the reasoning is still further corroborated. There is good ground to believe that a very jealous eye will be kept in that quarter on inattention to it, and particularly when involving a seeming advantage to the Eastern States, which have been rendered extremely suspicious and obnoxious by the Mississippi project. There is even good ground to believe that Spain is taking advantage of this disgust in Kentucky, and is actually endeavoring to seduce them from the Union, holding out a darling object which will never be obtained by them as part of the Union. This is a fact as certain as it is important, but which I hint in strict confidence, and with a request that no suspicion may be excited of its being known, particularly through tho channel of me. I have this moment notice that I must send off my letter instantly, or lose the conveyance. I must consequently defer further communications till another opportunity.

Writings of Madison, Volume 1: 1769-1793, p.412

Along with this you will receive a copy of the report you desired from Mr. Thomson, and a copy of the Federalist, a publication mentioned in my last.

To General Washington

NEW YORK, August 24, 1788.

Writings of Madison, Volume 1: 1769-1793, p.412

DEAR SIR,—I was yesterday favored with yours of the 17th, 18th, under the same cover with the papers from Mr. Pleasants. The circular letter from this State is certainly a matter of as much regret as the unanimity with which it passed is matter of surprize. I find it is every where, and particularly in Virginia, laid hold of as the signal for united exertions in pursuit of early amendments. In pennsylvania, the anti-federal leaders are, I understand, soon to have a meeting at Harrisburg, in order to concert proper arrangements on tho part of that State. I begin now to accede to the opinion, which has been avowed for some time by many, that the circumstances involved in the ratification of New York will prove more injurious than a rejection would have done. The latter would have rather alarmed the well-meaning anti-federalists elsewhere; would have had no ill effect on the other party; would have excited the indignation of the neighbouring States; and would have been necessarily followed by a speedy reconsideration of the subject. I am not able to account for the concurrence of the federal part of the convention in the circular address on any other principle than the determination to purchase an immediate ratification in any form or at any price, rather than disappoint this city of a chance for the new Congress. This solution is sufficiently justified by the eagerness displayed on this point, and the evident disposition to risk and sacrifice everything to it. Unfortunately, the disagreeable question continues to be undecided, and is now in a state more perplexing than ever. By the last vote taken, the whole arrangement was thrown out, and the departure of Rhode Island, and the refusal of North Carolina to participate further in the business, has left eleven States only to take it up anew. In this number there are not seven States for any place, and the disposition to relax, as usually happens, decreases with the progress of the contest. What and when the issue is to be, is really more than I can foresee. It is truly mortifying that the outset of the new government should be immediately preceded by such a display of locality as portends the continuance of the evil which has dishonored the old, and gives countenance to some of the most popular arguments which have been inculcated by the southern Federalists.

Writings of Madison, Volume 1: 1769-1793, p.413

New York has appeared to me extremely objectionable, on the following grounds: It violates too palpably the simple and obvious principle, that the seat of public business should be made as equally convenient to every part of the public as the requisite accommodations for executing the business will permit. This consideration has the more weight, as well on account of the catholic spirit professed by the Constitution, as of the increased resort which it will require from every quarter of the continent. It seems to be particularly essential that an eye should be had in all our public arrangements to the accommodation of the western country, which, perhaps, cannot be sufficiently gratified at any rate, but which might be furnished with new fuel to its jealousy by being summoned to the sea shore, and almost at one end of the continent. There are reasons, but of too confidential a nature for any other than verbal communication, which make it of critical importance that neither cause nor pretext should be given for distrusts in that quarter of the policy towards it in this. I have apprehended, also, that a preference so favorable to the Eastern States would be represented in the Southern as a decisive proof of the preponderance of that scale, and a justification of all the anti-federal arguments drawn from that danger. Adding to all this, the recollection that the first year or two will produce all the great arrangements under the new system, and which may fix its tone for a long time to come, it seems of real importance that the temporary residence of the new Congress, apart from its relation to the final residence, should not be thrown too much towards one extremity of the Union. It may, perhaps, be the more necessary to guard against suspicions of partiality in this case, as the early measures of the new Government, including a navigation act, will of course be most favorable to this extremity.

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But I own that I am much influenced by a view to the final residence, which I conceive to be more likely to be properly chosen in Philadelphia than in New York. The extreme excentricity of the latter will certainly, in my opinion, bring on a premature, and consequently an improper choice. This policy is avowed by some of the sticklers for this place, and is known to prevail with the bulk of them. People from the interior parts of Georgia, South Carolina, North Carolina, and Virginia, and Kentucky, will never patiently repeat their trips to this remote situation, especially as the Legislative sessions will be held in the winter season. Should no other consequence take place than a frequent or early agitation of this contentious subject, it would form a strong objection against New York.

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Were there occasion to fear a repugnance to the establishment of a final seat, or a choice of a commercial city for the purpose, I should be strongly tempted to shun Philadelphia at all events. But my only fear on the first head is, of a precipitancy in carrying that part of the Federal Constitution into effect, and on the second, the public sentiment, as well as other considerations, is so fixedly opposed as to banish the danger from my apprehensions. Judging from my own experience on this subject, I conclude, that from motives of one sort or another, ten States at least, (that is, five from each end of the Union,) to say nothing of the Western States, will, at any proper time, be ready to remove from Philadelphia. The only difficulty that can arise will be that of agreeing on the place to be finally removed to, and it is from that difficulty alone, and the delay incident to it, that I derive my hope in favor of the banks of the Potowmac. There are some other combinations on the subject into which the discussion of it has led me, but I have already troubled you with more, I fear, than may deserve your attention.

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The newspapers herewith enclosed contain the European intelligence brought by the last packets from England.

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With every sentiment of esteem and attachment, I remain, dear sir, your obt and affecte servt.

To Col. James Madison.

NEW YORK, Septr 6th, 1788.

Writings of Madison, Volume 1: 1769-1793, p.415

HOND SIR,—The anti-federalists are everywhere exerting themselves for an early Convention. The circular letter from this State, and the rejection of North Carolina, give them great spirits. Virginia, I suppose, from the temper of the present Legislature, will co-operate in the plan.

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Congress have not yet settled the place for the meeting of the new Government. It is most probable that the advocates for New York, who form at present the greater number, will prevail. In that case, although I think it a very unreasonable thing for the Southern and Western parts of the Union, the best face must be put on it.

To General Washington.

NEW YORK, September 14, 1788.

Writings of Madison, Volume 1: 1769-1793, p.416

DEAR SIR,—The delay providing for the commencement of the Government was terminated yesterday, by an acquiescence of the minor number in the persevering demands of the major. The time for choosing the Electors is the first wednesday in January, and for choosing the President, the first wednesday in February. The meeting of the Government is to be the first wednesday in March, and in the city of New York. The times were adjusted to the meetings of the State Legislatures. The plan was the result of the dilemma to which the opponents of New York were reduced, of yielding to its advocates or strangling the Government in its birth. The necessity of yielding and the impropriety of further delay have been for some time obvious to me, but others did not view the matter in the same light. Maryland and Delaware were absolutely inflexible. It has, indeed, been too apparent that local considerations have very improperly predominated in this question, and that something more is aimed at than merely the first session of the Government at this place. Every circumstance has shewn that the policy is to keep Congress here till a permanent seat be chosen, and to obtain a permanent seat, at farthest, not beyond the Susquehannah. New Jersey, by its Legislature, as well as its delegation in Congress, has clearly discovered her view to be a temporary appointment of New York, as affording the best chance of a permanent establishment at Trenton. I have been made so fully sensible of these views in the course of the business, as well as of the impropriety of so excentric a position as New York, that I could have finally concurred in any plan more Southward to which the Eastern States would have acceded; and, previous to the definitive vote, a motion was made tendering a blank for that purpose. At any place South of the Delaware, the Susquehannah, at least, would have been secured, and a hope given to the Potowmac. As the case is, I conceive the Susquehannah to be the utmost to be hoped for, with no small danger of being stopped at the Delaware. Besides this consequence, the decision will, I fear, be regarded as at once a proof of the preponderancy of the Eastern strength, and of a disposition to make an unfair use of it; and it cannot but happen that the question will be entailed on the new Government, which will have enough of other causes of agitation in its Councils.

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The meeting at Harrisburg is represented by its friends as having been conducted with much harmony and moderation. Its proceedings are said to be in the press, and will, of course, soon be before the public. I find all the mischief apprehended from Clinton's circular letter in Virginia will be verified. The Anti-federalists lay hold of it with eagerness as the harbinger of a second Convention, and as the Governor espouses the project, it will certainly have the co-operation of our Assembly.

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I enclose a sensible little pamphlet, which falls within the plan of investigating and comparing the the languages of the Aboriginal Americans.

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With sincerest attachment, I am, Dr Sir, your obt and very hble servt.

To Thomas Jefferson.

NEW YORK, Septr 21, 1788.

Writings of Madison, Volume 1: 1769-1793, p.417

DEAR SIR,—Being informed of a circuitous opportunity to France, I make use of it to forward the inclosures. By one of them you will find that Congress have been at length brought into the true policy which is demanded by the situation of the Western country. An additional resolution on the secret journal puts an end to all negociation with Spain, referring the subject of a treaty, after this assertion of right to the Mississippi, to the new Government. The communication in my last will have shown you the crisis of things in that quarter, a crisis, however, not particularly known to Congress, and will be a key to some of the Kentucky toasts in the Virginia Gazette.

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The circular letter from the New York Convention has rekindled an ardor among the opponents of the federal Constitution for an immediate revision of it by another General Convention. You will find in one of the papers inclosed the result of the consultations in Pennsylvania on that subject. Mr Henry and his friends in Virginia enter with great zeal into the scheme. Governor Randolph also espouses it, but with a wish to prevent, if possible, danger to the article which extends the power of the Government to internal as well as external taxation. It is observable that the views of the Pennsylvania meeting do not rhyme very well with those of the Southern advocates for a Convention; the objects most eagerly pursued by the latter being unnoticed in the Harrisburg proceedings The effect of the circular letter on other States is less known I conclude that it will be the same everywhere among those who opposed the Constitution, or contended for a conditional ratification of it.

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Whether an early Convention will be the result of this united effort is more than can at this moment be foretold. The measure will certainly be industriously opposed in some parts of the Union, not only by those who wish for no alterations, but by others who would prefer the other mode provided in the Constitution as most expedient, at present, for introducing those supplemental safeguards to liberty against which no objections can be raised; and who would, moreover, approve of a Convention for amending the frame of the Government itself, as soon as time shall have somewhat corrected the feverish state of the public mind, and trial have pointed its attention to the true defects of the system.

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You will find, also, by one of the papers inclosed, that the arrangements have been compleated for bringing the new Government into action. The dispute concerning the place of its meeting was the principal cause of delay; the Eastern States, with New Jersey and South Carolina, being attached to New York, and the others strenuous for a more central position. Philadelphia, Wilmington, Lancaster, and Baltimore, were successively tendered without effect by the latter, before they finally yielded to the superiority of members in favor of this city. I am afraid the decision will give a great handle to the Southern anti-federalists, who have inculcated a jealousy of this end of the continent. It is to be regretted, also, as entailing this pernicious question on the new Congress, who will have enough to do in adjusting the other delicate matters submitted to them. Another consideration of great weight with me is, that the temporary residence here will probably end in a permanent one at Trenton, or, at the farthest, on the Susquehannah. A removal in the first instance beyond the Delaware would have removed the alternative to the Susquehannah and the Potowmac. The best chance of the latter depends on a delay of the permanent establishment for a few years, until the Western and South Western population comes more into view. This delay cannot take place if so excentric a place as New York is to be the intermediate seat of business.

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To the other papers is added a little pamphlet on the Mohegan language. The observations deserve the more attention as they are made by a man of known learning and character, and may aid researches into the primitive structure of language, as well as those on foot for comparing the American tribes with those on the Eastern frontier of the other continent.

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In consequence of your letter to Mr. Jay on the subject of "outfit," &c., I had a conference with him, and he agreed to suggest the matter to Congress. This was done, and his letter referred back to be reported on. The idea between us was, that the reference should be to a Committee. His letter coming in at a moment when I happened to be out, it was, as in course, referred to his department. His answer suggested, that as he might be thought eventually concerned in the question, it was most proper for the consideration of a Committee. I had discovered that he was not struck with the peculiarities of your case, even when insinuated to him. How far the Committee will be so is more than I can yet say. In general, I have no doubt that both it and Congress are well disposed. But it is probable that the idea of a precedent will beget much caution, and, what is worse, there is little probability of again having a quorum of States for the business.

To Thomas Jefferson.

NEW YORK, October 8th, 1788.

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DEAR SIR,—Herewith inclosed are a letter for yourself, forwarded to my hands from General Washington, and two others for the Marquis, one from the same quarter, the other from myself. I put both the last under cover to you, not knowing what regard may be due to newspaper authority that the Marquis is under the open displeasure of the court, and may therefore be the less likely to receive letters through any other channel. Sometimes the report runs that he is in the Bastile; at another, that he is at the head of a revolt in some one of the Provinces.

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My last letters have followed each other so quickly, and the last of all is of such recent date, that this opportunity by a gentleman going to France enables me to add but little to what has been already communicated. The result of the meeting at Harrisburg was the latest event worthy of notice at the date of my last. Nothing has since taken place in relation to the new Government but the appointment of Mr. Robert Morris and

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Mr. Maclay to represent Pennsylvania in the Senate. A law has also passed in that State providing for the election of members for the House of Representatives, and of electors of the President. The act proposes that every citizen throughout the State shall vote for the whole number of members allotted to the State. This mode of election will confine the .choice to characters of general notoriety, and so far be favorable to merit. It is, however, liable to some popular objections urged against the tendency of the new system. In Virginia, I am inclined to think, the State will be divided into as many districts as there are to be members. In other States, as in Connecticut, the Pennsylvania example will probably be followed. And in others, again, a middle course be taken. It is, perhaps, to be desired that various modes should be tried, as by that means only the best mode can be ascertained.

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There is no doubt that General Washington will be called to the Presidency. For the vice Presidency are talked of principally Mr. Hancock and Mr. Adams. Mr. Jay or General Knox would, I believe, be preferred to either, but both of them will probably chuse to remain where they are. It is impossible to say which of the former would be preferred, or what other candidates may be brought forward.

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I have a letter from Mr. George Lee Turberville, of Virginia, requesting me to mention to you a report proceeding from Greenwich, that a Doctor Spence and his lady (the former a Virginian, of respectable family, in the lower end of the Northern neck, and whose mother is still living in a second marriage with a Doctor Thomson, of Westmoreland County) were captured on their way to Virginia, and carried into Algiers. This event is said to have happened seven or eight years ago, though discovered but lately, it having been taken for granted that the vessel and all on board had perished at sea. I am much inclined to believe that this supposition is the true one, and that the Greenwich story has no foundation. I communicate it, nevertheless, as requested by Mr. Turberville, that you may have an opportunity of collecting for the friends of Doctor Spence any information which may be interesting to them, and of taking any steps that such information may suggest in behalf of the distressed.

To Thomas Jefferson.

NEW YORK, October 17th, 1788.

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DEAR SIR,—I have written a number of letters to you since my return here, and shall add this by another casual opportunity just notified to me by Mr. St. John. Your favor of July 31 came to hand the day before yesterday. The pamphlets of the Marquis Condorcet and Mr. Dupont, referred to in it, have also been received. Your other letters enclosed to the Delegation have been and will be disposed of as you wish, particularly those to Col. Eppes and Mr. Lewis.

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Nothing has been done on the subject of the 445 outfit, 1357, there not having been a Congress of nine States for some time, nor even of seven for the last week. It is pretty certain that there will not again be a quorum of either number within the present year, and by no means certain that there will be one at all under the old Confederation. The Committee, finding that nothing could be done, have neglected to make a report as yet. I have spoken with a member of it in order to get one made, that the case may fall, of course, and in a favorable shape, within the attention of the new Government. The fear of a precedent will probably lead to an allowance for a limited time of the salary, as enjoyed originally by foreign ministers, in preference to a separate allowance for outfit. One of the members of the Treasury board, who ought, if certain facts have not escaped his memory, to witness the reasonableness of your calculations, takes occasion, I find, to impress a contrary idea. Fortunately, his influence will not be a very formidable obstacle to right.

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The States which have adopted the New Constitution are all proceeding to the arrangements for putting it into action in March next. Penna alone has as yet actually appointed Deputies, and that only for the Senate. My last mentioned that these were Mr. R. Morris and a Mr. McClay. How the other elections there and elsewhere will run is matter of. uncertainty. The Presidency alone unites the conjectures of the public. The Vice President is not at all marked out by the general voice. As the President will be from a Southern State, it falls almost of course for the other part of the Continent to supply the next in rank. South Carolina may, however, think of Mr. Rutledge, unless it should be previously discovered that votes will be wasted on him.

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The only candidates in the Northern States brought forward with their known consent are Hancock and Adams. Between these it seems probable the question will lie. Both of them are objectionable, and would, I think, be postponed by the general suffrage to several others, if they would accept the place. Hancock is weak, ambitious, a courtier of popularity, given to low intrigue, and lately reunited by a factious friendship with S. Adams. J. Adams has made himself obnoxious to many, particularly in the Southern States, by the political principles avowed in his book. Others, recollecting his cabal during the war against General Washington, knowing his extravagant self-importance, and considering his preference of an unprofitable dignity to some place of emolument better adapted to his private fortune as a proof of his having an eye to the Presidency, conclude that he would not be a very cordial second to the General, and that an impatient ambition might even intrigue for a premature advancement. The danger would be the greater if factious characters, as may be the case, should get into the public councils. Adams, it appears, is not unaware of some of the obstacles to his wish, and through a letter to Smith has thrown out popular sentiments as to the proposed President.

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The little pamphlet herewith inclosed will give you a collective view of the alterations which have been proposed by the State Conventions for the new Constitution. Various and numerous as they appear, they certainly omit many of the true grounds of opposition. The articles relating to Treaties, to paper money, and to contracts, created more enemies than all the errors in the system, positive and negative, put together.

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It is true, nevertheless, that not a few, particularly in Virginia, have contended for the proposed alterations from the most honorable and patriotic motives; and that among the advocates for the Constitution there are some who wish for further guards to public liberty and individual rights. As far as these may consist of a constitutional declaration of the most essential rights, it is probable they will be added; though there are many who think such addition unnecessary, and not a few who think it misplaced in such a Constitution. There is scarce any point on which the party in opposition is so much divided as to its importance and its propriety. My own opinion has always been in favor of a bill of rights, provided it be so framed as not to imply powers not meant to be included in the enumeration. At the same time, I have never thought the omission a material defect, nor been anxious to supply it even by subsequent amendment, for any other reason than that it is anxiously desired by others. I have favored it because I supposed it might be of use, and, if properly executed, could not be of disservice.

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I have not viewed it in an important light—1. Because I conceive that in a certain degree, though not in the extent argued by Mr. Wilson, the rights in question are reserved by the manner in which the federal powers are granted. 2. Because there is great reason to fear that a positive declaration of some of the most essential rights could not be obtained in the requisite latitude. I am sure that the rights of conscience in particular, if submitted to public definition, would be narrowed much more than they are likely ever to be by an assumed power. One of the objections in New England was, that the Constitution, by prohibiting religious tests, opened a door for Jews, Turks, and infidels. 3. Because the limited powers of the federal Government, and the jealousy of the subordinate Governments, afford a security which has not existed in the case of the State Governments, and exists in no other. 4. Because experience proves the inefficacy of a bill of rights on those occasions when its controul is most needed. Repeated violations of these parchment barriers have been committed by overbearing majorities in every State.

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In Virginia, I have seen the bill of rights violated in every instance where it has been opposed to a popular current. Notwithstanding the explicit provision contained in that instrument for the rights of conscience, it is well known that a religious establishment would have taken place in that State, if the Legislative majority had found, as they expected, a majority of the people in favor of the measure; and I am persuaded that if a majority of the people were now of one sect, the measure would still take place, and on narrower ground than was then proposed, notwithstanding the additional obstacle which the law\* has since created.

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Wherever the real power in a Government lies, there is the danger of oppression. In our Governments the real power lies in the majority of the community, and the invasion of private rights is chiefly to be apprehended, not from acts of Government contrary to the sense of its constituents, but from acts in which the Government is the mere instrument of the major number of the Constituents. This is a truth of great importance, but not yet sufficiently attended to; and is probably more strongly impressed on my mind by facts and reflections suggested by them than on yours, which has contemplated abuses of power issuing from a very different quarter. Wherever there is an interest and power to do wrong, wrong will generally be done, and not less readily by a powerful and interested party than by a powerful and interested prince. The difference, so far as it relates to the superiority of republics over monarchies, lies in the less degree of probability that interest may prompt abuses of power in the former than in the latter; and h the security in the former against an oppression of more thro the smaller part of the Society, whereas, in the latter, it may be extended in a manner to the whole.

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The difference, so far as it relates to the point in question—the efficacy of a bill of rights in controuling abuses of power—lies in this: that in a monarchy the latent force of the nation is superior to that of the Sovereign, and a solemn charter of popular rights must have a great effect as a standard for trying the validity of public acts, and a signal for rousing and uniting the superior force of the community; whereas, in a popular Government, the political and physical power nay be considered as vested in the same hands, that is, in a majority of the people, and, consequently, the tyrannical will of the Sovereign is not to be controuled by the dread of an appeal to any other force within the community.

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What use, then, it may be asked, can a bill of rights serve in popular Governments? I answer, the two following, which, though less essential than in other Governments, sufficiently recommend the precaution: 1. The political truths declared in that solemn manner acquire by degrees the character of fundamental maxims of free Government, and as they become incorporated with the National sentiment, counteract the impulses of interest and passion. 2. Although it be generally true, as above stated, that the danger of oppression lies in the interested majorities of the people rather than in usurped acts of the Government, yet there may be occasions on which the evil may spring from the latter source; and on such, a bill of rights will be a good ground for an appeal to the sense of the community. Perhaps, too, there may be a certain degree of danger that a succession of artful and ambitious rulers may, by gradual and well-timed advances, finally erect an independent Government on the subversion of liberty. Should this danger exist at all, it is prudent to guard against it, especially when the precaution can do no injury.

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At the same time, I must own that I see no tendency in our Governments to danger on that side. It has been remarked that there is a tendency in all Governments to an augmentation of power at the expence of liberty. But the remark, as usually understood, does not appear to me well founded. Power, when it has attained a certain degree of energy and independence, goes on generally to further degrees. But when below that degree, the direct tendency is to further degrees of relaxation, until the abuses of liberty beget a sudden transition to an undue degree of power. With this explanation the remark may be true; and in the latter sense only is it, in my opinion, applicable to the existing Governments in America. It is a melancholy reflection that liberty should be equally exposed to danger whether the Government have too much or too little power, and that the line which divides these extremes should be so inaccurately defined by experience.

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Supposing a bill of rights to be proper, the articles which ought to compose it admit of much discussion. I am inclined to think that absolute restrictions in cases that are doubtful, or where emergencies may overrule them, ought to be avoided. The restrictions, however strongly marked on paper, will never be regarded when opposed to the decided sense of the public; and after repeated violations, in extraordinary cases will lose even their ordinary efficacy. Should a Rebellion or insurrection alarm the people as well as the Government, and a suspension of the Habeas Corpus be dictated by the alarm, no written prohibitions on earth would prevent the measure. Should an army in time of peace be gradually established in our neighborhood by Britain or Spain, declarations on paper would have as little effect in preventing a standing force for the public safety. The best security against these evils is to remove the pretext for them.

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With regard to monopolies, they are justly classed among the greatest nuisances in Government. But is it clear that, as encouragements to literary works and ingenious discoveries, they are not too valuable to be wholly renounced? Would it not suffice to reserve in all cases a right to the public to abolish the privilege, at a price to be specified in the grant of it? Is there not, also, infinitely less danger of this abuse in our Governments than in most others? Monopolies are sacrifices of the many to the few. Where the power is in the few, it is natural for them to sacrifice the many to their own partialities and corruptions. Where the power, as with us, is in the many, not in the few, the danger cannot be very great that the few will be thus favored. It is much more to be dreaded that the few will be unnecessarily sacrificed to the many.

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I enclose a paper containing the late proceedings in Kentucky. I wish the ensuing Convention may take no step injurious to the character of the District, and favorable to the views of those who wish ill to the United States. One of my late letters communicated some circumstances which will not fail to occur on perusing the objects of the proposed Convention in next month. Perhaps, however, there may be less connection between the two cases than at first one is ready to conjecture.

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I am, dear sir, with the sincerest esteem and affection, yours.

To Edmund Pendleton.

NEW YORK Octr 20th, 1788.

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DEAR SIR,—I acknowledge with much pleasure your favor of the 6th instant. The "balmy" nature of the Resolutions concerning the Mississippi will, I hope, have the effect you suggest; though the wounds given to some, and the pretexts given to others, by the proceedings which rendered them necessary, will not, I fear, be radically removed. The light in which the temporary seat of the new Government is viewed and represented by those who were governed by antecedent jealousies of this end of the Union is a natural one, and the apprehension of it was among the most persuasive reasons with me for contending', with some earnestness, for a less eccentric position. A certain degree of impartiality, or the appearance of it, is necessary in the most despotic Governments. In republics this may be considered as the vital principle of the administration. And in a federal Republic, founded on local distinctions, involving local jealousies, it ought to be attended to with a still more scrupulous exactness.

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I am glad to find you concurring in the requisite expedients for preventing anti-federal elections and a premature Convention. The circular letter from this State has united and animated the efforts on the adverse side with respect to both these points. An early Convention threatens discord and mischief. It will be composed of the most heterogeneous characters; will be actuated by the party spirit reigning among their constituents; will comprehend men having insidious designs against the Union; and can scarcely, therefore, terminate in harmony or the public good. Let the enemies to the system wait until some experience shall have taken place, and the business will be conducted with more light, as well as with less heat. In the mean time, the other mode of amendments may safely be employed to quiet the fears of many, by supplying those further guards for private rights which can do no harm to the system, in the judgment even of its most partial friends, and will even be approved by others who have steadily supported it.

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It appears from late foreign intelligence that war is likely to spread its flames still farther among the unfortunate inhabitants of the old world. France is certainly enough occupied already with her internal fermentations. At present the struggle is merely between the Aristocracy and the Monarchy. The only chance in favor of the people lies in the mutual attempts of the competitors to make their side of the question the popular one. The late measures of the Court have that tendency. The nobility and clergy, who wish to accelerate the States-General, wish at the same time to have it formed on the antient model, established on the feudal idea, which excluded the people almost altogether. The Court has at length agreed to convene this Assembly in May, but is endeavouring to counteract the aristocratic policy, by admitting the people to a greater share of representation. In both the parties there are some real friends to liberty, who will probably take advantage of circumstances to promote their object. Of this description, on the anti-court side, is our friend, the Marquis. It is not true, I believe, that he is in the Bastile, but true that he is in disgrace, as the phrase there is.

To General Whashington.

NEW YORK, October 21, 1788.

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DEAR SIR,—I send you the enclosed paper chiefly for the sake of the edict, which fixes on May for the meeting of the States General in France. Letters from Mr. Jefferson authenticate the document. They mention also the disgrace, as it is called, of the Marquis. The struggle at present, in that kingdom, seems to be entirely between the monarchy and aristocracy, and the hopes of the people merely in the competition of their enemies for their favour. It is probable, however, that both the parties contain real friends to liberty, who will make events subservient to their object.

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The Count Moustier and the Marchioness Brehan are to set out this day for Mount Vernon. I take it for granted you are not only apprised of the intended visit, but of the time at which the guests may be expected.

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The State of Connecticut has made choice of Doctr Johnson and Mr. Ellsworth for its Senators, and has referred that of its representatives to the people at large; every individual citizen to vote for every Representative.

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I have not heretofore acknowledged your last favor, nothing material having turned up for some time, and the purpose of Col. Carrington to see you on his way to Virginia superseding all the ordinary communications through the epistolary channel.

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It gives me much pleasure to find that both the opposition, at first, and finally the accession, to the vote fixing New York for the first meeting of the new Congress, has your approbation. My fears that the measure would be made a handle of by the opposition are confirmed in some degree by my late information from Virginia. Mr. Pendleton, the chancellor, tells me he has already met taunts from that quarter on this specimen of Eastern equity and impartiality. Whether much noise will be made, will depend on the policy which Mr. Henry may find it convenient to adopt. As New York is at the head of his party, he may be induced by that circumstance not to make irritating reflections; though the fact is, that the party in this State which is with him is supposed to be indifferent, and even secretly averse, to the residence of Congress here. This, however, may not be known to him.

Writings of Madison, Volume 1: 1769-1793, p.430

I am, Dear Sir, yours most respectfully and affectely.

Questions from and answers to the Count de Monstier, Minister Plenipotentiary of France, October 30, 1788.

Writings of Madison, Volume 1: 1769-1793, p.430

1. Quelle est l'opinion des habitans les plus instruits de la Virginie, sur le contrat de la ferme avec Mons. Rov. Morris et quel est le systeme qu'ils voudroient y substituer?

Writings of Madison, Volume 1: 1769-1793, p.430

1. It is not easy to give a precise answer to this question, many of the best informed not having been led to communicate their opinions, and others having been directly or indirectly interested on one side or the other. It seems to have been rather the prevailing opinion that the contract was more hurtful to the price of tobacco than a supply of the Farmer General by purchases made in the English or other Foreign Markets. This opinion must be founded on a supposition that the Mercantile sellers in Europe could more easily combine and counteract the monopoly than the Planters of America. It does not appear that those who dislike their contract have particularly turned their thoughts to a system proper to be substituted. The general idea seems to have been that some arrangement in France, disarming the monopoly there of its influence, direct or indirect, on the market here, could alone effectually answer the purpose.

Writings of Madison, Volume 1: 1769-1793, p.431

2. Ne pourrions nous pas fournir a très bon marchè le gros lainage pour l'habillimente des negres?

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The manufacture of this article being extremely simple, and easily accommodated to the use, the event of a competition must depend on the comparative price of the material. The cloathing of negroes is made of the coarsest materials. It is at present supplied in part by family manufacture, especially where a few negroes only belong to the same master, and this resource is daily increasing. Principal part, however, comes from G. Britain; and if no foreign competition interferes, this must be the case for a considerable time.

Writings of Madison, Volume 1: 1769-1793, p.431

3. Quels sont en general les objects de commerce, dont il pourroit être interessant d'encourager l'mportation soit on France, soit aux Antilles?

Writings of Madison, Volume 1: 1769-1793, p.431

3. Virginia produces Tobacco, Wheat, Indian Corn, Lumber, salt provisions, coal, Iron, Hemp, tar, pitch, turpentine, flax-seed. Ship-building can be carried on also advantageously. It is the interest of Virginia to find encouragement for all these articles; and of France to give encouragement, so far, at least, as she does not herself produce them. Tobacco, naval stores, ready-built vessels, flax-seed, and occasionally wheat and flour also, are wanted in France. Flour, Bread, Indian Corn, salt provisions, lumber, and ready-built vessels of inferior size, are adapted to the wants of the Islands.

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4. Quelles sont d'un autre coté les marchandizes du Royaume on des Isles dont les Virgeniens paroissent avoir le plus grand besoin?

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4. As Virginia does not manufacture, and consumes less or more of a very great variety of articles, she may be considered as wanting most of the French manufactures recommended by their quality and price. At present, the courser woolens of France are inferior to those of Britain, and her courser linens to those of Germany. In the articles of hardware and leather, the English have also greatly the advantage. Wines, brandies, oil, Fruits, silks, cambricks, Lawns, printed goods, Glass, Kid gloves, ribbons, superfine broadcloths, &c., are articles which may be best obtained from France. The goods imported, as valued at the ports of delivery, between Sepr 1, '86, and July 20, '87, amounted to 949.444.00-7, excluding Salt, distilled spirits, wine, malt liquors, cheese, Tea, sugar, coffee. These paid a duty ad quantitatem, and therefore the value does not appear. It need not be remarked that in all cases the entries subject to duty fall short of the truth. The productions of the Islands most wanted in Virginia are sugar and coffee. Between Sepr 1, '86, and July 20, '87, were entered 2,126,673 lbs sugar, and 147,591 of coffee. Molasses also is wanted; and Taffia, perhaps, in a small degree. Cotton is raised in Virginia, as far as it is needed for domestic manufacture.

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5. Est il vraisemblable que les eaux de vie de France fassent tomber entierement le Rum des Isles? A quoi peut se monter la consommation anuuelle des vins de France in Virginie?

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5. It would be very difficult for brandy entirely to supplant rum. A moderate preference, however, would soon make it a formidable rival. The small encouragement hitherto given to brandy has had a very sensible effect in promoting the use of it, and as antecedent habits become weakened, the use will spread of itself. The brandies (doubtless from France, with very trifling exceptions) entered on the Custom-House books between Sept. 1, '86, and July 20, '87, amounted to 10,630 gallons; and it is conjectured that the direct importations not entered, with the considerable quantity introduced by the way of Maryland, where the duty has been lower, may amount to half as much. The Rum entered within that period amounted to 499,083 gallons; the Gin to 9,102 1/2 Gallons; and the cordials and other spirits to 4,169 1/2 Gals.

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The Wines entered within the above periods amounted to 109,948 Gallons, on which quantity about 40,000 gals were French.

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6. Se serf on beaucoup du sel de France pour les salaisons et que faut it faire pour en rendre l'usage plus commun?

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6. French salt is little, if at all, used in Virginia. The eye is displeased at its Colour, and the supposition is favored by that circumstance that it is dirty and inferior to the British and other white salt. The objection suggests the means of rendering the use more common.

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7. La Virge commence-t-elle a exporter elle même ses deuries et quelle est la proportion de sa navigation avec celle des autres nations pour le transport des tabacs et autres articles?

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7. Of the vessels entered between the above dates, the American amounted to 20,705 tons; the British, and those of other nations not in alliance, 26,9,03 tons; the French, and those of other nations in alliance, 2,664 tons. The law having required no other discriminations, the Custom-House books do not furnish a more particular answer.

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8. Comme les Americains desirent beaucoup d'obtenir de nouvelles faveurs duns nes Antilles, que pourroient-ils proposer pour faciliter un arrangement de cette nature sans trop prejudicier aux avantages que la France no cesse de tirer de ses Colonies?

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8. The answer to this important question ought to be the result of much information, as well as consideration. At present, Mr. M. is not prepared with such an one. Whenever he shall have formed an opinion on the subject which he thinks worth the attention of Count M., it shall be communicated.

To G. L. Turberville.

NEW YORK, November 2d, 1788.

Writings of Madison, Volume 1: 1769-1793, p.433

DEAR SIR,—Your favor of the 20th ultimo not having got into my hands in time to be acknowledged by the last mail, I have now the additional pleasure of acknowledging along with it your favor of the 24, which I received yesterday.

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You wish to know my sentiments on the project of another general Convention, as suggested by New York. I shall give them to you with great frankness, though I am aware they may not coincide with those in fashion at Richmond, or even with your own. I am not of the number, if there be any such, who think the Constitution lately adopted a faultless work. On the contrary, there are amendments which I wished it to have received before it issued from the place in which it was formed. These amendments I still think ought to be made, according to the apparent sense of America; and some of them, at least, I presume will be made. There are others concerning which doubts are entertained by many, and which have both advocates and opponents on each side of the main question. These, I think, ought to receive the light of actual experiment before it would be prudent to admit them into the Constitution. With respect to the first class, the only question is, which of the two modes provided be most eligible for the discussion and adoption of them.

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The objections against a Convention which give a preference to the other mode, in my judgment, are the following: 1. It will add to the difference among the States on the merits another and an unnecessary difference concerning the mode. There are amendments which, in themselves, will probably be agreed to by all the States, and pretty certainly by the requisite proportion of them. If they be contended for in the mode of a Convention, there are unquestionably a number of States who will be so averse and apprehensive as to the mode, that they will reject the merits rather than agree to the mode. A Convention, therefore, does not appear to be the most convenient or probable channel for getting to the object. 2. A Convention cannot be called without the unanimous consent of the parties who are to be bound by it, if first principles are to be recurred to; or without the previous application of two-thirds of the State Legislatures, if the forms of the Constitution are to be pursued. The difficulties in either of these cases must evidently be much greater than will attend the origination of amendments in Congress, which may be done at the instance of a single State Legislature, or even without a single instruction on the subject. 3. If a general Convention were to take place for the avowed and sole purpose of revising the Constitution, it would naturally consider itself as having a greater latitude than the Congress appointed to administer and support as well as to amend the system; it would consequently give greater agitation to the public mind; an election into it would be courted by the most violent partizans on both sides; it would probably consist of the most heterogeneous characters; would be the very focus of that flame which has already too much heated men of all parties; would no doubt contain individuals of insidious views, who, under the mask of seeking alterations popular in some parts but inadmissible in other parts of the Union, might have a dangerous opportunity of sapping the very foundations of the fabric. Under all these circumstances, it seems scarcely to be presumable that the deliberations of the body could be conducted in harmony, or terminate in the general good. Having witnessed the difficulties and dangers experienced by the first Convention, which assembled under every propitious circumstance, I should tremble for the result of a second, meeting in the present temper of America, and under all the disadvantages I have mentioned. 4. It is not unworthy of consideration that the prospect of a second Convention would be viewed by all Europe as a dark and threatening cloud hanging over the Constitution just established, and, perhaps, over the Union itself; and would therefore suspend, at least, the advantages this great event has promised us on that side. It is a well-known fact that this event has filled that quarter of the Globe with equal wonder and veneration; that its influence is already secretly but powerfully working in favor of liberty in France; and it is fairly to be inferred that the final event there may be materially affected by the prospect of things here. We are not sufficiently sensible of the importance of the example which this Country may give to the World, nor sufficiently attentive to the advantages we may reap from the late reform, if we avoid bringing it into danger. The last loan in Holland, and that alone, saved the United States from Bankruptcy in Europe; and that loan was obtained from a belief that the Constitution then depending would be certainly, speedily, quietly, and finally established, and by that means put America into a Permanent capacity to discharge with honor and punctuality all her engagements.

To General Washington.

NEW YORK, November 5, 1788.

Writings of Madison, Volume 1: 1769-1793, p.436

DEAR SIR,—The enclosed memorandum was put into my hands by Mr. St. John, the French Consul. He is a very worthy man, and entitled, by his philanthropy and zealous patronage of whatever he deems useful, to much esteem and regard. You will therefore oblige me by putting it in my power to afford him the little gratification he asks. I have another request to trouble you with, which concerns myself. Col. H. Lee tells me that he has purchased the tract of land through which the canal at the great falls is to run, and on which the basin will be, for £4,000. The tract contains 500 acres only, and is under the incumbrance of a rent of £150 sterling per annum; but, on the other hand, derives from its situation, as he supposes, a certain prospect of becoming immensely valuable. He paints it, in short, as the seat of an early town, the lots of which will be immediately productive, and possessing other peculiar advantages which make the bargain inestimable. In addition to many instances of his friendship, he tenders me a part in it, and urges my acceptance on grounds of advantage to myself alone. I am thoroughly persuaded that I am indebted for the proposal to the most disinterested and affectionate motives; but knowing that the fervor with which he pursues his objects sometimes affects the estimate he forms of them, and being in no condition to make hazardous experiments, it is advisable for me to have the sanction of other judgments to his opinions. You are well acquainted with the situation, and can at once decide whether it presents the material and certain advantages on which Col. Lee calculates. A general intimation, therefore, of the light in which the matter strikes you, will lay me under a very particular obligation. I am by no means sure that in any result it will be in my power to profit by Col. Lee's friendship, but it may be of some consequence whether the opportunity be worth attending to or not.

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My information from Richmond is very unpropitious to federal policy. Yours is no doubt more full and more recent. A decided and malignant majority may do many things of a disagreeable nature, but I trust the Constitution is too firmly established to be now materially vulnerable. The elections for the Legislature of Pennsylvania, New Jersey, and Maryland, ensure measures of a contrary complexion in those States. Indeed, Virginia is the only instance among the ratifying States in which the politics of the Legislature are at variance with the sense of the people, expressed by their Representatives in Convention. We hear nothing from Massachusetts or New Hampshire since the meeting of their general Courts. It is understood that both the appointments and arrangements for the Government will be calculated to support and, as far as possible, to dignify it. The public conversation seems to be not yet settled on the Vice President. Mr. Hancock and Mr. Adams have been most talked of. The former, it is said, rejects the idea of any secondary station; and the latter does not unite the suffrages of his own State, and is unpopular in many other places. As other candidates, however, are not likely to present themselves, and New England will be considered as having strong pretensions, it seems not improbable that the question will lie between the gentlemen above named. Mr. Jay and General Knox have been mentioned, but it is supposed that neither of them will exchange his present situation for an unprofitable dignity.

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I shall leave this in a day or two, and am not yet finally determined how far my journey may be continued Southward. A few lines on the subject above mentioned will either find me in Philadelphia, or be there taken care of for me. Should anything occur here or elsewhere worth your attention, it shall be duly communicated by,

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Dear Sir, your very respectful and affecte servt.

To Edmund Randolph.

PHILADELPHIA, NEW 23d, 1788.

Writings of Madison, Volume 1: 1769-1793, p.438

MY DEAR FRIEND,—Your two favors of the 5th and 10th instant have been duly received. The appointments for the Senate, communicated in the latter, answer to the calculations I had formed, notwithstanding the contrary appearances on which the former was founded. My only surprise is, that in the present temper and disproportionate number of the anti-federal part of the Assembly, my name should have been honored with so great a vote as it received. When this circumstance is combined with that of the characters which I have reason to believe concurred in it, I should be justly chargeable with a very mistaken ambition if I did not consider the event in the light which you anticipated. I shall not be surprised if the attempt should be equally successful to shut the door of the other House against me, which was the real object of my preference, as well for tho reason formerly suggested to you, as for the additional one that it will less require a stile of life with which my circumstances do not square, and for which an inadequate provision only will probably be made by the public. Being not yet acquainted with the allotment of Orange in the districts, I car form no estimate of the reception that will be given to an offer of my services. The district in which I am told it is likely to be thrown, for the choice of an Elector, is a very monitory sanple of what may and probably will be done in that way.

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My present situation embarrasses me somewhat. When I left New York, I not only expected that the choice for the Senate would be as it is, but was apprehensive that the spirit of party might chuse to add the supposed mortification of dropping my name from the deputation to Congress for the fraction of a year remaining. I accordingly left that place under arrangements which did not require my return. At the same time, I had it in view, if left entirely to my option, to pass the winter or part of it there, being desirous of employing some of the time in matters which need access to the papers of Congress, and supposing, moreover, that I should be there master more of my time than in Virginia. The opportunity of executing my plan is given me, I find, by one of the votes of the Assembly. On the other hand, I am now pressed by some of my friends to repair to Virginia, as a requisite expedient for counteracting the machinations against my election into the House of Representatives. To this, again, I am extremely disinclined, for reasons additional to the one above mentioned. It will have an electioneering appearance, which I always despised and wish to shun. And as I should shew myself in Orange only, where there will probably be little difficulty, my presence could have no very favorable effect; whilst it is very possible that such a mark of solicitude, strengthened by my not declining a reappointment to Congress, and now declining to serve in it, might, by a dexterous misinterpretation, be made to operate on the other side. These considerations are strong inducements to join my colleagues at New York, and leave things to their own course in Virginia. If Orange should fall into a federal district, it is probable I shall not be opposed; if otherwise, a successful opposition seems unavoidable. My decision, however, is not finally taken.

To Genl Washington.

PHILADELPHIA, Dec. 2, 1788.

Writings of Madison, Volume 1: 1769-1793, p.439

DEAR SIR,—The information conveyed in your favor of the 17 ult° lays me under great obligations. It was by no means my wish to have imposed the task of so full and particular a view of the subject. The general result in your own mind was all that I had in contemplation.

Writings of Madison, Volume 1: 1769-1793, p.439

One of the papers herewith enclosed will shew you the state of the election for the Senate in Massachusetts. It was understood here that Mr. Bowdoin was appointed, and I have transmitted the error to some of my correspondents. New Hampshire has made choice of President Langdon and Judge Bartlett. New Jersey, of Mr. patterson and Doctr Elmer. Delaware, of Mr. Reed and Mr. Bassett. South Carolina has postponed her choice till January. Mr. Izard, Mr. J. Rutledge, Mr. Butler, and Mr. C. Pinckney, are the subjects of conversation. Pennsylvania alone has arrived at the election for the other branch. The entire result is not yet known; but a sufficient number of the Counties have been heard from to warrant a confidence that 7 out of the 8, and a probability that the whole eight, will be found in the federal ticket. This prospect is, on the whole, auspicious; and shews the folly of Virginia, if the measures of the Legislature are to be taken for the sense of the State, in urging another Convention at this time. The real friends to the object professed by the leaders at Richmond ought to see that the only hope of obtaining alterations lies in not aiming at too many, and in being conciliatory as to the mode.

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I came to this city with a view either to return to New York or proceed to Virginia, as circumstances might require. I was not sure that the spirit of party might not take pleasure in superseding the opportunity of remaining longer in New York. That, I find, has not been the case; and a task which I had assigned myself for the winter, or rather a part of it, would be favored by a situation in which I could have access to the papers of Congress. On this account, a return to New York for the ensuing fraction of a year would not be inconvenient. But I am pressed much in several quarters to try the effect of presence on the district into which I fall for electing a Representative, and am apprehensive that an omission of that expedient may eventually expose me to blame. At the same time, I have an extreme distaste to steps having an electioneering appearance, altho' they should lead to an appointment in which I am disposed to serve the public; and am very dubious, moreover, whether any step which might seem to denote a solicitude on my part would not be as likely to operate against as in, favor of my pretensions. In this situation I am not clearly and finally decided as to the part which ought to be taken. When I see the Counties with which Orange is associated, I shall, perhaps, be more able to form some estimates which should influence my determination. This information I hourly expect, and in case it should induce me to continue my course to Virginia, I shall leave this immediately, or at least as soon as I can bear the journey. I have for some time past been much indisposed with the piles. They have not yet entirely gone off, and may possibly detain me some days longer than the season would otherwise admit.

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With every sentiment of esteem and affection, I am, Dr Sir, your too. obed. hble servant.

To Thomas Jefferson.

PHILADELPHIA, Decr 8, 1788.

Writings of Madison, Volume 1: 1769-1793, p.441

DEAR SIR,—This will be handed to you by Mr. Gouverneur Morris, who will embark in a few days for Havre, from whence he will proceed immediately to Paris. He is already well known to you by character; and as far as there may be a defect of personal acquaintance I beg leave to supply it by this introduction.

Writings of Madison, Volume 1: 1769-1793, p.441

My two last were of October 8 and 17th. They furnished a state of our affairs as they then stood. I shall here add the particulars of most consequence which have since taken place; remembering, however, that many details will be most conveniently gathered from the conversation of Mr. Morris, who is thoroughly possessed of American transactions.

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Notwithstanding the formidable opposition made to the new federal Government, first, in order to prevent its adoption, and since, in order to place its administration in the hands of disaffected men, there is now both a certainty of its peaceable commencement in March next, and a flattering prospect that it will be administered by men who will give it a fair trial. General Washington will certainly be called to the Executive department. Mr. Adams, who is pledged to support him, will probably be the vice President. The enemies to the Government, at the head and the most inveterate of whom is Mr. Henry, are laying a train for the election of Governor Clinton, but it cannot succeed unless the federal votes be more dispersed than can well happen. Of the seven States which have appointed their Senators, Virginia alone will have anti-federal members in that branch. Those of New Hampshire are President Lungdon and Judge Bartlett; of Massachusetts, Mr. Strong and Mr. Dalton; of Connecticut, Doctor Johnson and Mr. Ells-worth; of New Jersey, Mr. Patterson and Mr. Elmer; of Pennsylvania, Mr. R. Morris and Mr. McClay; of Delaware, Mr. Geo. Reed and Mr. Bassett; of Virginia, Mr. R. H. Lee and Col. Grayson. Here is already a majority of the ratifying States on the side of the Constitution. And it is not doubted that it will be reinforced by the appointments of Maryland, South Carolina, and Georgia. As one branch of the Legislature of New York is attached to the Constitution, it is not improbable that one of the Senators from that State also will be added to the majority.

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In the House of Representatives the proportion of anti-federal members will of course be greater, but cannot, if present appearances are to be trusted, amount to a majority, or even a very formidable minority. The election for this branch has taken place, as yet, no where except in Pennsylvania, and here the returns are not yet come in from all the Counties. It is certain, however, that seven out of the eight, and probable that the whole eight, representatives will bear the federal stamp. Even in Virginia, where the enemies to the Government form 2/3 of the legislature, it is computed that more than half the number of Representatives, who will be elected by the people, formed into districts for the purpose, will be of the same stamp. By some, it is computed that seven out of the ten allotted to that State will be opposed to the politics of the present Legislature.

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The questions which divide the public at present relate—1. To the extent of the amendments that ought to be made to the Constitution. 2. To the mode in which they ought to be made. The friends of the Constitution, some from an approbation of particular amendments, others from a spirit of conciliation, are generally agreed that the system should be revised. But they wish the revisal to be carried no farther than to supply additional guards for liberty, without abridging the sum of power transferred from the States to the general Government, or altering previous to trial the particular structure of the latter, and are fixed in opposition to the risk of another Convention, whilst the purpose can be as well answered by the other mode provided for introducing amendments. Those who have opposed the Constitution are, on the other hand, zealous for a second Convention and for a revisal, which may either not be restrained at all, or extend at least as far as alterations have been proposed by any State. Some of this class are, no doubt, friends to an effective Government, and even to the substance of the particular Government in question. It is equally certain that there are others who urge a second Convention with the insidious hope of throwing all things into confusion, and of subverting the fabric just established, if not the Union itself. If the first Congress embrace the policy which circumstances mark out, they will not fail to propose, of themselves, every desirable safeguard for popular rights; and by thus separating the well-meaning from the designing opponents, fix on the latter their true character, and give to the Government its due popularity and stability.

Writings of Madison, Volume 1: 1769-1793, p.443

I am a stranger to the errand on which G. Morris goes to Europe. It relates, I presume, to the affairs of R. Morris, which are still much deranged.

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I have received and paid the draught in favor of Doct. Ramsay. I had before paid the order in favor of Mr. Thompson, immediately on the receipt of your letter. About 220 dollars of the balance due on the last state of our account were left in Virginia for the use of your nephew. There are a few lesser sums which stand on my side of the account which I shall take credit for, when you can find leisure to forward another statement of your friendly advances for me.

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I shall leave this place in a day or two for Virginia, where my friends, who wish me to co-operate in putting our political machine into activity as a member of the house of Representatives, press me to attend. They made me a candidate for the Senate, for which I had not allotted my pretensions. The attempt was defeated by Mr. Henry, who is omnipotent in the present Legislature, and who added to the expedients common on such occasions a public philippic against my federal-principles. He has taken equal pains in forming the Counties into Districts, for the election of Representatives, to associate with Orange such as are most devoted to his politics, and most likely to be swayed by the prejudices excited against me. From the best information I have of the prevailing temper of the District, I conclude that my going to Virginia will answer no other purpose than to satisfy the opinions and entreaties of my friends. The trip is in itself very disagreeable, both on account of its electioneering appearance and the sacrifice of the winter, for which I had assigned a task which the intermission of Congressional business would have made convenient at New York.

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With the sincerest affection and the highest esteem, I am, dear sir, yours.

To Philip Mazzei, Esq.

PHILADELPHIA, 10 December, 1788.

Writings of Madison, Volume 1: 1769-1793, p.444

Your book, as I prophesied, sells nowhere but in Virginia. A very few copies only have been called for either in New York or in this city. The language in which it is written will account for it. In order to attract notice, I translated the panegyric in the French Mercure, and had it made part of the advertisement. I did not translate the comment on the Federal Constitution, as you wished, because I could not spare the time, as well as because I did not approve the tendency of it. Some of your remarks prove that Horace's "Coelum non animum mutant qui trans mare current" does not hold without exception.

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In Europe, the abuses of power continually before your eyes have given a bias to your political reflections which you did not feel in equal degree when you left America, and which you would feel less of if you had remained in America. Philosophers on the old continent, in their zeal against tyranny, would rush into anarchy; as the horrors of superstition drive them into Atheism. Here, perhaps, the inconveniences of relaxed government have reconciled too many to the opposite extreme. If your plan of a single Legislature, as in Pennsylvania, &c., were adopted, I sincerely believe that it would prove the most deadly blow ever given to Republicanism. Were I an enemy to that form, I would preach the very doctrines which are preached by the enemies to the government proposed for the United States. Many of our best citizens are disgusted with the injustice, instability, and folly, which characterize the American Administrations. The number has for some time been rapidly increasing. Were the evils to be much longer protracted, the disgust would seize citizens of every description.

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It is of infinite importance to the cause of liberty to ascertain the degree of it which will consist with the purposes of society. An error on one side may be as fatal as on the other. Hitherto, the error in the United States has lain in the excess.

Writings of Madison, Volume 1: 1769-1793, p.445

All the States except North Carolina and Rhode Island have ratified the proposed Constitution. Seven of them have appointed their Senators, of whom those of Virginia, R. H. Lee and Col. Grayson, alone are among the opponents of the system. The appointments of Maryland, South Carolina, and Georgia, will pretty certainly be of the same stamp with the majority. The House of Representatives is yet to be chosen everywhere except in Pennsylvania. From the partial returns received, the election will wear a federal aspect, unless the event in one or two particular counties should contradict every calculation. If the eight members from this State be on the side of the Constitution, it will in a manner secure the majority in that branch of the Congress also. The object of the Anti-Federalists is to bring about another general Convention, which would either agree on nothing, as would be agreeable to some, and throw everything into confusion, or expunge from the Constitution parts which are held by its friends to be essential to it. The latter party are willing to gratify their opponents with every supplemental provision for general rights, but insist that this can be better done in the mode provided for amendments.

Writings of Madison, Volume 1: 1769-1793, p.446

I remain, with great sincerity, your friend and servant.

To Thomas Jefferson.

PHILADELPHIA, Decr 12th, 1788.

Writings of Madison, Volume 1: 1769-1793, p.446

DEAR SIR,—The inclosed letter has been just sent me by Miss Rittenhouse, and I avail myself of the delay of Mr. Morris to give it a conveyance. Since mine already in the hands of Mr. Morris, further returns have been received from the Western Counties of this State, which, though not the entire residue, reduce the final result to certainty. There will be seven representatives of the federal party, and one a moderate anti-fede ralist. I consider this choice as ensuring a majority of friends to the federal Constitution in both branches of the Congress; as securing the Constitution against the hazardous experiment of a second Convention; and, if prudence should be the character of the first Congress, as leading to measures which will conciliate the well meaning of all parties, and put our affairs into an auspicious train.

Writings of Madison, Volume 1: 1769-1793, p.446

I am charged by a Monsieur St. Trise, who is here, with his compliments to you. He is an officer in the French Cavalry, and appears to be an agreeable, worthy man.

Writings of Madison, Volume 1: 1769-1793, p.446

With every sentiment of esteem and attachment, I am, dear sir, your friend and servt.

1789

To George Eve.

January 2d, 1789.

Writings of Madison, Volume 1: 1769-1793, p.446

SIR,—Being informed that reports prevail not only that I am opposed to any amendments whatever to the new federal Constitution, but that I have ceased to be a friend to the rights of conscience; and inferring from a conversation with my brother William that you are disposed to contradict such reports, as far as your knowledge of my sentiments may justify, I am led to trouble you with this communication of them. As a private citizen, it could not be my wish that erroneous opinions should be entertained with respect to either of those points, particularly with respect to religious liberty. But having been induced to offer my services to this district as its representative in the federal Legislature, considerations of a public nature make it proper that, with respect to both, my principles and views should be rightly understood.

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I freely own that I have never seen in the Constitution, as it now stands, those serious dangers which have alarmed many respectable Citizens. Accordingly, whilst it remained unratified, and it was necessary to unite the States in some one plan, I opposed all previous alterations as calculated to throw the States into dangerous contentions, and to furnish the secret enemies of the Union with an opportunity of promoting its dissolution. Circumstances are now changed. The Constitution is established on the ratifications of eleven States and a very great majority of the people of America; and amendments, if pursued with a proper moderation and in a proper mode, will be not only safe, but may serve the double purpose of satisfying the minds of well meaning opponents, and of providing additional guards in favour of liberty. Under this change of circumstances, it is my sincere opinion that the Constitution ought to be revised, and that the first Congress meeting under it ought to prepare and recommend to the States for ratification the most satisfactory provisions for all essential rights, particularly the rights of conscience in the fullest latitude, the freedom of the press, trials by jury, security against general warrants, &c. I think it will be proper, also, to provide expressly in the Constitution for the periodical increase of the number of Representatives, until the amount shall be entirely satisfactory, and to put the judiciary department into such a form as will render vexatious appeals impossible. There are sundry other alterations which are either eligible in themselves, or, being at least safe, are recommended by the respect due to such as wish for them.

Writings of Madison, Volume 1: 1769-1793, p.448

I have intimated that the amendments ought to be proposed by the first Congress. I prefer this mode to that of a General Convention—lst. Because it is the most expeditious mode. A Convention must be delayed until two-thirds of the State Legislatures shall have applied for one, and afterwards the amendments must be submitted to the States; whereas if the business be undertaken by Congress, the amendments may be prepared and submitted in March next. 2dly. Because it is the most certain mode. There are not a few States who will absolutely reject the proposal of a Convention, and yet not be averse to amendments in the other mode. Lastly. It is the safest mode. The Congress, who will be appointed to execute as well as to amend the Government, will probably be careful not to destroy or endanger it. A Convention, on the other hand, meeting in the present ferment of parties, and containing, perhaps, insidious characters from different parts of America, would at least spread a general alarm, and be but too likely to turn everything into confusion and uncertainty. It is to be observed, however, that the question concerning a General Convention will not belong to the federal Legislature. If two-thirds of the States apply for one, Congress cannot refuse to call it; if not, the other node of amendments must be pursued.

To General Washington.

ORANGE, Jany 14, 1789.

Writings of Madison, Volume 1: 1769-1793, p.448

DEAR SIR,—Your favor of the 2d instant, with the letters attending it, never came to hand 'til last evening. I have good reason to believe that the delay happened between Alexandria and Fredericksburg, rather than at or from the latter place. Mr. F. Maury pays particular attention to all letters which arrive there for me, and forwards them to Orange by opportunities which are frequent and safe. I apprehend there will be no impropriety in committing a confidential letter to that channel. As an additional precaution, I will desire him to be particularly attentive to any letter which may have your name on it.

Writings of Madison, Volume 1: 1769-1793, p.449

I have heard from two only of the returns from the Electoral districts;\* the one in favor of Mr. Gilchrist, the other of General Stevens. He succeeded against Col. Cabell by a majority of 82 votes.\* He owes his success to the coalition between the two parties in Spottsylvania. My situation is unfavorable for intelligence from the State at large, and therefore I can say little of the prospects as to the February election.

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I fear, from the vague accounts which circulate, that the federal Candidates are likely to stand in the way of each other. This is not the case, however, in my district. The field is left entirely to Monroe and myself. The event of our competition will probably depend on the part to be taken by two or three descriptions of people, whose decision is not known, if not yet to be ultimately formed. I have pursued my pretensions much further than I had premeditated, having not only made great use of epistolary means, but actually visited two Counties, Culpeper and Louisa, and publicly contradicted the erroneous reports propagated against me. It has been very industriously inculcated that I am dogmatically attached to the Constitution in every clause, syllable, and letter, and therefore not a single amendment will be promoted by my vote, either from conviction or a spirit of accommodation. This is the report most likely to affect the election, and most difficult to be combated with success within the limited period. There are a number of others, however, which are auxiliaries to it. With my respectful compliments to Mrs. Washington, and the others of your family,

Writings of Madison, Volume 1: 1769-1793, p.450

I remain, Dear Sir, your too. obedt and affect. Servt.

To Edmund Randolph.

ALEXANDRIA, March 1st, 1789.

Writings of Madison, Volume 1: 1769-1793, p.450

MY DEAR FRIEND,—This is the first convenient opportunity I have had for dropping you a line since I last came into the State. Your sanction to my remaining in New York during the crisis of the elections, conveyed through Col. Carrington, never came to hand till I had arrived in Orange. It coincided so fully with my inclination, and, indeed, with my judgment, that had it been received in due time, I do not know but I should have disregarded all the pressing exhortations which stood opposed to your opinion. I am persuaded, however, that my appearance in the district was more necessary to my election than you then calculated. In truth, it has been evinced by the experiment that my absence would have left a room for the calumnies of anti-federal partizans, which would have defeated much better pretensions than mine. In Culpeper, which was the critical County, a continued attention was necessary to repel the multiplied falsehoods which circulated. Whether I ought to be satisfied or displeased with my success, I shall hereafter be more able to judge. My present anticipations are not flattering. I see on the lists of Representatives a very scanty proportion who will share in the drudgery of business. And I foresee contentions, first between federal and anti-federal parties, and then between Northern and Southern parties, which give additional disagreeableness to the prospect. Should the State Elections give an anti-federal colour to the Legislatures, which, from causes not anti-federal in the people, may well happen, difficulties will again start up in this quarter, which may have a still more serious aspect on the Congressional proceedings.

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In my last, or one of my last letters, was enclosed a quere from Mr. St. John, the French Consul at New York, relating to the law here which regulates the recording of deeds, &c. As I shall on my return be applied to for an answer, I will thank you for the proper one as soon as your leisure will allow.

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I shall go on from this to-morrow. On my arrival I shall attend as far as I can to whatever may deserve your perusal. Besides the private satisfaction which I shall have in the continuance of our correspondence, I promise myself the benefit of your suggestions on public subjects.

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Present me respectfully to Mrs. R., and rely on the affection with which I remain, yours truly.

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As your neighborhood gives you frequent interviews with the President of William and Mary, remind him of my best regards to him.

To General Washington.

BALTIMORE, March 5th, 1789.

Writings of Madison, Volume 1: 1769-1793, p.451

DEAR SIR,—On our Journey hither, we have fallen in with the bearer of the Electoral votes of Georgia. They are unanimous as to the President, and are all thrown away on Individuals of the State as to the Vice president. The Representatives were not chosen when the gentleman set out, but the election was to take place in a day or two after. General Matthews, he tells us, will be one, Mr. Baldwin another, and the third either Mr. Osborne or Genl Jackson. All the candidates, I understand, are well affected to the Constitution. In South Carolina the votes for President were also unanimous, as the gentleman informs us. Of the others, 5 were given to Mr. Rut ledge, and the remaining two to Mr. Adams.

Writings of Madison, Volume 1: 1769-1793, p.452

The badness of the roads and the weather prevented our getting to this place sooner than last evening, by which means we lose two days. R.H. Lee left this on his way to New York on Monday morning. Mr. White had preceded him a day or two.

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With the highest respect and too. affect. attachment, I am, Dr Sir, Yrs.

To General Washington.

PHILADELPHIA, March 8, 1789.

Writings of Madison, Volume 1: 1769-1793, p.452

DEAR SIR,—We arrived here yesterday evening, where we have met with Mr. Dawson, just from New York. When he left it, eighteen representatives and eight senators had assembled. It is not certain when the deficiencies will be made up. The most favorable conjectures postpone it to Monday se'nnight. The members attending are chiefly from the Eastward. I do not learn that a single member, except Mr. White, is from a State south of Pennsylvania; unless, indeed, Dr Tucker is to be included in the exception. The New Jersey Representatives. are not yet announced. Mr. Clarke, it is supposed, will be one; Mr. Cadwallader, Mr. Boudinot, and Mr. Skureman, are talked of as the others.

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I find that the communication made you from Kentucky corresponds with an official letter to Congress from Governor St. Clair, which speaks of the same emissary, and the same errand. Notice has been transmitted of the affair to the executive of Virginia, in order that regular steps may be taken, if sufficient ground be afforded, for apprehending the incendiary. The project of Geo. Morgan for establishing a colony beyond the Mississippi is also going on. It is the opinion of Mr. Brown, as explained to Mr. Griffin, that emigrations to the Spanish Territory will be enticed from Kentucky as rapidly as the allurements of the latter place have obtained them from the Atlantic States. All these circumstances point out the conduct which the new government ought to pursue with regard to the Western Country and Spain.

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I dropped you a few lines from Baltimore, mentioning the unanimity of the electoral vote of South Carolina and Georgia for a President, and the manner in which the secondary votes were disposed of.

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I am, dear sir, yours truly and affectionately.

To General Washington.

NEW YORK, March 19, 1789.

Writings of Madison, Volume 1: 1769-1793, p.453

DEAR SIR,—On our arrival here we found that the number of Representatives on the spot had been stationary from the second day of the meeting. Mr. Page, Mr. Lee, and myself, raised it to 21, and Mr. S. Griffin and Mr. Moore have been since added. The number of attending Senators continues at eight. When a quorum will be made up in either House rests on vague conjecture rather than on any precise information. It is not improbable, I think, that the present week will supply the deficiency in one, if not in both of them. The States most convenient are among the defaulters. It will not be known, I am told, in this State, who the Representatives are, till some time next month. The federal party calculate on an equal division of the six. Mr. Lawrence for the city district, Mr. Floyd for the Long Island district, and Mr. Benson for a third. In New Jersey the election has been conducted in a very singular manner. The law having fixed no time expressly for closing the polls, they have been kept open three or four weeks in some of the counties, by a rival jealousy between the Eastern and western divisions of the State; and it seems uncertain when they would have been closed if the governor had not interposed, by fixing on a day for receiving the returns, and proclaiming the successful candidates. The day is passed, but I have not heard the result. The Western ticket in favor of Skureman, Boudinot, Cadwallader, and Sennickson, if this be the name, is supposed to have prevailed; but an impeachment of the election by the unsuccessful competitors has been talked of. Two of the Representatives from Massachusetts are also unknown to us. In one of the districts it is supposed that a disaffected man has prevailed.

Writings of Madison, Volume 1: 1769-1793, p.454

An English packet has been long expected, and is not yet arrived. The state of foreign news remains, of consequence, little altered. The accounts of latest date, through other channels, shew that the progress in France towards a constitutional establishment is unchecked, and that a coalition between the king and the commons against the nobility and clergy will direct the innovations.

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With respectful compliments to Mrs. Washington and the rest of the family, I am, dear sir, truly and affecty, your obt servt.

To General Washington.

NEW YORK, Mar. 26, 1789.

Writings of Madison, Volume 1: 1769-1793, p.454

DEAR SIR,—The inclosed copy of Morgan's invitation to his fellow-citizens was obtained from one of his friends, and forwarded to me from pennsylvania. It is the most authentic and precise evidence of the Spanish project that has come to my knowledge. The instrument referred to as retained in Morgan's hands, in order to be signed by the adventurers, would still further explain the transaction.

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No Quorum is yet formed in either house. The Senate want two members; the House of Reps four. It is probable that the members from N. Jersey, who are at length proclaimed, two remaining members from Penna, and Col. Coles, who halted in Philada, will come in this evening, and supply the deficiency in one Branch. The Senate have no precise prospect of the small addition required to their numbers.

Writings of Madison, Volume 1: 1769-1793, p.455

With unfeigned attachment, &c., &c.

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[Put into the hands of confidential people in Pennsylva and N. Jersey, for the purpose of procuring followers.]

Writings of Madison, Volume 1: 1769-1793, p.455

Several gentlemen who propose to make settlements in the Western Country mean to reconnoitre and survey the same the ensuing winter. All farmers, Tradesmen, &c., of good characters, who wish to unite in\* the scheme and to visit the Country under my direction, shall be provided with boats and provisions for the purpose, free of expense, on signing an agreement, which may be seen by applying to me at Prospect, near Princeton, on or before the 8th day of October next, or at Fort Pitt by the 10th day of November next. The boats which will be employed on this expedition are proposed to be from 40 to 60 feet long, to row with 20 oars each, and to carry a number of swivels. Each man to provide himself with a good fire-lock or rifle, ammunition, and one blanket, or more if he pleases. Such as choose tents or other conveniences must provide them themselves. Every person who accompanies me on this undertaking shall be entitled to 320 acres of land, at 1/8 of a dollar per acre. Those who first engage to have the preference of surveys, which, however, each person may make on such part of the whole tract as he pleases, taking none but his choice of the best lands, provided\* such survey is either square or oblong, whose sides are East, West, North, and South; 640 acres or more being first reserved for a Town, which I propose to divide into lots of one acre each, and give 600 of them in fee to such Merchants, tradesmen, &c., as may apply on the spot, and 40 of them to such public uses as the inhabitants shall from time to time recommend, together with one out-lot of ten acres to each of the first 600 families who shall\* settle in the Town. All persons who settle with me at New Madrid, and their posterity, will have the free navigation of the Mississippi, and a market at New Orleans, free from duties, for all the produce of their lands, where they may receive payment in Mexican Dollars for their flour, Tobacco, &c.

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It is proposed, after fixing on the spot, to clear and fence in one hundred acres in a convenient situation, to plant it with corn, to hire suitable hands to tend it thro' the summer, and in the next fall, winter, and spring, to distribute it to\* new settlers at 1/8 of a dollar per bushel, that they may have a dependence so far as this will go. And as buffaloes and other game are very plenty in the neighborhood there can be no want of provision, contractors being ready to engage to deliver fresh beef and venison throughout the year at 1 penny per pound. Credit will be given to those who desire it, as well for the land as\* for the provisions, and payment received in future produce. All persons will be assisted in building a House, clearing a spot of ground, and in getting in their first crops. Horned cattle, horses, and swine, will be delivered to the settlers at New Madrid in such quantities as they shall stand in need of at first, at very reasonable rates for cash\* or future produce. Those who settle at New Madrid in this or the ensuing year shall have plough-irons, or other Iron works, and farming utensils, transported down the Ohio gratis; also their clothing, bedding, kitchen furniture, and certain other articles which may not be too bulky.

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Schoolmasters will be engaged immediately for the instruction of youth. Ministers. of the Gospel will meet with encouragement, and grants of land made in fee to each\* of every denomination who may agree with a congregation before the year 1790, besides particular grants of tracts of land to each Society.

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This new city is proposed to be built on a high bank of the Mississippi River, near the mouth of the Ohio, in the richest and most healthy part of the Western Country, about the latitude of 37°.

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Those who wish for further information will be pleased to apply to me in person as above mentioned, or at the new City of Madrid after the first day of next Decr, where the Surveyors will attend to lay out the lands.

(Signed,) GEORGE MORGAN.

OCTR 3d, 1788.

To Thomas Jefferson.

NEW YORK, March 29th, 1789.

Writings of Madison, Volume 1: 1769-1793, p.457

DEAR SIR—My last was committed in December to Mr. Gouverneur Morris. I was then on my way to Virginia. The elections for the new government commenced shortly after my arrival. The first was of Electors, to Ballot for a President and Vice President. The successful candidates were General Wood, Mr. Zachy Johnson, Genl Edward Stephens, Doctor David Stuart, Mr. W. Fitzhugh of Chatham, Mr. Warner Lewis of Gloucester, Mr. Jno. Harvey, Mr. Walk, of or near Norfolk, Mr. Kello of Southampton. These nine were federalists. The remaining three, Mr. Patrick Henry, Mr. Roane of King and Queen, and Mr. Pride of Amelia, were of the adverse party. Two of the former party did not attend. The votes were unanimous with respect to General Washington, as appears to have been the case in each of the States. The secondary votes were given, among the federal members, chiefly to Mr. J. Adams, one or two being thrown away in order to prevent a possible competition for the Presidency. Governor Clinton was the secondary choice of the anti-federal members. In the succeeding election of Representatives, federalism was also proved to be the prevailing sentiment of the people. The successful candidates on this list are Mr. Moore, late of the Executive Council, (from Rockingham,) Mr. Alexander White, Mr. Richard Bland Lee, Mr. John Page, (Rosewell,) Mr. Samuel Griffin, Mr. Brown, member of the old Congress, (from Kentucky,) J. Madison, Col. Parker, (late nay. officer at Norfolk,) Col. Isaac Coles, (of Halifax,) and Col. Bland. Of these, the seven first have been on the side of the Constitution; the three last in the opposition. Col. Parker appears to be very temperate, and it is not probable that both the others will be very inveterate. It was my misfortune to be thrown into a contest with our friend, Col. Monroe. The occasion produced considerable efforts among our respective friends. Between ourselves, I have no reason to doubt that the distinction was duly kept in mind between political and personal views, and that it has saved our friendship from the smallest diminution. On one side I am sure it is the case.

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Notwithstanding the lapse of time since the birthday of the new Government, (the 4th of March,) I am under the necessity of informing you that a quorum is not yet formed, either in the Senate or House of Representatives. The season of the year, the peculiar badness of the weather, and the short interval between the epoch of election and that of meeting, form a better apology for the delay than will probably occur on your side of the Atlantic. The deficiency at present in the House of Representatives requires two members only for a Quorum, and in the Senate one only. A few days will, therefore, fit the Body for the first step, to wit, opening the Ballots for the President and Vice President. I have already said that General Washington will be the first by a unanimous suffrage. It is held to be certain that Mr. Adams, though refused a great many votes from different motives, will have the second appointment. A considerable delay will be unavoidable, after the ballots are counted, before the President can be on the spot, and, consequently, before any Legislative act can take place. Such a protraction of the inactivity of the Government is to be regretted on many accounts, but most on account of the loss of revenue. A prospect of the Spring importations led to the appointment of the first meeting at a time which, in other respects, was unseasonable.

Writings of Madison, Volume 1: 1769-1793, p.459

It is not yet possible to ascertain precisely the complexion of the new Congress. A little time will be necessary to unveil it, and a little will probably suffice. With regard to the Constitution, it is pretty well decided that the disaffected party in the Senate amounts to two or three members only; and that in the other House it does not exceed a very small minority, some of which will also be restrained by the federalism of the States from which they come. Notwithstanding this character of the Body, I hope and expect that some conciliatory sacrifices will be made, in order to extinguish opposition to the system, or at least break the force of it, by detaching the deluded opponents from their designing leaders. With regard to the system of policy to which the Government is capable of rising, and by which its genius will be appreciated, I wait for some experimental instruction. Were I to advance a conjecture, it would be, that the predictions of an anti-democratic operation will be confronted with at least a sufficient number of the features which have marked the State Governments.

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Since my arrival here I have received your favor of November 18th. It had been sent on to Virginia; but not reaching Fredericksburg before I passed that place, it followed me back hither. I am much concerned that your scheme of passing the ensuing summer in your native country has been defeated. Mr. Jay, with whom I have conversed on the subject, tells me that his answer to your public letter has explained the impossibility of giving effect to your wishes, no Congress having been formed under the old Confederation since the receipt of your letter, or, indeed, since the expiration of the last federal year. The most that can now be done will be to obtain from the new authority, as early as possible, some act which may leave the matter to your own discretion. Perhaps it may be neither more inconvenient to your private nor to the public affairs to make your visit in the fall instead of the Spring, and to pass the Winter instead of the Summer in America. The same cause on which you are to charge your disappointment in this instance prevented a decision on the question of outfit, stated in one of your former communications.

Writings of Madison, Volume 1: 1769-1793, p.460

With some printed papers containing interesting articles, I inclose a manuscript copy of Col. Morgan's invitation\* to persons disposed to seek their fortunes on the Spanish side of the Mississippi. There is no doubt that the project has the sanction of Gardoqui. It is a silly one on the part of Spain, and will probably end like the settlements on the Roman side of the Danube, with the concurrence of the declining empire. But it clearly betrays the plan suggested to you in a former letter, of making the Mississippi the bait for a defection of the Western people. Some of the leaders in Kentucky are known to favor the idea of connection with Spain. The people are as yet inimical to it. Their future disposition will depend on the measures of the new Government.

Writings of Madison, Volume 1: 1769-1793, p.460

I omitted to mention that a dispute between the Senate of this State, which was federal, and the other branch, which was otherwise, concerning the manner of appointing Senators for the Congress, was so inflexibly persisted in that no appointment was made during the late session, and must be delayed for a considerable time longer, even if the dispute should on a second trial be accommodated. It is supposed by some that the superintending power of Congress will be rendered necessary by the temper of the parties. The provision for the choice of electors was also delayed until the opportunity was lost; and that for the election of Representatives so long delayed that the result will not be decided till tuesday next. It is supposed that at least three out of the six will be of the federal party. In New Jersey, the inaccuracy of the law providing for the choice of Representatives has produced an almost equal delay, and left room for contests, which, if brought by the disappointed candidates into the House, will add a disagreeable article to the list of its business.

Writings of Madison, Volume 1: 1769-1793, p.460

I am much obliged for the two estimates on the subject of our foreign debt, and shall turn your ideas to the account which they deserve.

To General Washington.

NEW YORK, April 6th, 1789.

Writings of Madison, Volume 1: 1769-1793, p.461

DEAR SIR,—The arrival of R. H. Lee yesterday has made up a quorum of the Senate. A quorum in the other house was made on Wednesday last. The ballots will be opened to-day, unless an indisposition of Mr. Basset should prevent; which was not probable yesterday afternoon. The notifications of the President and vice President will be left to the Senate. Mr. Charles Thomson will be the messenger to the former.

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The papers will have made known that Mr. Muhlenburg was the choice of the Representatives for their speaker, and Mr. Beckley for their clerk. The competitor of the former was Mr. Trumbull, who had a respectable vote; of the latter, Mr. S. Stockton, of New Jersey, who, on the first ballot, had the same number with Mr. Beckley. A British packet arrived some days ago, but has not brought, as far as I have learned, any public letters. The other information brought has passed into our Gazettes, and will have reached you through that channel.

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I am, dear Sir, with the highest respect and attachment, your obedt and very hble servt.

Writings of Madison, Volume 1: 1769-1793, p.461

Your favor, enclosing a letter received at Mount Vernon for me, has been duly received.

To Edmund Pendleton.

NEW YORK, April 8th, 1789.

Writings of Madison, Volume 1: 1769-1793, p.461

DEAR SIR,—You will not learn without some surprize that the sixth of this month arrived before a quorum was made up in both branches of the new Legislature, and the first of the month before a Quorum was attained in either. The first and only joint step taken by the Congress was the examination of the ballots for President and vice president. The votes were found, as was expected, to be unanimously given to General Washington; and a sufficient number, though smaller than was expected, to give the secondary dignity to Mr. Adams. The entire number of votes was 69. Mr. Adams had 34 only. Governour Clinton had not a single vote except those of his three friends in Virginia. Mr. Charles Thomson set out yesterday as the herald to Mount Vernon, and a private gentleman with notice to the vice president. The Speaker of the House of Representatives is Mr. Muhlenburg, of Pennsylvania. The Clerk, Mr. Beckley. Mr. Langdon was placed in the chair of the Senate for the special purpose of opening the ballots, and will remain in it until Mr. Adams arrives. The Clerk of that House is not yet appointed.

Writings of Madison, Volume 1: 1769-1793, p.462

I inclose a copy of the Rules agreed on yesterday. They are to receive a supplement as soon as prepared by a Committee. The first regular business to be discussed will relate to commerce, which is in a state of anarchy at present. Some propositions on that subject will be taken up to-morrow. It is thought proper that the preparatory work should be done before the arrival of the President. The subject of amendments has not yet been touched. From appearances there will be no great difficulty in obtaining reasonable ones. It will depend, however, entirely on the temper of the federalists, who predominate as much in both branches as could be wished. Even in this State, notwithstanding the violence of its anti-federal symptoms, three of its six representatives at least will be zealous friends to the Constitution; and it is not improbable that a fourth will be of the same description.

Writings of Madison, Volume 1: 1769-1793, p.462

By a late British packet we understand that the King continues under his disability, though without mortal symptoms; that the care of his person is committed to the Queen, and that the Prince of Wales is sole Regent by an act of the two Houses, but under certain limitations of power, which have produced a pointed and public discussion between him and Mr. Pitt.

To Edmund Randolph.

NEW YORk, April 12, 1789.

Writings of Madison, Volume 1: 1769-1793, p.463

MY DEAR FRIEND,—I am just favored with yours of the 27th Ultimo. My last was sent from Alexandria, and as the receipt of it is not mentioned, I fear that it may have miscarried. I have not sooner written from this place because I waited for an Opportunity of collecting the features and complexion of the new Government, which, in its Legislative capacity, never became practically organized till the 6th instant, and in its Executive capacity will not be so for 10 or 15 days.

Writings of Madison, Volume 1: 1769-1793, p.463

The subject taken up in this House is an impost. Opinions are divided on the point whether the first plan shall be a hasty and temporary essay, or be digested into a form as little imperfect as the want of experience will admit. There are plausible arguments on both sides. The former loses ground daily, from the apparent impracticability of reaping the Spring harvest from importations. It is probable that the law will, in the event, be limited to a longer or a shorter duration, according to the accuracy and extent which can within a decent time be given to its provisions. I need not remark to you the difficulty of the work. Nothing but experience and successive revisions can render it tolerably adequate and respectable. There will be difficulty, also, in adjusting a scale of duties, &c. to the different ideas and interests of different States and Statesmen. But I suspect the latter difficulty will be less perplexing than the former, though I know a contrary apprehension has prevailed. The Senate have appointed a Committee on the subject of the Judiciary Department.

Writings of Madison, Volume 1: 1769-1793, p.463

On the subject of amendments, nothing has been publickly, and very little privately, said. Such as I am known to have espoused will, as far as I can gather, be attainable from the federalists, who sufficiently predominate in both branches, though with some the concurrence will proceed from a spirit of conciliation rather than conviction. Connecticut is least inclined, though I presume not inflexibly opposed, to a moderate revision. A paper, which will probably be republished in the Virginia Gazettes, under the signature of a citizen of New Haven, unfolds Mr. Sherman's opinions. Whatever the amendments may be, it is clear that they will be attempted in no other way than through Congress. Many of the warmest of the opponents of the Government disavow the mode contended for by Virginia.

Writings of Madison, Volume 1: 1769-1793, p.464

I wish I could see an equal prospect of appeasing the disquietude on the two other points you mention—British debts and taxes. With respect to the first, you know my sentiments. It will be the duty of the Senate, in my opinion, to promote regulations with Great Britain as speedily as circumstances will admit, and the aspect of the Government seems likely to command a respectful attention to its measures. I see nothing else that can be done. As to the taxes, I see nothing that can be done more than the ordinary maxims of policy suggest. They may certainly be diminished in consequence of the revolution in the federal Government, since the public wants will be little if at all increased, and may be supplied in greater proportion out of commerce.

To Edmund Pendleton.

NEW YORK, April 19, 1789.

Writings of Madison, Volume 1: 1769-1793, p.464

DEAR SIR,—My last was committed to Major Rogers, of your County, who embarked some days ago from this place for Virginia. I have been since favoured with yours of the 7th instant, and am much and truly gratified with the proof it contains of your good health.

Writings of Madison, Volume 1: 1769-1793, p.464

We have not yet either the President or vice President on the ground. The former is expected in a few days. The latter, we are told, will certainly come in to-morrow evening. Preparations are making by the Inhabitants for the reception of both; for that of the former in a very splendid style.

Writings of Madison, Volume 1: 1769-1793, p.464

The House of Representatives is still occupied with the impost. It is a subject which is not very simple in itself, and is rendered not a little difficult by the diversity of State regulations; by the total want of regulations in several States; by the case of Rhode Island and North Carolina, not yet parties to the Constitution; and by the law of Virginia disqualifying State officers, Judiciary, as well as others, from executing federal functions. The latter circumstance seems to threaten additional delay, since it may require some special provision of a Judiciary nature for cases of seizure, &c., until the Judiciary department can be systematically arranged; and may even then oblige the federal Legislature to extend its provisions farther than might otherwise be necessary. In settling the rate of duties, the ideas of different quarters, Northern and Southern, Eastern and Western, do not entirely accord; but the difficulties are adjusted as easily as could be well expected. If the duties should be raised too high, the error will proceed as much from the popular ardor to throw the burden of revenue on trade as from the premature policy of stimulating manufactures.

Writings of Madison, Volume 1: 1769-1793, p.465

Several vessels are just arrived from England. They report that the King was getting much better, and the nation flattered with a hope of his being soon able to resume the reins of Government. Should his recovery amount to a lucid interval only, and successive relapses mark his future situation, the case will become more singular and perplexing than ever.

To Thomas Jefferson.

NEW YORK, May 9, 1789.

Writings of Madison, Volume 1: 1769-1793, p.465

DEAR SIR,—My last was of the 29th March. A few days ago I had the pleasure of yours of the 12 January. I thank you for your attention to the works of the Abbe Barthelemy and the Marquis Condorcet, and wish much that your attempts to procure me a genuine copy of the King of Prussia's may succeed.

Writings of Madison, Volume 1: 1769-1793, p.465-p.466

I send you herewith the first N. of the Congressional Register, which will give you some idea of the discussions in the new Legislature. You will see at once the strongest evidences of mutilation and perversion, and of the illiteracy of the Editor. The following Numbers shall go after it, as conveyances occur, unless they should be found wholly unworthy of it. The deliberations of the House of Representatives have been chiefly employed on the subject of an Impost. Opinions have been considerably divided on the quantum of duties that would be practicable, and, in some instances, on the ratio of different duties likely to operate differently in different States that would be just. In general, the interests and ideas of the Northern and Southern States have been less adverse than was predicted by the opponents or hoped by the friends of the new Government. Members from the same State, or the same part of the Union, are as often separated on questions from each other as they are united in opposition to other States or other quarters of the continent. This is a favorable symptom. The points on which most controversy has been raised are: 1st. The duty on molasses. 2. The discrimination between nations in and those not in Treaty. The arguments against what appears a proportionate duty on molasses to that of rum turned on its disproportion to the value of the article; the effect on the trade in it, which yields the only market for certain exports from the Eastern States; the effect on the fisheries, in which both rum and molasses are consumed; and, finally, the effect on the poor in that part of the Union where the latter enters into their ordinary diet. The opposite arguments have been, that a proportion to the duty on rum was essential to the productiveness of the fund, as well as to the rules of justice as applied to different States, some of which consume foreign and some country rum; that if the proportion was not violated, the trade in molasses could not be affected nor the distilleries injured; that the effect on the fisheries would be too small to be felt; and that the poor who consume molasses would escape the burden falling on the poor who consume sugar. By the inclosed printed resolutions you will see the rates on these articles as they yet stand. It is not improbable that further efforts will be made to reduce that on molasses. Some of the other rates have been altered since they were printed. I do not note them because they are not yet in their final state. It will become a serious question whether a general reduction of the rates shall be made or not, on the idea of the danger of smuggling. The distinction between nations in and not in Treaty has given birth to three distinctand urgent debates. On the last, the minority was very small for putting Great Britain at once on the same footing with the most favored nation. This policy, though patronized bY some respectable names, is chiefly abetted by the spirit of this City, which is steeped in Anglicism. It is not improbable, from the urgency of its representative, that a further effort may be yet made.

Writings of Madison, Volume 1: 1769-1793, p.467

Not knowing how far the present conveyance may be a certain one, I decline, on reflection, inclosing the Registeruntil a more direct opportunity offers, when I will add sundry matters which I have not time now to put in cypher. Inclosed is the Speech of the President, with the Address of the House of Representatives, and his reply. You will see in the caption of the address that we have pruned the ordinary stile of the degrading appendages of Excellency, Esquire, &c., and restored it to its naked dignity. Titles to both the President and Vice President were formally and unanimously condemned by a vote of the House of Representatives. This, I hope, will shewto the friends of Republicanism that our new Government was not meant to substitute either Monarchy or Aristocracy, and that the genius of the people is as yet adverse to both.

To Edmund Randolph.

NEW YORK, May 10, 1789.

Writings of Madison, Volume 1: 1769-1793, p.467

MY DEAR FRIEND,—Whilst I thank you for your favor of the 23d ultimo, I must remind you that it does not contain the promised information on the case of the French Consul here. I am led to it by being myself just reminded by him of the omission on my part.

Writings of Madison, Volume 1: 1769-1793, p.467

The plan of an immediate temporary impost was what first occurred on the subject. It is not yet abandoned, but the practicability is questionable. The plan of 1783 was inadmissible without alteration on some points, which have been most productive of delay. I allude particularly to the ratio between the duties on rum and molasses. When this plan was recommended by Congress, the States could restrain the substitution of N. England rum by taxing it, which being now prohibited, an indirect tax on it through the medium of molasses is become essential on the part of the National authority. The rates of impost are in their last stage, and will probably be soon determined. The plan of temporary collection, by a general adoption of the existing regulations of the States, is also before the House of Representatives. A uniform plan will in a day or two follow it from the Committee appointed to report the proper mode. The House will be able to make their election between the two. The reasons for despatch will recommend the first, if it can be made to hold water, which is much doubted. Whichever plan may be preferred, it will be proper, perhaps, to limit its duration, that a more correct provision within a reasonable time may be rendered a matter of necessity.

Writings of Madison, Volume 1: 1769-1793, p.468

No question has been made in this quarter or elsewhere, as far as I have learned, whether the General ought to have accepted the trust. On the contrary, opinions have been unanimous and decided that it was essential to the commencement of the Government, and a duty from which no private considerations could absolve him. The promptitude of his setting out from Mount Vernon was the effect of information of the delay of business here, the impatience of the public mind, and the necessity of his presence to make the Government competent to its first and most urgent objects. His election was known to him with certainty a long time before the ballots were opened, and informally communicated, I believe, before it was regularly notified. It was taken for granted here, that, under the circumstances of the occasion, he would lose no time in repairing to his station, if he meant not to decline it altogether. Col. Griffin has, I presume, sent you his inaugural speech. Inclosed is the answer of the House of Representatives. The address is purged, you will observe, of all titles whatsoever except the Constitutional one.

Writings of Madison, Volume 1: 1769-1793, p.469

This point had been previously determined by a Report from a joint committee originated by the Senate, for the purpose of settling what, or whether any, titles should be annexed to the President and Vice President. The Report was unanimously agreed to by the House of Representatives previous to the address. I am sorry to find that the Senate do not concur in this principle of dignified simplicity. They have disagreed to the Report of the joint Committee, and have proposed another consultation on the subject. The House of Representatives will assuredly adhere to the first determination. The friends of titles in the other Branch are headed by the vice president, who is seconded with all the force and urgency of natural temper by R. H. L—. I make no other remark on the case than that it is communicated to yourself only.

Ever most affecy yours,

Writings of Madison, Volume 1: 1769-1793, p.469

My compliments to the President\* I wish to write to him, but my friends must excuse me from much of the attention which my inclination would give them.

To James Monroe.

NEW YORK, May 13, 1789.

Writings of Madison, Volume 1: 1769-1793, p.469

DEAR SIR,—I have been favored with yours of April -The newspapers will have given you some idea of our proceedings, though in a state always mutilated, and often perverted. The impost is still the subject of deliberation. The general quantum of duties has at some periods been a source of discussion; at others, the ratio of particular duties have produced still more of it. The proper one between Rum and Molasses has been the last and the longest question of that sort. I fear it will not be possible to establish a due and politic proportion without admitting excises, so far as to reach the distilleries. The dilemma between that expedient and a palpable inequality in the burden, and injury to the Treasury, is a perplexing one.

To Edmund Pendleton.

NEW YORK, May 17, 1789.

Writings of Madison, Volume 1: 1769-1793, p.470

DEAR SIR,—Your favor of the 3d instant was not received till two days ago. It is not certain, however, that the post office is chargeable with the delay, the date of its receipt, stamped at Fredericksburg, being the 6th of the month.

Writings of Madison, Volume 1: 1769-1793, p.470

The progress of our revenue system continues to be slow. The bill rating the duties is still with the Senate. It is said that many alterations will be proposed, consisting of reductions chiefly. It is said, also, that the proposition for putting Great Britain on the same footing with our Allies in all respects, prior to a treaty with her, will have a majority in that House, and will undergo another agitation in the House of Representatives. It had before three trials in the latter, but it lost ground in each, and finally was in a minority of 9 or 10 against near 40. I think it an impolitic idea as it relates to our foreign interest, and not less so, perhaps, as it relates to the popular sentiment of America, particularly of Virginia, and still more particularly of that part of it which is already most dissatisfied with the new Government.

Writings of Madison, Volume 1: 1769-1793, p.470

I communicated your compliments to the President, who received them with professions of his great esteem and regard for you, and desired me to make the proper returns for them.

To Thomas Jefferson.

NEW YORK, May 23, 1789.

Writings of Madison, Volume 1: 1769-1793, p.470

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.470

My last inclosed copies of the President's inaugural Speech, and the answer of the House of Representatives. I now add the answer of the Senate. It will not have escaped you that the former was addressed with a truly republican simplicity to George Washington, President of the United States. The latter follows the example, with the omission of the personal name, but without any other than the Constitutional title. The proceeding on this point was, in the House of Representatives, spontaneous. The imitation by the Senate was extorted. The question became a serious one between the two Houses. J. Adams espoused the cause Of titles with great earnestness. His friend, R. H. Lee, although elected as a Republican enemy to an aristocratic Constitution, was a most zealous second. The projected title was, his Highness the President of the United States and protector of their liberties. Had the project succeeded, it would have subjected the President to a severe dilemma, and given a deep wound to our infant Government.

Writings of Madison, Volume 1: 1769-1793, p.471

It is with much pleasure I inform you that Monstier begins to make himself acceptable; and with still more, that Madame Brehan begins to be viewed in the light which I hope she merits, and which was so little the case when I wrote by Master Morris.

Writings of Madison, Volume 1: 1769-1793, p.471

The collection bill is not yet passed. The duties have been settled in the House of Representatives, and are before the Senate; they produced a good deal of discussion, and called forth, in some degree, our local feelings. But the experiment has been favorable to our character for moderation, and, in general, the temper of the Congress seems to be propitious.

To Thomas Jefferson.

NEW YORK, May 27th, 1789.

Writings of Madison, Volume 1: 1769-1793, p.471

DEAR SIR,—My former letters will have made known to you the obstacles to a licence for your visit to America. The new authority has not yet taken up your application. As soon as the auxiliary offices to the President shall be established and filled, which will probably not be long delayed, I hope the subject will be decided on, and in the manner you wish. It is already agreed in the form of resolutions that there shall be three departments: one for finance, another for foreign affairs, and the third for war. The last will be continued in the hands of General Knox. The second will remain with Mr. Jay, if he chooses to keep it. The first is also to be under one head, though to be branched out in such a manner as will check the administration. Chancellor Livingston wishes this department, but will not succeed. It will be given, I think, to Jay or Hamilton. The latter is, perhaps, best qualified for that species of business, and on that account would be preferred by those who know him personally. The former is more known by character throughout the United States.

Writings of Madison, Volume 1: 1769-1793, p.472

I have been asked whether any appointment at home would be agreeable to you. Being unacquainted with your mind, I have not ventured on an answer.

Writings of Madison, Volume 1: 1769-1793, p.472

The Bill of rates, which passed the House of Representatives a few days ago, is not yet come down from the Senate. The duties will, it is said, be pretty much reduced. In a few instances, perhaps, the reductions may not be improper. If they are not generally left as high as will admit of collection, the dilemma will be unavoidable, of either maintaining our public credit in its birth, or resorting to other kinds of taxation for which our constituents are not yet prepared. The Senate is also abolishing the discriminations in favor of nations in Treaty, whereby Britain will be quieted in the enjoyment of our trade, as she may please to regulate it, and France discouraged from her efforts at a competition which it is not less our interest than hers to promote. The question was agitated repeatedly in the House of Representatives, and decided at last almost unanimously, in favor of some monitory proof that our Government is able and not afraid to encounter the restrictions of Britain. Both the Senators from Virginia, particularly Lee, go with the majority of the Senate. In this, I suspect the temper of the party which sent them is as little consulted as in the conduct of Lee in the affair of titles, and his opinion in relation to the western country.

Writings of Madison, Volume 1: 1769-1793, p.472

I have already informed you that Madam Brehan is every day recovering from the disesteem and neglect into which reports had thrown her, and that Moustier is also become more and more acceptable, or at least less and less otherwise. His commercial ideas are probably neither illiberal nor unfriendly to this country. The contrary has been supposed. When the truth is ascertained and known, unfavorable impressions will be still more removed.

Writings of Madison, Volume 1: 1769-1793, p.473

The subject of amendments was to have been introduced on monday last, but is postponed in order that more urgent business may not be delayed. On monday seven-night it will certainly come forward. A Bill of rights, incorporated, perhaps, into the Constitution, will be proposed, with a few alterations most called for by the opponents of the Government and least objectionable to its friends.

Writings of Madison, Volume 1: 1769-1793, p.473

As soon as Mr. Brown arrives, who is the Representative of Kentucky, the admission of that district to the character of a State, and a member of the Union, will claim attention. I foresee no difficulty, unless local jealousy should couple the pretensions of Vermont with those of Kentucky; and even then no other delay than what may be necessary to open the way for the former, through the forms and perhaps the objections of this State, N. York, which must not be altogether disregarded.

Writings of Madison, Volume 1: 1769-1793, p.473

The proceedings of the new Congress are, so far, marked with great moderation and liberality, and will disappoint the wishes and predictions of many who have opposed the Government. The spirit which characterizes the House of Representatives, in particular, is already extinguishing the honest fears which considered the system as dangerous to Republicanism. For myself, I am persuaded that the bias of the federal is on the same side with that of the State Governments, though in a much less degree.

To Edmund Randolph.

NEW YORK, May 31, 1789.

Writings of Madison, Volume 1: 1769-1793, p.473

MY DEAR FRIEND,—I have been favored with yours of the 19th instant, and thank you for the answer to Mr. St John's enquiries. The apprehensions of Mrs. Randolph give me unfeigned concern, but I indulge strong hopes that they proceed from an imaginary cause. There are so many symptoms which mimic the cancerous that it would be wrong to suffer appearances to prevail against the favorable chances. At the same time, it is impossible to disapprove of the forecast with which the occasion inspires you.

Writings of Madison, Volume 1: 1769-1793, p.474

Our business here goes on very slowly, though in a spirit of moderation and accommodation which is so far flattering. The bill for regulating the quantum of duties is not yet come back from the Senate. Some alterations will be made, but none that affect the substance of the plan, unless it be the abolition of a small favor to the Nations in alliance with us, copied from the laws of Virginia. One of our Senators, whose ideas on another point excite animadversions among his constituents, seems not to consult their sentiments on this. I think myself that it is impolitic, in every view that can be taken of the subject, to put Great Britain at once on the footing of a most favored nation. The bill for collecting the duties is now before the House of Representatives, and I fear will not be very quickly despatched. It has passed through several hands, legal as well as Mercantile, and, notwithstanding, is in a crude state. It might certainly have been put into a better; though in every step the difficulties arising from novelty are severely experienced, and are an ample as well as just source of apology. Scarcely a day passes without some striking evidence of the delays and perplexities springing merely from the want of precedents. Time will be a full remedy for this evil, and will, I am persuaded, evince a greater facility in legislating uniformly for all the States than has been supposed by some of the best friends of the Union.

Writings of Madison, Volume 1: 1769-1793, p.474

Among the subjects on the anvil is the arrangement of the subordinate Executive departments. A unity in each has been resolved on, and an amenability to the President alone, as well as to the Senate by way of impeachment. Perhaps it would not be very consistent with the Constitution to require the concurrence of the Senate in removals. The Executive power seems to be vested in the President alone, except so far as it is qualified by an express association of the Senate in appointments; in like manner as the Legislative is vested in Congress, under the exception in favour of the President's qualified negative. Independently of this consideration, I think it best to give the Senate as little agency as possible in Executive matters, and to make the President as responsible as possible in them. Were the heads of departments dependent on the Senate, a faction in this branch might support them against the President, distract the Executive department, and obstruct the public business. The danger of undue power in the President from such a regulation is not to me formidable. I see and politically feel that that will be the weak branch of the Government. With a full power of removal, the President will be more likely to spare unworthy officers through fear than to displace the meritorious through caprice or passion. A disgusted man of influence would immediately form a party against the administration, endanger his re-election, and at least go into one of the Houses and torment him with opposition.

Writings of Madison, Volume 1: 1769-1793, p.475

I cannot close this without a disagreeable recollection of the date of my last. I am most negligent towards my best friends perhaps, because I have most confidence in their forgiveness. I will at least, in future, inclose the newspapers, when I can do no more. I never had less time that I could truly call my own than at present, of which I hope you will consider my irregular correspondence as the fullest proof.

Writings of Madison, Volume 1: 1769-1793, p.475

Very truly and most affecly.

To Thomas Jefferson.

(Extract.)

N. YORK, June 13, 1789.

Writings of Madison, Volume 1: 1769-1793, p.475

DEAR SIR,—\* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.475

The newspapers inclosed will shew you the form and extent of the amendments which I thought it advisable to introduce to the House of Representatives, as most likely to pass through two-thirds of that House and of the Senate, and three-fourths of the States. If I am not mistaken, they will, if passed, be satisfactory to a majority of those who have opposed the Constitution. I am persuaded they will be so to a majority of that description in Virginia.

To Edmund Randolph.

NEW YORK, June 17, 1789.

Writings of Madison, Volume 1: 1769-1793, p.476

MY DEAR FRIEND,—The inclosed bill relating to the Judiciary has been just introduced into the Senate. Having not yet looked it over, I can say nothing of its merits. You will be a better judge, and such remarks as your leisure will permit will be acceptable and useful.

Writings of Madison, Volume 1: 1769-1793, p.476

A very interesting Question is started—By whom officers appointed during pleasure by the President and Senate are to be displaced? Whether the power results to the authority appointing, or, as an Executive function, to the President, who is vested with the Executive power, except so far as it is expressly qualified? My present opinion is, that the Senate is associated with the President by way of exception, and cannot, therefore, claim beyond the exception. This construction has its inconveniences, particularly in referring toe much to a single discretion; but it is checked by the elective character of the Executive, his being impeachable at all times, and the subordinate officers being also impeachable. His power under this construction will be merely in a capacity to remove worthy officers; but experience shews that this is not the prevailing evil, the continuance of the unworthy being the most so. Add to this that his caprice would be restrained by the necessity of the Senate's concurrence in supplying the vacancy; and that injured merit would be supported by the public opinion, would attack with probability of success the re-election of the President, and would at least be able to make a party against him in the Legislature, and go into one or other of its branches to plague his administration. High as the existing President stands, I question whether it would be very safe for him even not to reinstate Jay or Knox, &c. On the contrary construction the Senate must sit constantly; officers would make parties there to support them against the President, and, by degrees, the Executive power would slide into one branch of the Legislature; on the most favorable supposition it would be a two-headed monster.

Writings of Madison, Volume 1: 1769-1793, p.477

Excuse the scrawl, which a moment only has permitted, the hour of the marl being come.

Writings of Madison, Volume 1: 1769-1793, p.477

Most truly.

To Edmund Pendleton.

NEW YORK, June 21, 1789.

Writings of Madison, Volume 1: 1769-1793, p.477

DEAR SIR,—The last favor for which I am to thank you is of June 9th. For some time past I have been obliged to content myself with inclosing you the newspapers. In general, they give, though frequently erroneous and sometimes perverted, yet, on the whole, fuller accounts of what is going forward than could be put into a letter. The papers now covered contain a sketch of a very interesting discussion which consumed great part of the past week. The Constitution has omitted to declare expressly by what authority removals from office are to be made. Out of this silence, four constructive doctrines have arisen: 1. That the power of removal may be disposed of by the Legislative discretion. To this it is objected that the Legislature might then confer it on themselves, or even on the House of Representatives, which could not possibly have been intended by the Constitution. 2. That the power of removal can only be exercised in the mode of impeachment. To this the objection is that it would make officers of every description hold their places during good behaviour, which could have still less been intended. 3. That the power of removal is incident to the power of appointment. To this the objections are that it would require the constant session of the Senate; that it extends the mixture of Legislative and Executive power; that it destroys the responsibility of the President, by enabling a subordinate Executive officer to intrench himself behind a party in the Senate, sad destroys the utility of the Senate in their Legislative and judicial characters, by involving them too much in the heats and cabals inseparable from questions of a personal nature; in fine, that it transfers the trust in fact from the President, who, being at all times impeachable, as well as every fourth year eligible by the people at large, may be deemed the most responsible member of the Government, to the Senate; which, from the nature of that institution, is and was meant, after the Judiciary, and in some respects without that exception, to be the most irresponsible branch of the Government. 4. That the Executive power being in general terms vested in the President, all power of an Executive nature not particularly taken away must belong to that department; that the power of appointment only being expressly taken away, the power of removal, so far as it is of an Executive nature, must be reserved. In support of this construction it is urged that exceptions to general positions are to be taken strictly, and that the axiom relating to the separation of the Legislative and Executive functions ought to be favored. To this are objected the principle on which the 3d construction is founded, and the danger of creating too much influence in the Executive Magistrate.

Writings of Madison, Volume 1: 1769-1793, p.478

The last opinion has prevailed, but is subject to various modifications, by the power of the Legislature to limit the duration of laws creating offices, or the duration of the appointments for filling them, and by the power over the salaries and appropriations. In truth, the Legislative power is of such a nature that it scarcely can be restrained, either by the Constitution or by itself; and if the federal Government should lose its proper equilibrium within itself, I am persuaded that the effect will proceed from the encroachments of the Legislative department. If the possibility of encroachments on the part of the Executive or the Senate were to be compared, I should pronounce the danger to lie rather in the latter than the former. The mixture of Legislative, Executive, and Judiciary authorities, lodged in that body, justifies such an inference; at the same time, I am fully in the opinion that the numerous and immediate representatives of the people composing the other House will decidedly predominate in the Government.

Writings of Madison, Volume 1: 1769-1793, p.479

Mr. Page tells me he has forwarded to you a copy of the amendments lately submitted to the House of Representatives. They are restrained to points on which least difficulty was apprehended. Nothing of a controvertible nature ought to be hazarded by those who are sincere in wishing for the approbation of 2/3 of each House, and ¾ of the State Legislatures.

To Edmund Randolph.

NEW YORK, June 24, 1789.

Writings of Madison, Volume 1: 1769-1793, p.479

MY DEAR FRIEND,—My last stated a question relating to the power of removal from offices then on the anvil of the House of Representatives. I now inclose the discussions, as conveyed to the public thro' the newspapers. It is not necessary to apprize you that the reasonings on both sides are mutilated, often misapprehended, and not unfrequently reversed. You will perceive yourself that much of the reasoning is also rounded on a misconception of the ideas of the adverse side.

Writings of Madison, Volume 1: 1769-1793, p.479

Mr. Jefferson has at length obtained formal leave to visit his own country. Mr. Short is to be charged with the affairs of the United States in his absence.

Writings of Madison, Volume 1: 1769-1793, p.479

The President has been ill, but is now in a safe way. His fever terminated in an abscess, which was itself alarming, but has been opened with success, and the alarm is now over. His death, at the present moment, would have brought on another crisis in our affairs.

Writings of Madison, Volume 1: 1769-1793, p.479

Yrs most truly.

To Thomas Jefferson.

NEW YORK, June 30, 1789.

Writings of Madison, Volume 1: 1769-1793, p.479

DEAR SIR,—By this conveyance you will receive permission, through Mr. Jay, to make your proposed visit to America. I fear it will not reach you in time for your arrival here before the commencement of the windy season; yet I hope the delay will not oblige you to postpone your voyage till the Spring.

Writings of Madison, Volume 1: 1769-1793, p.480

The federal business has proceeded with a mortifying tardiness, chargeable in part on the incorrect draughts of committees, and the prolixity of discussion incident to a public body, every member of which almost takes a positive agency, but principally resulting from the novelty and complexity of the subjects of Legislation. We are in a wilderness, without a single footstep to guide us. Our successors will have an easier task, and by degrees the way will become smooth, short, and certain.

Writings of Madison, Volume 1: 1769-1793, p.480

My last informed you of some of the difficulties attending a regulation of the duties. The bill on that subject has at length received the fiat of both Houses, and will be forthwith made a law by the concurrence of the President. The rates are not precisely on the scale first settled by the House of Representatives. The most material change is in the articles of rum and molasses. The necessity of preserving a certain ratio between them is obvious. The ratio sent to the Senate was that of 12 cents on the former, and 5 do. on the latter. The Senate returned them in the ratio of 8 and 2 1/2, which has, after a conference, prevailed.

Writings of Madison, Volume 1: 1769-1793, p.480-p.483

The Senate has prevailed on another point in the bill, which had undergone more discussion, and produced more difficulty. It had been proposed by the House of Representatives that, besides a discrimination in the tonnage, a small reduction should be made in the duty on distilled spirits imported from countries in Treaty with the United States. The Senate were opposed to any discrimination whatsoever, contending that even Great Britain should stand on the same footing with the most favored nations. The arguments on that side of the question were that the United States were not bound by treaty to give any commercial preferences to particular nations; that they were not bound by gratitude, since our allies had been actuated by their own interest, and had obtained their compensation in the dismemberment of a rival empire; that in national, and particularly in commercial measures, gratitude was, moreover, no proper motive, interest alone being the Statesman's guide; that Great Britain made no discrimination against the United States compared with other nations, but, on the contrary, distinguished them by a number of advantages; that if Great Britain possessed almost the whole of our trade, it proceeded from causes which proved that she could carry it on for us on better terms than the other nations of Europe; that we were too dependent on her trade to risk her displeasure by irritating measures, which might induce her to put us on a worse footing than at present; that a small discrimination could only irritate, without operating on her interests or fears; that if anything were done it would be best to make a bolder stroke at once, and that, in fact, the Senate had appointed a committee to consider the subject in that point of view. On the other side, it was contended that it would be absurd to give away everything that could purchase the stipulations wanted by us; that the motives in which the new Government originated, the known sentiments of the people at large, and the laws of most of the States subsequent to the peace, shewed clearly that a distinction between nations in Treaty and nations not in Treaty would coincide with the public opinion, and that it would be offensive to a great number of citizens to see Great Britain, in particular, put on the footing of the most favored nations, by the first act of a Government instituted for the purpose of uniting the States in the vindication of their commercial interests against her monopolizing regulations; that this respect to the sentiments of the people was the more necessary in the present critical state of the Government; that our trade at present entirely contradicted the advantages expected from the Revolution, no new channels being opened with other European nations, and the British. channels being removed by a refusal of the most natural and valuable one to the United States;\* that this evil proceeded from the deep hold the British monopoly had taken of our country, and the difficulty experienced by France, Holland, &c., in entering into competition with her; that in order to break this monopoly, those nations ought to be aided till they could contend on equal terms; that the market of France was particularly desirable to us; that her disposition to open it would depend on the disposition manifested on our part, &c., &c.; that our trade would not be in its proper channels until it should flow directly to the countries making the exchange, in which case, too, American vessels would have a due share in the transaction, whereas at present the whole carriage of our bulky produce is confined to British Bottoms; that with respect to Great Britain, we had good reason to suppose that her conduct would be regulated by the apparent temper of the new Government; that a passiveness under her restrictions would confirm her in them, whilst an evidence of intention as well as ability to face them would ensure a reconsideration of her policy; that it would be sufficient to begin with a moderate discrimination, exhibiting a readiness to invigorate our measures as circumstances might require; that we had no reason to apprehend a disposition in Great Britain to resort to a commercial contest, or the consequences of such an experiment, her dependence on us being greater than ours on her. The supplies of the United States are necessary to the existence, and their market to the value, of her islands. The returns are either superfluties or poisons. In time of famine, the cry of which is heard every three or four years, the bread of the United States is essential. In time of war, which is generally decided in the West Indies, friendly offices, not violating the duties of neutrality, might effectually turn the scale in favor of an adversary. In the direct trade with Great Britain, the consequences ought to be equally dreaded by her. The raw and bulky exports of the United States employ her shipping, contribute to her revenue, enter into her manufactures, and enrich her merchants, who stand between the United States and the consuming nations of Europe. A suspension of the intercourse would suspend all these advantages, force the trade into rival channels from which it might not return, and besides a temporary loss of a market for ¼ of her exports, hasten the establishment of manufactures here, which would so far cut off the market forever. On the other side, the United States would suffer but little. The manufactures of Great Britain, as far as desirable, would find their way through other channels, and if the price were a little augmented it would only diminish an excessive consumption. They could do almost wholly without such supplies, and better without than with many of them. In one important view the contest would be particularly in their favor. The articles of luxury, a privation of which would be salutary to them, being the work of the indigent, may be regarded as necessaries to the manufacturing party: that it was probable nothing would be done at this session, if at all, in the way projected in the Senate; and in case a discord of opinion as to the mode, the degree, and the time of our regulations should become apparent, an argument would be drawn from it in favor of the very policy hitherto pursued by Great Britain. The event of the tonnage bill, in which the discrimination was meant to be most insisted on by the House of Representatives, is not yet finally decided. But here, also, the Senate will prevail. It was determined yesterday in that House to adhere to their amendment for striking out the clause, and there is no reason to suppose that the other House will let the Bill be lost. I mentioned in my last that both the Senators of Virginia were for admitting Britain to an equality with the most favored nation. This was a mistake as to Grayson.

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The other bills depending relate to the collection of the Impost, and the establishment of a war, foreign, and Treasury Department. The bills on the two first of these departments have passed the House of Representatives, and are before the Senate. They gave birth to a very interesting constitutional question by what authority removals from office were to be made. The Constitution being silent on the point, it was left to construction. Four opinions were advanced: 1. That no removal could be made but by way of impeachment. To this it was objected that it gave to every officer, down to tide waiters and tax gatherers, the tenure of good behaviour. 2. That it devolved on the Legislature, to be disposed of as might be proper. To this it was objected that the Legislature might then dispose of it to be exercised by themselves, or even by the House of Representatives. 3. That it was incident to the power of appointment, and therefore belonged to the President and Senate. To this it was said that the Senate, being a Legislative body, could not be considered in an Executive light farther than was expressly declared; that such a construction would transfer the trust of seeing the laws duly executed from the President, the most responsible, to the Senate, the least responsible branch of the Government; that officers would intrench themselves behind a party in the Senate, bid defiance to the President, and introduce anarchy and discord into the Executive Department; that the Senate were to be Judges in case of impeachment, and ought not, therefore, to be previously called on for a summary opinion on questions of removal; that in their Legislative character they ought to be kept as cool and unbiased as possible, as the constitutional check on the passions and parties of the other House, and should, for that reason also, be as little concerned as possible in those personal matters, which are the great source of factious animosities. 4. That the Executive power being generally vested in the President, and the Executive function of removal not expressly taken away, it remained with the President. To this was objected the rule of construction on which the third opinion rested, and the danger of creating too much weight in the Executive scale. After very long debates, the 4th opinion prevailed, as most consonant to the text of the Constitution, to the policy of mixing the Legislative and Executive Departments as little as possible, and to the requisite responsibility and harmony in the Executive Department. What the decision of the Senate will be cannot yet be even conjectured. As soon as bills are passed, Mr. Jay and General Knox will of course have their commissions renewed.

Writings of Madison, Volume 1: 1769-1793, p.484

The bill relating to the Treasury Department is still before the House of Representatives. The Board will be discontinued, but the business will be so arranged as to make the comptroller and other officers checks on the Head of the Department. It is not clear who this will be. The members of Congress are disqualified. Hamilton is most talked of.

Writings of Madison, Volume 1: 1769-1793, p.485

The Senate have in hand a bill for the Judiciary Department. It is found a pretty arduous task, and will probably be long on its way through the two Houses.

Writings of Madison, Volume 1: 1769-1793, p.485

Inclosed is a copy of sundry amendments to the Constitution lately proposed in the House of Representatives. Every thing of a controvertible nature that might endanger the concurrence of two-thirds of each House and three-fourths of the States was studiously avoided. This will account for the omission of several amendments which occur as proper. The subject will not be taken up till the revenue and Department bills are passed.

Writings of Madison, Volume 1: 1769-1793, p.485

The President has been ill. His fever terminated in a large anthrax on the upper end of his thigh, which is likely to confine him for some time. Wishing you an expeditious and safe passage across the Atlantic, I am, my dear Sir, yours, &c.

To Col. James Madison.

NEW YORK, July 5th, 1789.

Writings of Madison, Volume 1: 1769-1793, p.485

HON. SIR,—The last letter from my brother A. left me in much anxiety for the state of my mother's health. I have ventured to hope, from the silence which has followed, that she has been on the recovery. I wish much to hear oftener from the family than I do, and would set the example if other occupations, and particularly a very extensive correspondence, would permit.

Writings of Madison, Volume 1: 1769-1793, p.485

The business goes on still very slowly. We are in a wilderness, without a single footstep to guide us. It is consequently necessary to explore the way with great labour and caution. Those who may follow will have an easier task. The Bills imposing duties on imports and tonnage have at length got through both Houses. The question whether a distinction should be made between Nations in Treaty and those not in Treaty was finally settled in the negative; so that Great Britain is, in fact, put on the same footing with the most favored nation, although she has shewn no disposition to treat with the United States, and will probably be confirmed by such a measure in the belief that America, even if under a United Government, would be unable to unite her counsels on this subject. The discrimination was struck out of the Bills in consequence of the refusal of the Senate to agree to the bills on other terms. They urged, in a conference between Committees from the two Houses on the subject, that something more efficacious was necessary in order to counter-work the restrictions of Great Britain; and that they had accordingly appointed a committee for the purpose of devising such a plan. It is very doubtful, however, whether it will come to anything, and whether a more moderate mode of shewing a determination in the new government to vindicate our commercial interests would not have answered every purpose that can be answered at all. If anything should be done on the plan of the Senate, it will probably consist of regulations founded on the principle of the British navigation act, which will disable her vessels from bringing to this country any articles not the grow or manufacture of Great Britain, and embarrass her West Indies until the trade to them shall be opened to American as it is to British vessels. Bills for establishing the several Departments of war, finance, and foreign affairs, have passed the House of Representative, and are before the Senate. The bills for collecting the Impost and regulating the coasting trade are still before the House of Representatives, but will be pushed through as fast as their length and importance will permit.

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The subject of amendments to the Constitution will not be resumed till the revenue matters are over. I hope it will then be duly attended to, and will end in such a recommendation as will satisfy moderate opponents. This, however, is but opinion, nothing having passed from which any conclusion can be drawn with regard to the sentiments of the two Houses, particularly the Senate.

Writings of Madison, Volume 1: 1769-1793, p.486

With the most dutiful regards, I am, your affectionate Son.

To Edmund Pendleton.

NEW YORK, July 15, 1789.

Writings of Madison, Volume 1: 1769-1793, p.487

DEAR SIR,—I am particularly obliged by your favor of file 3d, which incloses your remarks on the Judiciary bill. It came to hand yesterday only, and I have not had time to compare your suggestions with the plan of the Senate; nor do I know the alterations which may have taken place in it since it has been under discussion. In many points, even supposing the outline a good one, which I have always viewed as controvertible, defects and inaccuracies were striking.

Writings of Madison, Volume 1: 1769-1793, p.487

It gives me much pleasure to find your approbation given to the decision of the House of Representatives on the power of removal. This appears to be the case with several of our friends in Virginia, of whose sentiments I had formed other conjectures. I was apprehensive that the alarms with regard to the danger of Monarchy would have diverted their attention from the impropriety of transferring an Executive trust from the most to the least responsible member of the Government. Independently of every other consideration, the primary objects on which the Senate are to be employed seem to require that their executive agency should not be extended beyond the minimum that will suffice. As the Judiciary tribunal which is to decide on impeachments, they ought not to be called on previously for a summary opinion on cases which may come before them in another capacity; and both on that account, and the necessity of keeping them in a fit temper to controul the capricious and factious counsels of the other Legislative branch, they ought to be as little as possible involved in those questions of a personal nature, which, in all Governments, are the most frequent and violent causes of animosity and party.

Writings of Madison, Volume 1: 1769-1793, p.487

You will find in one of the inclosed papers the act imposing duties, as it finally passed. The collection bill has passed the House of Representatives, and awaits the last hand of the Senate. It is very long, and has cost much trouble in adjusting the regulations to the various geographical and other circumstances of the States. It is in many respects inaccurate and deficient, but may do to begin with. We have endeavored to make the part relating to Virginia a little more palatable than the late State laws. On Rappahannock, vessels are to report at Urbanna, enter at Hobbshole, and deliver at any of the ports, including Fredericksburg and Port Royal, and foreign as well as American vessels. The like on the other rivers.

Writings of Madison, Volume 1: 1769-1793, p.488

To secure the opportunity by this mail, I must hasten my assurances that I am, dear sir, yours affectionately.

To Edmund Randolph.

NEW YORK, July 15, 1789.

Writings of Madison, Volume 1: 1769-1793, p.488

MY DEAR FRIEND,—I have been favored with yours of the 30th ultimo, and thank you for your remarks on the Judiciary bill.

Writings of Madison, Volume 1: 1769-1793, p.488

I am glad to find you concurring in the decision as to the power of removal. It seems to meet with general approbation North of Virginia, and there, too, as far as I yet learn. Mr. Pendleton is fully in opinion with you. So is Monroe, I am told. The more the question is weighed the more proper I think it will be found to reduce the ex-agency of the Senate to the very minimum that will satisfy the Constitution. To say nothing of their being the least responsible member of the Government, the nature of their other functions forbids an extension of their executive. As a judiciary body for impeachments, they ought not to be called on for a summary opinion in cases that may come judicially before them; and as a controul on the passions of the House of Representatives, they ought to have as little as possible to do with those personal questions, which are sources in all Governments of the most frequent and violent animosities and factions. The Senate have not yet declared themselves on the question. The event there is doubtful.

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You will find among the enclosed papers the impost act, as it finally passed. The Collection Bill is gone to the Senate. It is very long, has cost a great deal of trouble, and is by no means in a very correct state. It will do only to begin with. We endeavored to make the regulations for Virginia more palatable than the State laws, by relaxing the plan of the port Bills.

Writings of Madison, Volume 1: 1769-1793, p.489

Adieu.

To James Monroe.

NEW YORK, August 9, 1789.

Writings of Madison, Volume 1: 1769-1793, p.489

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.489

Your ideas on the proposed discrimination between foreign Nations coincide, I perceive, exactly with those which have governed me. The Senate did not allow that no effort should be made for vindicating our commercial interests, but argued that a more effectual mode should be substituted. A committee was appointed in that branch to report such a mode. The report made is founded on something like a retort of her restrictions in the West India channels. It is now said that as the measure would involve an imposition of extraordinary duties, the Senate cannot proceed in it. Mr. Gerry, alluding to these circumstances, moved two days ago for a bill giving further encouragement to trade and navigation, and obtained a committee for the purpose. What will be the result is uncertain. If the attempt, added to what has passed, should, as it probably will, be made known abroad, it may lead to apprehensions that may be salutary.

Writings of Madison, Volume 1: 1769-1793, p.489

The attention of the House of Representatives for some days has been confined to the subject of compensations. The bill is at length brought into its final shape. Much discussion took place on the quantum for the members of Congress, and the question whether it should be the same for both Houses. My own opinion was in favor of a difference, founded on a reduction of the sum proposed with regard to the House of Representatives, and an augmentation as to the Senate. As no difference took place, the case of the Senate, and of the members from S. Carolina and Georgia, had real weight against a lesser sum than 6 dollars, which I own is higher than I had contemplated for the House of Representatives, and which I fear may excite criticisms not to be desired at the present moment.

Writings of Madison, Volume 1: 1769-1793, p.490

Yesterday was spent on a Message from the President relative to Indian affairs, and the Militia Bills are ordered, providing for a Treaty with the hostile Tribes, and for regulating the Militia. The latter is an arduous task, and will probably not be compleated at this Session.

To Edmund Randolph.

NEW YORK, August 21, 1789.

Writings of Madison, Volume 1: 1769-1793, p.490

MY DEAR FRIEND,—For a week past the subject of amendments has exclusively occupied the House of Representatives. Its progress has been exceedingly wearisome, not only on account of the diversity of opinions that was to be apprehended, but of the apparent views of some to defeat, by delaying, a plan short of their wishes, but likely to satisfy a great part of their companions in opposition throughout the Union. It has been absolutely necessary, in order to effect anything, to abbreviate debate, and exclude every proposition of a doubtful and unimportant nature. Had it been my wish to have comprehended every amendment recommended by Virginia, I should have acted from prudence the very part to which I have been led by choice. Two or three contentious additions would even now prostrate the whole project.

Writings of Madison, Volume 1: 1769-1793, p.490

The Judiciary bill was put off in favor of the preceding subject. It was evident that a longer delay of that would prevent any decision on it at this Session. A push was therefore made, which did not sued without strenuous opposition. On Monday the bill will probably be taken up, and be pursued to a final question as fast as the nature of the case will allow.

Writings of Madison, Volume 1: 1769-1793, p.490

I find, on looking over the notes of your introductory discourse in the Convention at Philadelphia, that it is not possible for me to do justice to the substance of it. I am anxious, for particular reasons, to be furnished with the means of preserving this as well as the other arguments in that body, and must beg that you will make out and forward me the scope of your reasoning. You have your notes, I know, and from these you can easily deduce the argument on a condensed plan. I make this request with an earnestness which will not permit you either to refuse or delay a compliance.

To Edmund Pendleton.

NEW YORK, Septr 14, 1789.

Writings of Madison, Volume 1: 1769-1793, p.491

DEAR SIR,—I was favored on Saturday with yours of the 2d instant. The Judiciary is now under consideration. I view it as you do, as defective both in its general structure, and many of its particular regulations. The attachment of the Eastern members, the difficulty of substituting another plan with the consent of those who agree in disliking the bill, the defect of time, &c., will, however, prevent any radical alterations. The most I hope is that some offensive violations of Southern jurisprudence may be corrected, and that the system may speedily undergo a reconsideration under the auspices of the Judges, who alone will be able, perhaps, to set it to rights.

Writings of Madison, Volume 1: 1769-1793, p.491

The Senate have sent back the plan of amendments with some alterations, which strike, in my opinion, at the most salutary articles. In many of the States, juries, even in criminal cases, are taken from the State at large; in others, from districts of considerable extent; in very few from the County alone. Hence a dislike to the restraint with respect to vicinage, which has produced a negative on that clause. A fear of inconvenience from a Constitutional bar to appeals below a certain value, and a confidence that such a limitation is not necessary, have had the same effect on the article. Several others have had a similar fate. The difficulty of uniting the minds of men accustomed to think and act differently can only be conceived by those who have witnessed it.

Writings of Madison, Volume 1: 1769-1793, p.491

A very important question is depending on the subject of a permanent seat for the federal Government. Early in the Session secret negociations were set on foot among the Northern States, from Pennsylvania, inclusively. The parties finally disagreeing in their arrangements, both made advances to the Southern members. On the side of New York and New England, we were led to expect the Susquehannah within a reasonable time if we would sit still in New York, otherwise we were threatened with Trenton. These terms were inadmissible to the friends of Potowmac. On the side of Pennsylvania, who was full of distrust and animosity against New England and New York, the Potowmac was presented as the reward for the temporary advantages if given by the Southern States. Some progress was made on this ground, and the prospect became flattering, when a reunion was produced among the original parties by circumstances which it would be tedious to explain. The Susquehannah has in consequence been voted. The bill is not yet brought in, and many things may yet happen. We shall parry any decision if we can, though I see little hope of attaining our own object, the Eastern States being inflexibly opposed to the Potowmac, and for some reasons which are more likely to grow stronger than weaker; and if we are to be placed on the Susquehannah, the sooner the better.

To Edmund Pendleton.

NEW YORK, Septr 23d, 1789.

Writings of Madison, Volume 1: 1769-1793, p.492

DEAR SIR,—The pressure of unfinished business has suspended the adjournment of Congress till saturday next. Among the articles which required it was the plan of amendments, on which the two Houses so far disagreed as to require conferences. It will be impossible, I find, to prevail on the Senate to concur in the limitation on the value of appeals to the Supreme Court, which they say is unnecessary, and might be embarrassing in questions of national or Constitutional importance in their principle, though of small pecuniary amount. They are equally inflexible in opposing a definition of the locality of Juries. The vicinage they contend is either too vague or too strict a term; too vague if depending on limits to be fixed by the pleasure of the law, too strict if limited to the county. It was proposed to insert after the word Juries, "with the accustomed requisites," leaving the definition to be construed according to the judgment of professional men. Even this could not be obtained. The truth is, that in most of the States the practice is different, and hence the irreconcileable difference of ideas on the subject. In some States, jurors are drawn from the whole body of the community, indiscriminately; in others, from large districts comprehending a number of Counties; and in a few only from a single County. The Senate suppose, also, that the provision for vicinage in the Judiciary bill will sufficiently quiet the fears which called for an amendment on this point. On a few other points in the plan the Senate refuse to join the House of Representatives.

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The bill establishing the permanent seat of Government has passed the House of Representatives in favour of the Susquehannah. Some of the Southern members despaired so much of ever getting anything better, that they fell into the majority. Even some of the Virginians leaned that way. My own judgment was opposed to any compromise, on the supposition that we had nothing worse to fear than the Susquehannah, and could obtain that at any time, either by uniting with the Eastern States or Pennsylvania. The bill, however, is by no means sure of passing the Senate in its present form. It is even possible that it may fall altogether. Those who wish to do nothing at this time, added to those who disapprove of the Susquehannah, either as too far South or too far North, or not susceptible of early conveniences for the fiscal administration, may form a majority who will directly or indirectly frustrate the measure. In case of an indirect mode, some other place will be substituted for Susquehannah, as Trenton or Germantown, neither of which can, I conceive, be effectually established, and either of which might get a majority composed of sincere and insidious votes.

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The inclosed papers contain very interesting accounts from France. I have a letter from Mr. Jefferson of July 22 and 23, confirming the substance of them. The King has thrown himself finally on his people, recalled Neckar, dismissed the troops, and, in short, given a Carte Blanche to the National Assembly, who are at work in forming a regular Constitution. The tumults in Paris have been dreadful, but at the same time mixed with a steady attention to the main object. The City has formed a Militia and put Fayette at the head, and committees of safety according to the American model.

To George Washington.

ORANGE, Novr 20, 1789.

Writings of Madison, Volume 1: 1769-1793, p.494

DEAR SIR,—It Was my purpose to have dropped you a few lines from Philada, but I was too much indisposed during my detention there to avail myself of that pleasure. Since my arrival here, I have till now been without a fit conveyance to the Post office.

Writings of Madison, Volume 1: 1769-1793, p.494

You will recollect the contents of a letter shewn you from Mr. Innes to Mr. Brown. Whilst I was in Philadelphia I was informed by the latter, who was detained there by indisposition, as well as myself, that he had received later accounts, the' not from the same correspondent, that the Spaniards have finally put an entire stop to the trade of our citizens down the river. The encouragements to such as settle under their own Government are continued.

Writings of Madison, Volume 1: 1769-1793, p.494-p.495

A day or two after I got to Philadelphia I fell in with Mr. Morris. He broke the subject of the residence of Congress, and made observations which betrayed his dislike of the upshot of the business at N. York, and his desire to keep alive the Southern project of an arrangement with Pennsylvania. I reminded him of the conduct of his State, and intimated that the question would probably sleep for some time in consequence of it. His answer implied that Congress must not continue at N. York, and that if he should be freed from his engagements with the Eastern States, by their refusal to take up the bill and pass it as it went to the Senate, he should renounce all confidence in that quarter, and speak seriously to the Southern States. I told him they must be spoken to very seriously after what had passed, if Pennsyla expected them to listen to her; that, indeed, there was probably an end to further intercourse on the subject. He signified that, if he should speak, it would be in earnest, and he believed that no one would pretend that his conduct would justify the least distrust of his going through with his undertakings; adding, however, that he was determined, and accordingly gave me, as he had given others, notice that he should call up the postponed Bill as soon as Congress should be teas sembled. I observed to him that if it were desirable to have the matter revived, we could not wish to have it in a form more likely to defeat itself. It was unparliamentary, and highly inconvenient; and would therefore be opposed by all candid friends to his object as an improper precedent, as well as by those who were opposed to the object itself. And if he should succeed in the Senate, the irregularity of the proceeding would justify the other House in withholding the signature of its Speaker, so that the Bill could never go up to the President. He acknowledged that the Bill could not be got through unless it had a majority of both Houses on its merits. Why, then, I asked, not take it up anew? He said he meant to bring the gentlemen who had postponed the Bill to the point, acknowledged that he distrusted them, but held his engagements binding on him until this final experiment should be made on the respect they meant to pay to theirs. I do not think it difficult to augur from this conversation the views which will govern Pennsyla at the next Session. Conversations held by Grayson, both with Morris and others, in Philadela, and left by him in a letter to me, coincide with what I have stated. An attempt will first be made to alarm N. York and the Eastern States into the plan postponed, by holding out the Potowmac and Philada as the alternative; and if the attempt should not succeed, the alternative will then be held out to the Southern members. On the other hand, N. York and the Eastern States will enforce the policy of delay by threatening the Southern States, as heretofore, with Germantown or Trenton, or at least Susquehannah, and will no doubt carry the threat into execution if they can, rather than suffer an arrangement to take place between Pennsyla and the Southern States.

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I hear nothing certain from the Assembly. It is said that an attempt of Mr. H—y to revive the project of commutables has been defeated; that the amendments (to the federal Constitution) have been taken up and are likely to be put off to the next Session, the present House having been elected prior to the promulgation of them. This reason would have more force if the amendments did not so much correspond, as far as they go, with the propositions of the State Convention, which .were before the public long before the last election. At any rate, the Assembly might pass a vote of approbation, along with the postponement, and assign the reason for referring the ratification to their successors. It is probable that the scruple has arisen with the disaffected party. If it be construed by the public into a latent hope of some contingent opportunity for promoting the war against the Genl Government, I am of opinion the experiment will recoil on the authors. As far as I can gather, the great bulk of the late opponents are entirely at rest, and more likely to censure a further opposition to the Government, as now administered, than the Government itself. One of the principal leaders of the Baptists lately sent me word that the amendments had entirely satisfied the disaffected of his sect, and that it would appear in their subsequent conduct.

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I ought not to conclude without some apology for so slovenly a letter. I put off writing it till an opportunity should present itself, not knowing but something from time to time might turn up that would make it less unworthy of your perusal. And it has so happened that the opportunity barely gives me time for this hasty scrawl.

To George Washington.

ORANGE Decr 5, 1789.

Writings of Madison, Volume 1: 1769-1793, p.496

DEAR SIR,—Since my last I have been furnished with the inclosed copy of the letter from the Senators of this State to its Legislature. It is well calculated to keep alive the disaffection to the Government, and is accordingly applied to that use by violent partizans. I understand the letter was written by the first\* subscriber of it, as, indeed, is pretty evident from the style and strain of it. The other,\* it is said, subscribed it with reluctance. I am less surprised that this should have been the case than that he should have subscribed it at all.

Writings of Madison, Volume 1: 1769-1793, p.497

My last information from Richmond is contained in the following extract from a letter of the 28th of November, from an intelligent member of the House of Delegates: "The revenue Bill, which proposes a reduction of the public taxes one-fourth below the last year's amount, is with the Senate. Whilst this business was before the House of Delegates a proposition was made to receive Tobacco and Hemp as commutables, which was negatived, the House determining still to confine the collection to specie and to specie warrants. Two or three petitions have been presented which asked a general suspension of executions for twelve months; they were read, but denied a reference. The Assembly have passed an Act for altering the time for choosing Representatives to Congress, which is now fixed to be on the third Monday in September, suspending the powers of the Representative until the February after his election. This change was made to suit the time of the annual meeting of Congress. The fate of the amendments proposed by Congress to the Genl Government is still in suspense. In a committee of the whole House, the first ten were acceded to with little opposition; for on a question taken on each separately, there was scarcely a dissenting voice. On the two last a debate of some length took place, which ended in rejection. Mr. Edmund Randolph, who advocated all the others, stood on this contest in the front of opposition. His principal objection was pointed against the word 'retained,' in the eleventh proposed amendment, and his argument, if I understood it, was applied in this manner: that as the rights declared in the first ten of the proposed amendments were not all that a free people would require the exercise of, and that as there was no criterion by which it could be determined whether any other particular right was retained or not, it would be more safe, and more consistent with the spirit of the 1st and 17th amendments proposed by Virginia, that this reservation against constructive power should operate rather as a provision against extending the powers of Congress by their own authority, than a protection to rights reducible to no definite certainty. But others, among whom I am one, see not the force of this distinction; for by preventing an extension of power in that Body, from which danger is apprehended, safety will be insured, if its powers be not too extensive already; and so, by protecting the rights of the people and of the States, an improper extension of power will be prevented, and safety made equally certain. If the House should agree to the Resolution for rejecting the two last, I am of opinion it will bring the whole into hazard again; as some who have been decided friends to the ten first think it would be unwise to adopt them without the 11 and 12th. Whatever may be the fate of the amendments submitted by Congress, it is probable that an application for further amendments will be made by this Assembly; for the opposition to the Federal Constitution is, in my opinion, reduced to a single point—the power of direct taxation. Those who wish the change are desirous of repeating the application, while those who wish it not are indifferent on the subject, supposing that Congress will not propose a change which would take from them a power so necessary for the accomplishment of those objects which are confided to their care. Messrs Joseph Jones and Spencer Roane are appointed Judges of the General Court, to fill the vacancies occasioned by the death of Mr. Carey, and the removal of Mr. Mercer to the Court of Appeals."

Writings of Madison, Volume 1: 1769-1793, p.498

The difficulty started against the amendments is really unlucky, and the more to be regretted as it springs from a friend to the Constitution. It is a still greater cause of regret, if the distinction be, as it appears to me, altogether fanciful. If a line can be drawn between the powers granted and the rights retained, it would seem to be the same thing whether the latter be secured by declaring that they shall not be abridged, or that the former shall not be extended. If no such line can be drawn, a declaration in either form would amount to nothing. If the distinction were just, it does not seem to be of sufficient importance to justify the risk of losing the amendments, of furnishing a handle to the disaffected, and of arming N. Carolina with a pretext, if she be disposed to prolong her exile from the Union.

Copy of a Letter from Senators R. H. Lee and

William Grayson to the Legislature of Virginia.

NEW YORK, Septr 28, 1789.

Writings of Madison, Volume 1: 1769-1793, p.499

SIR,—We have now the honor of inclosing the proposition of amendments to the Constitution of the United States that has been finally agreed upon by Congress. We can assure you, Sir, that nothing on our part has been omitted to procure the success of those radical amendments proposed by the Convention and approved by the Legislature of our country, which, as our Constituent, we shall always deem our duty with respect and reverence to obey. The journal of the Senate, herewith transmitted, will at once show how exact and how unfortunate we have been in this business. It is impossible for us not to see the necessary tendency to consolidated empire in the natural operation of the Constitution, if no further amended than now proposed. And it is equally impossible for us not to be apprehensive for Civil Liberty, when we know no instance in the records of History that shew people ruled in freedom when subject to an undivided Government, and inhabiting a Territory so extensive as that of the United States, and when, as it seems to us, the nature of men and things join to prevent it. The impracticability, in such case, of carrying representation sufficiently near to the people for procuring their confidence, and consequent obedience, compels a resort to fear, resulting from great force and excessive power in Government. Confederated Republics, when the federal hand is not possessed of absorbing power, may permit the existence of freedom, whilst it preserves union, strength, and safety. Such amendments, therefore, as may secure against the annihilation of the State Governments, we devoutly wish to see adopted.

Writings of Madison, Volume 1: 1769-1793, p.500

If a persevering application to Congress from the States that have desired such amendments should fail of its objects, we are disposed to think, reasoning from causes to effects, that unless a dangerous apathy should invade the public mind, it will not be many years before a Constitutional number of Legislatures will be found to demand a Convention for the purpose. We have sent a complete set of the Journals of each House of Congress, and thro' the appointed Channel will be the Acts that have passed this Session. In these will be seen the extent and nature of the Judiciary, the estimated expenses of the Government, and the means so far adopted of defraying the latter.

Writings of Madison, Volume 1: 1769-1793, p.500

We beg, Sir, to be presented with all duty to the House of Representatives, and to assure you that we are, with every sentiment of respect and esteem, Sir, your most obedient and very humble servants,

Writings of Madison, Volume 1: 1769-1793, p.500

RICHARD HENRY LEE, WILLIAM GRAYSON.

Writings of Madison, Volume 1: 1769-1793, p.500

The complete set of Journals is ordered to be sent to each State by the respective Clerks, with the laws. They are not now ready.

1790

To George Washington.

GEORGETOWN, Jany 4, 1790.

Writings of Madison, Volume 1: 1769-1793, p.500

DEAR SIR,—After being detained 8 or ten days beyond the intended commencement of my journey by the critical illness of my mother, I am now subjected to a further delay by an attack on my own health, \* \* \* and shall be under the necessity not only of remaining here a few days longer, but of travelling afterwards with some circumspection.

Writings of Madison, Volume 1: 1769-1793, p.500

You will probably have seen by the papers that the contest in the Assembly on the subject of the amendments ended in the Joss of them. The House of Delegates got over the objections to the 11th and 12th, but the Senate revised them with an addition of the 3d and 8th Articles, and by a vote of adherence prevented a ratification. On some accounts this event is no doubt to be regretted, but it will do no injury to the Genl Govt. On the contrary, it will have the effect with many of turning their distrust towards their own Legislature. The miscarriage of the 3d Article, particularly, will have this effect.

Writings of Madison, Volume 1: 1769-1793, p.501

A few days before I was allowed to set out for New York, I took a ride to Monticello. The answer of Mr. Jefferson to the notification of his appointment will no doubt have explained the state of his mind on that subject. I was sorry to find him so little biassed in favor of the domestic service allotted to him, but was glad that his difficulties seemed to result chiefly from what I take to be an erroneous view of the kind and quantity of business annexed to that which constitutes the foreign Department. He apprehends that it will far exceed the latter, which has, of itself, no terrors to him. On the other, it was supposed, and I believe truly, that the Domestic part will be very trifling, and for that reason improper to be made a distinct Department. After all, if the whole business can be executed by any one man, Mr. Jefferson must be equal to it; if not, he will be relieved by a necessary division of it. All whom I have heard speak on the subject are remarkably solicitous for his acceptance, and I flatter myself that they will not, in the final event, be disappointed.

Writings of Madison, Volume 1: 1769-1793, p.501

In case I should be detained here much longer than I calculate, and anything should occur, I may trouble you with a few lines further.

To Thomas Jefferson.

NEW YORK, Jany 24, 1790.

Writings of Madison, Volume 1: 1769-1793, p.501

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.501

The business of Congress is as yet merely in embryo. The principal subjects before them are the plans of revenue and the Militia, reported by Hamilton and Knox. That of the latter is not yet printed, and being long, is very imperfectly understood. The other has scarcely been long enough from the press to be looked over. It is too voluminous to be sent entire by the mail. I will by the next mail commence a transmission in-fractions. Being in possession at present of a single copy only, I cannot avail myself of this opportunity for the purpose. You will find a sketch of the plan in one of the newspapers herewith inclosed. Nothing has passed, either in Congress or in conversation, from which a conjecture can be formed of the fate of the Report. Previous to its being made, the avidity for stock had raised it from a few shillings to eight or ten shillings in the pound, and emissaries are still exploring the interior and distant parts of the Union in order to take advantage of the ignorance of holders. Of late, the price is stationary at, or fluctuating between, the sums last mentioned. From this suspence it would seem as if doubts were entertained concerning the success of the plan in all its parts.

Writings of Madison, Volume 1: 1769-1793, p.502

I take for granted that you will before the receipt of this have known the ultimate determination of the President on your appointment. All that I am able to say on the subject is, that a universal anxiety is expressed for your acceptance, and to repeat my declarations, that such an event will be more conducive to the general good, and perhaps to the very objects you have in view in Europe, than your return to your former station.

Writings of Madison, Volume 1: 1769-1793, p.502

I do not find that any late information has been received with regard to the Revolution in France. It seems to be still unhappily forced to struggle with the adventitious evils of public scarcity, in addition to those naturally thrown in its way by antient prejudices and hostile interests. I have a letter from Havre of the 13th Novr, which says that wheat was then selling at 10 livers per Bushel, and flour at 50 livres per 100 lbs., and the demand pressing for all kinds of materials for bread. The letter adds that a bounty of 2 livres per 100 lb. marc on wheat, and on flour in proportion, &c., &c., was to commence the 1st December last, and continue till the 1st of July next, in favour of imports from any quarter of the Globe.

To Thomas Jefferson.

NEW YORK, February 4, 1790.

Writings of Madison, Volume 1: 1769-1793, p.503

DEAR SIR,—Your favor of January 9, inclosing one of September last, did not get to hand till a few days ago. The idea which the latter evolves is a great one, and suggests many interesting reflections to Legislators, particularly when contracting and providing for public debts. Whether it can be received in the extent to which your reasonings carry it is a question which I ought to turn more in my thoughts than I have yet been able to do before I should be justified in making up a full opinion on it. My first thoughts lead me to view the doctrine as not in all respects compatible with the course of human affairs. I will endeavour to sketch the grounds of my skepticism. "As the Earth belongs to the living, not to the dead, a living generation can bind itself only; in every society, the will of the majority binds the whole; according to the laws of mortality, a majority of those ripe for the exercise of their will do not live beyond the term of 19 years; to this term, then, is limited the validity of every act of the society, nor can any act be continued beyond this term, without an express declaration of the public will." This I understand to be the outline of the argument.

Writings of Madison, Volume 1: 1769-1793, p.503

The acts of a political society may be divided into three classes:

Writings of Madison, Volume 1: 1769-1793, p.503

1. The fundamental constitution of the Government.

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2. Laws involving some stipulation which renders them irrevocable at the will of the Legislature.

Writings of Madison, Volume 1: 1769-1793, p.503

3. Laws involving no such irrevocable quality.

Writings of Madison, Volume 1: 1769-1793, p.503

1. However applicable in theory the doctrine may be to a Constitution, it seems liable in practice to some weighty objections.

Writings of Madison, Volume 1: 1769-1793, p.503

Would not a Government, ceasing of necessity at the end of a given term, unless prolonged by some Constitutional Act previous to its expiration, be too subject to the casualty and consequences of an interregnum?

Writings of Madison, Volume 1: 1769-1793, p.504

Would not a Government so often revised become too mutable and novel to retain that share of prejudice in its favor which is a salutary aid to the most rational Government?

Writings of Madison, Volume 1: 1769-1793, p.504

Would not such a periodical revision engender pernicious factions that might not otherwise come into existence, and agitate the public mind more frequently and more violently than might be expedient?

Writings of Madison, Volume 1: 1769-1793, p.504

2. In the second class, of acts involving stipulations, must not exceptions, at least to the doctrine, be admitted?

Writings of Madison, Volume 1: 1769-1793, p.504

If the earth be the gift of nature to the living, their title can extend to the earth in its natural state only. The improvements made by the dead form a debt against the living, who take the benefit of them. This debt cannot be otherwise discharged than by a proportionate obedience to the will of the authors of the improvements.

Writings of Madison, Volume 1: 1769-1793, p.504

But a case less liable to be contoverted may, perhaps, be stated. Debts may be incurred with a direct view to the interests of the unborn, as well as of the living. Such are debts for repelling a conquest, the evils of which descend through many generations. Debts may even be incurred principally for the benefit of posterity. Such, perhaps, is the debt incurred by the United States. In these instances the debts might not be dischargeable within the term of 19 years.

Writings of Madison, Volume 1: 1769-1793, p.504

There seems, then, to be some foundation in the nature of things, in the relation which one generation bears to another, for the descent of obligations from one to another. Equity may require it. Mutual good may be promoted by it. And all that seems indispensable in stating the account between the dead and the living is, to see that the debts against the latter do not exceed the advances made by the former. Few of the incum brances entailed on nations by their predecessors would bear a liquidation even on this principle.

Writings of Madison, Volume 1: 1769-1793, p.504

3. Objections to the doctrine, as applied to the third class of acts, must be merely practical. But in that view alone they appear to be material.

Writings of Madison, Volume 1: 1769-1793, p.505

Unless such temporary laws should be kept in force by acts regularly anticipating their expiration, all the rights depending on positive laws, that is, most of the rights of property, would become absolutely defunct, and the most violent struggles ensue between the parties interested in reviving, and those interested in reforming, the antecedent state of property. Nor does it seem improbable that such an event might be suffered to take place. The checks and difficulties opposed to the passage of laws, which render the power of repeal inferior to an opportunity to reject, as a security against oppression, would here render the latter an insecure provision against anarchy. Add to this, that the very possibility of an event so hazardous to the rights of property could not but depreciate its value; that the approach of the crisis would increase the effect; that the frequent return of periods superseding all the obligations dependent on antecedent laws and usages must, by weakening the sense of them, co-operate with motives to licentiousness already too powerful; and that the general uncertainty and vicissitudes of such a state of things would, on one side, discourage every useful effort of steady industry pursued under the sanction of existing laws, and, on the other, give an immediate advantage to the more sagacious over the less sagacious part of the Society.

Writings of Madison, Volume 1: 1769-1793, p.505

I can find no relief from such embarrassments but in the received doctrine that a tacit assent may be given to established Governments and laws, and that this assent is to be inferred from the omission of an express revocation. It seems more practicable to remedy by well-constituted Governments the pestilent operation of this doctrine in the unlimited sense in which it is at present received, than it is to find a remedy for the evils necessarily springing from an unlimited admission of the contrary doctrine.

Writings of Madison, Volume 1: 1769-1793, p.505

Is it not doubtful whether it be possible to exclude wholly the idea of an implied or tacit assent, without subverting the very foundation of civil society?

Writings of Madison, Volume 1: 1769-1793, p.505

On what principle is it that the voice of the majority binds the minority ? It does not result, I conceive, from a law of nature, but from compact founded on utility. A greater proportion might be required by the fundamental Constitution of Society, if under any particular circumstances it were judged eligible. Prior, therefore, to the establishment of this principle, unanimity was necessary; and rigid Theory accordingly presupposes the assent of every individual to the rule which subjects the minority to the will of the majority. If this assent cannot be given tacitly, or be not implied where no positive evidence forbids, no person born in Society could, on attaining ripe age, be bound by any acts of the majority, and either a unanimous renewal of every law would be necessary as often as a new member should be added to the society, or the express consent of every new member be obtained to the rule by which the majority decides for the whole.

Writings of Madison, Volume 1: 1769-1793, p.506

If these observations be not misapplied, it follows that a limitation of the validity of all acts to the computed life of the generation establishing them is in some cases not required by theory, and in others not consistent with practice. They are not meant, however, to impeach either the utility of the principle as applied to the cases you have particularly in view, or the general importance of it in the eye of the philosophical Legislator. On the contrary, it would give me singular pleasure to see it first announced to the world in a law of the United States, and always kept in view as a salutary restraint on living generations from unjust and unnecessary burdens on their successors. This is a pleasure, however, which I have no hope of enjoying. It is so much easier to descry the little difficulties immediately incident to every great plan than to comprehend its general and remote benefits, that further light must be added to the Councils of our Country before many truths which are seen through the medium of philosophy become visible to the naked eye of the ordinary politician,

To Thomas Jefferson.

NEW YORK, Feby 14, 1790.

Writings of Madison, Volume 1: 1769-1793, p.507

DEAR SIR,—We proceed slowly in business. The Report of Mr. Hamilton has been, of late, the principal subject of debate. On the foreign debt the vote has been unanimous. On the domestic, a reduction of the transferred principal has been brought into view by several arguments and propositions. My idea is that there should be no interference of the public in favour of the public either as to principal or interest, but that the highest market price only should be allowed to the purchasers, and the balance be applied to solace the original sufferers, whose claims were not in conscience extinguished by a forced payment in depreciated certificates. The equity of this proposition is not contested. Its impracticability will be urged as an insuperable objection. I am aware of the difficulties of the plan, but believe they might be removed by one-half the exertion that will be used to collect and colour them.

Writings of Madison, Volume 1: 1769-1793, p.507

A Bill for taking a census has passed the House of Representatives, and is with the Senate. It contained a schedule for ascertaining the component classes of the Society, a kind of information extremely requisite to the Legislator, and much wanted for the science of Political Economy. A repetition of it every ten years would hereafter afford a most curious and instructive assemblage of facts. It was thrown out by the Senate as a waste of trouble and supplying materials for idle people to make a book. Judge by this little experiment of the reception likely to be given to so great an idea as that explained in your letter of September.

To Edmund Pendleton.

NEW YORK, March 4, 1790.

Writings of Madison, Volume 1: 1769-1793, p.507

DEAR SIR,—Your recommendation of Doctor M——was handed me some time ago. I need not tell you that I shall always rely on your vouchers for merit, or that I shall equally be pleased with opportunities of forwarding your wishes.

Writings of Madison, Volume 1: 1769-1793, p.508

The only act of much consequence which the present Session has yet produced is one for enumerating the Inhabitants, as the basis of a reapportionment of the Representation. The House of Representatives has been chiefly employed of late on the Report of the Secretary of the Treasury. As it has been printed in all the Newspapers, I take for granted that it must have fallen under your eye. The plan which it proposes is in general well-digested, and illustrated and supported by very able reasoning. It has not, however, met with universal concurrence in every part. I have myself been of the number who could not suppress objections. I have not been able to persuade myself that the transactions between the United States and those whose services were most instrumental in saving their country did, in fact, extinguish the claims of the latter on the justice of the former; or that there must not be something radically wrong in suffering those who rendered a bona fide consideration to lose 7/8 of their dues, and those who have no particular merit towards their country to gain 7 or 8 times as much as they advanced. In pursuance of this view of the subject, a proposition was made for redressing, in some degree, the inequality. After much discussion, a large majority was in the negative. The subject at present before a Committee of the whole is the proposed assumption of the State debts. On this, opinions seem to be pretty equally divided. Virginia is endeavoring to incorporate with the measure some effectual provision for a final settlement and payment of balances among the States. Even with this ingredient, the project will neither be just nor palatable if the assumption be referred to the present epoch, and by that means deprives the States who have done most of the benefit of their exertions. We have accordingly made an effort, but without success, to refer the assumption to the state of the debts at the close of the war. This would probably add 1/3 more to the amount of the debts, but would more than compensate for this by rendering the measure more just and satisfactory. A simple, unqualified assumption of the existing debts would bear peculiarly hard on Virginia. She has paid, I believe, a greater part of her quotas since the peace than Massachusetts. She suffered far more during the war. It is agreed that she will not be less a creditor on the final settlement; yet, if such an assumption were to take place, she would pay towards the discharge of the debts in the proportion of 1/5 and receive back to her creditor citizens 1/7 or 1/8 whilst Massachusetts would pay not more than 1/7 or 1/8, and receive back not less than 1/5 The case of South Carolina is a still stronger contrast. In answer to this inequality we are referred to the final liquidation, for which provision may be made. But this may possibly never take place. It will probably be at some distance. The payment of the balances among the States will be a fresh source of delay and difficulties. The merits of the plan, independently of the question of equity, are also controvertible, though on the other side there are advantages which have considerable weight.

Writings of Madison, Volume 1: 1769-1793, p.509

We have no late information from Europe more than what the newspapers contain. France seems likely to carry through the great work in which she has been laboring. The Austrian Netherlands have caught the flame, and with arms in their hands have renounced the Government of the Emperor forever. Even the lethargy of Spain begins to awake at the voice of liberty, which is summoning her neighbors to its standard. All Europe must by degrees be aroused to the recollection and assertion of the rights of human nature. Your good will to mankind will be gratified with this prospect, and your pleasure as an American be enhanced by the reflection that the light which is chasing darkness and despotism from the old World is but an emanation from that which has procured and succeeded the establishment of liberty in the new.

To Doctor Rush.

NEW YORK, March 7, 1790.

Writings of Madison, Volume 1: 1769-1793, p.509-p.510

DEAR SIR,—Although your last favor of the 27 February does not require any particular answer, I cannot let this occasional correspondence drop without thanking you for so interesting a supplement to your former remarks on the subject lately decided in the House of Representatives. It not only gives me pleasure, but strengthens my conviction, to find my sentiments ratified by those of enlightened and disinterested judges. If we are to take for the criterion of truth a majority of suffrages, they ought to be gathered from those philosophical and patriotic citizens who cultivate their reason apart from every scene that can disturb its operations, or expose it to the influence of the passions. The advantage enjoyed by public bodies in the light struck out by the collision of debate is but too often overbalanced by the heat proceeding from the same source. Many other sources of involuntary error might be added. It is no reflection on Congress to admit for one the united voice of the place where they may happen to deliberate. Nothing is more contagious than opinion, especially on questions which, being susceptible of very different glosses, beget in the mind a distrust of itself. It is extremely difficult, also, to avoid confounding the local with the public opinion, and to withhold the respect due to the latter from the fallacious specimen exhibited by the former. Without looking, therefore, beyond innocent causes of fallibility, I can retain the sentiments which produced the late motion,\* notwithstanding the disproportion of members by which it was outvoted; especially when I can fortify them with such reflections as your two favors have communicated. Indeed, it seems scarcely possible for me ever to be persuaded that there is not something radically immoral, and consequently impolitic, in suffering the rewards due for the most valuable of all considerations, the defence of liberty, to be transferred from the gallant earners of them to that class of people who now take their places. It is equally inconceivable, if the new Constitution was really calculated to attain more perfect justice, that an exposition of it can be right which confirms and enforces the most flagrant injustice that ever took place under the old.

Writings of Madison, Volume 1: 1769-1793, p.511

I must add my thanks for the little pamphlet covered by your last. I have for some time been a thorough believer in the doctrine which it exemplifies, and am not unapprized of the obligation which, in common with other proselytes, I am under to the lessons of your pen.

To Thomas Jefferson.

NEW YORK, March 8, 1790.

Writings of Madison, Volume 1: 1769-1793, p.511

DEAR SIR,—The newspapers will have shewn you the late proceedings of the House of Representatives. The present subject of deliberation is the proposed assumption of the State debts. Opinions are nearly balanced on it. My own is no otherwise favorable to the measure than as it may tend to secure a final settlement and payment of balances among the States. An assumption even under such circumstances is liable to powerful objections. In the form proposed that object would be impeded by the measure, because it interests South Carolina and Massachusetts, who are to be chiefly relieved, against such a settlement and payment. The immediate operation of the plan would be peculiarly hard on Virginia. I think, also, that an increase of the federal debt will not only prolong the evil, but be further objectionable as augmenting a trust already sufficiently great for the virtue and number of the federal Legislature.

To Edmund Randolph.

NEW YORK, March 14, 1790.

Writings of Madison, Volume 1: 1769-1793, p.511

MY DEAR FRIEND,—I have received the few lines you dropped me from Baltimore, and daily expect those promised from Fredericksburg. I am made somewhat anxious on the latter point by the indisposition under which you were travelling.

Writings of Madison, Volume 1: 1769-1793, p.511

The question depending at your departure was negatived by a very large majority, though less than stated in the newspapers. The causes of this disproportion, which exceeds greatly the estimate you carried with you, cannot be altogether explained. Some of them you will conjecture. Others I reserve for conversation, if the subject should ever enter into it. As far as I have heard, the prevailing sense of the people at large does not coincide with the decision, and that delay and other means might have produced a very different result.

Writings of Madison, Volume 1: 1769-1793, p.512

The assumption of the State debts has of late employed most the House of Representatives. A majority of 5 agreed to the measure in Committee of the whole. But it is yet to pass many defiles, and its enemies will soon be reinforced by North Carolina. The event is consequently very doubtful. It could not be admissible to Virginia unless subservient to final justice, or so varied as to be more consistent with intermediate justice. In neither of these respects has Virginia been satisfied, and the whole delegation is against the measure, except .Bland!

Writings of Madison, Volume 1: 1769-1793, p.512

The substance of the Secretary's arrangements of the Debts of the Union has been agreed to in Committee of the whole, and will probably be agreed to by the House. The number of alterations have been reduced for the sake of greater simplicity, and a disposition appears at present to shorten the duration of the Debt. According to the Report, the debt would subsist 40 or 50 years, which, considering intermediate probabilities, amounts to a perpetuity.

To Edmund Randolph.

NEW YORK, March 21, 1790.

Writings of Madison, Volume 1: 1769-1793, p.512

DEAR SIR,—Your favor of the 10th came to hand yesterday. I feel much anxiety for the situation in which you found Mrs. Randolph; but it is somewhat alleviated by the hopes which you seem to indulge.

Writings of Madison, Volume 1: 1769-1793, p.512

The language of Richmond on the proposed discrimination does not surprise me. It is the natural language of the towns, and decides nothing. Censure, I well knew, would How from those sources. Should it also flow from other sources, I shall not be the less convinced of the right of the measure, or the less satisfied with myself for having proposed it. The conduct of the Gentlemen in Amherst and Culpeper proves only that their personal animosity is unabated. Here, it is a charge against me that I sacrificed the federal to anti-federal sentiments. I am at a loss to divine the use that C. and S. can make of the circumstance.

Writings of Madison, Volume 1: 1769-1793, p.513

The debates occasioned by the Quakers have not yet expired. The stile of them has been as shamefully indecent as the matter was evidently misjudged. The true policy of the Southern members was to have let the affair proceed with as little noise as possible, and to have made use of the occasion to obtain, along with an assertion of the powers of Congress, a recognition of the restraints imposed by the Constitution.

Writings of Madison, Volume 1: 1769-1793, p.513

The State debts have been suspended by the preceding business more than a week. They lose ground daily, and the assumption will, I think, ultimately be defeated. Besides a host of objections against the propriety of the measure in its present form, its practicability becomes less and less evident. The case of the paper money in Georgia, S. Carolina, N. Carolina, &c., to Rhode Island, is a most serious difficulty. It is a part of the debts of those States, and comes in part within the principle of the assumption.

Writings of Madison, Volume 1: 1769-1793, p.513

A packet arrived a few days ago, but threw little light on the affairs of Europe. Those of France do not recede, but their advance does not keep pace with the wishes of liberty.

To Edmund Randolph.

NEW YORK, March 30, 1790.

Writings of Madison, Volume 1: 1769-1793, p.513

MY DEAR FRIEND,—Your favor of the 15th, which requests an immediate acknowledgment, by some irregularity did not come to hand till I had received that of the 18th, nor till it was too late to comply with the request by the last mail. I have been so unlucky, also, as to miss seeing the President twice that I have waited on him, in order to intimate the circumstances which you wish him to know. I shall continue to repeat my efforts until I shall have an opportunity of executing your commands.

Writings of Madison, Volume 1: 1769-1793, p.514

The House have recommitted the Resolutions on the report of the Treasury. Those relating to the assumption of State debts were recommitted by a majority of two votes. The others, from an extreme repugnance in many to a separation of the two subjects. N. Carolina has 2 votes on the floor, which turned the scale. The final decision is precarious. The immediate decision will repeal the former one in favour of the assumption, unless the composition of the House or the Committee should be varied to-morrow. Of six absent members, a majority will be opposed to the measure.

To Edmund Pendleton.

NEW YORK, April 4, 1790.

Writings of Madison, Volume 1: 1769-1793, p.514

DEAR SIR,—You will see by the papers herewith covered that the proposed assumption of the State debts continues to employ the deliberations of the House of Representatives. The question seems now to be near its decision, and unfortunately, though so momentous a one, is likely to turn on a very small majority, possibly on a single vote. The measure is not only liable to many objections of a general cast, but in its present form is particularly unfriendly to the interests of Virginia. In this light it is viewed by all her representatives, except Col. Bland.

Writings of Madison, Volume 1: 1769-1793, p.514

The American Revolution, with its foreign and future consequences, is a subject of such magnitude that every circumstance connected with it, more especially every one leading to it, is already, and will be more and more a matter of investigation. In this view, I consider the proceedings in Virginia during the crisis of the stamp act as worthy of particular remembrance, and a communication of them as a sort of debt due from her cotemporary citizens to their successors. As I know of no memory on which my curiosity could draw for more correct or more judicious information, you must forgive this resort to yours. Were I to consult nothing but my curiosity, my enquiries would not be very limited. But as I could not indulge that motive fully without abusing the right I have assumed, my request goes no farther than that you will, as leisure and recollection may permit, briefly note on paper by whom and how the subject commenced in the Assembly; where the resolutions proposed by Mr. Henry really originated; what was the sum of the arguments for and against them, and who were the principal speakers on each side; with any little anecdotes throwing light on the transaction, on the characters concerned in it, or on the temper of the colony at the time.\*

To Genl Henry Lee.

NEW YORK, Apr 13th, 1790.

Writings of Madison, Volume 1: 1769-1793, p.515

DEAR SIR,—Your favor of the 4th ult. by Col. Lee was received from his hands on Sunday last. I have since received that of the 3d instant. The antecedent one from Alexandria, though long on the way, was received some time before. In all these, I discover strong marks of the dissatisfaction with which you behold our public prospects. Though in several respects they do not comport with my wishes, yet I cannot feel all the despondency which you seem to give way to. I do not mean that I entertain much hope of the Potowmac; that seems pretty much out of sight; but that other measures in view, however improper, will be less fatal than you imagine.

Writings of Madison, Volume 1: 1769-1793, p.515

The plan of discrimination has met with the reception in Virginia on which I calculated. The towns would for obvious reasons disrelish it, and for a time they always set public opinion. The country in this region of America, in general, if I am not misinformed, has not been in unison with the titles, nor has any of the latter, except this, been unanimous against the measure. Here the sentiment was in its full vigor, and produced every exertion that could influence the result.

Writings of Madison, Volume 1: 1769-1793, p.516

I think with you that the Report of the Secretary of the Treasury is faulty in many respects; it departs particularly from that simplicity which ought to be preserved in finance more than anything else. The novelty and difficulty of the task he had to execute form no small apology for his errors, and I am in hopes that in some instances they will be diminished, if not remedied.

Writings of Madison, Volume 1: 1769-1793, p.516

The proposed assumption of the State debts has undergone repeated discussions and contradictory decisions. The last vote was taken yesterday in a Committee of the whole, and passed in the negative, 31 vs. 29. The minority do not abandon, however, their object, and tis impossible to foretell the final destiny of the measure. It has some good aspects, and under some modifications would be favorable to the pecuniary interests of Virginia, and not inconsistent with the general principle of justice. In any attainable form it would have neither of these recommendations, and is, moreover, liable to strong objections of a general nature. It would certainly be wrong to force an affirmative decision on so important and controvertible a point by a bare majority, yet I have little hope of forbearance from that scruple. Massachusetts and S. Carolina, with their allies of Connecticut and N. York, are too zealous to be arrested in their project, unless by the force of an adverse majority.

Writings of Madison, Volume 1: 1769-1793, p.516

I have received your reflections on the subject of a public debt with pleasure. In general they are, in my opinion, just and important. Perhaps it is not possible to shun some of the evils you point out, without abandoning too much the re-estab lishment of public credit. But as far as this object will permit, I go on the principle that a public debt is a public curse, and in a Republican Government a greater than in any other.

To Edmund Pendleton.

NEW YORK, April 13, 1790.

Writings of Madison, Volume 1: 1769-1793, p.517

DEAR SIR,—I thank you for your favor of the 2nd instant. From the sentiments expressed in it, you will hear with pleasure that the proposed assumption of the State debts was yesterday negatived, after many days' deliberation, by 31 vs. 29. We hoped that this vote would have been mortal to the project. It seems, however, that it is not yet to be abandoned. The other part of the secretary's Report has been studiously fastened to the assumption by the friends of the latter, and of course has made no progress.

Writings of Madison, Volume 1: 1769-1793, p.517

A British packet arrived yesterday, but has had a long passage, and I do not find that she brings any news.

Writings of Madison, Volume 1: 1769-1793, p.517

I am, dear sir, yours most affectionately.

To James Monroe.

NEW YORK, April 17, 1790.

Writings of Madison, Volume 1: 1769-1793, p.517

DEAR SIR,—The House of Representatives are still at the threshold of the Revenue business. The assumption of the State debts is the great obstacle. A few days ago it was reconsidered, and rejected by 31 against 29. The measure is not, however, abandoned. It will be tried in every possible shape by the zeal of its patrons. The Eastern members talk a strange language on the subject. They avow, some of them at least, a determination to oppose all provision for the public debt which does not include this, and intimate danger to the Union from a refusal to assume. We shall risk their prophetic menaces if we should continue to have a majority.

To Edmund Pendleton.

NEW YORK, May 2, 1790.

Writings of Madison, Volume 1: 1769-1793, p.518

DEAR SIR,—I thank you very sincerely for the readiness with which you have complied with my troublesome request on the subject of the Stamp act. I made it on a supposition that you had been present at the proceedings of the Virginia Assembly, which I find was not the case. But, knowing the accuracy and extent of your intelligence on all such interesting occurrences, I consider the particulars with which you have favored me as not the less authentic on that account.

Writings of Madison, Volume 1: 1769-1793, p.518

You were right in predicting that the assumption would not be abandoned as long as new shapes could be devised for the measure. I understand that the leading advocates persist in declarations of their hopes of final success, and that new experiments are in agitation. Since my last, a vote has passed by a large majority separating that part of the Secretary's plan from the provision for the federal debt, and bills have been ordered in for the latter alone. This will embarrass the efforts in favor of the assumption, but will not defeat it, if by any means a majority can be made up on that side.

To Edmund Randolph.

NEW YORK, May 19, 1790.

Writings of Madison, Volume 1: 1769-1793, p.518

MY DEAR FRIEND,—The President has been critically ill for some days past, but is now, we hope, out of danger; his complaint is a peripneumony, united probably with the Influenza. Since my last, I have found that I did not go too far in intimating that the cause of your delay would forbid the smallest criticism on it. I earnestly pray that you may no longer have occasion to plead that apology.

Writings of Madison, Volume 1: 1769-1793, p.518

In consequence of a petition from New Hampshire, the subject of our commercial relation to Great Britain has been revived. A majority of the House of Representatives seem disposed to make a pretty bold experiment; and I think it will meet a very different reception in the Senate from the measure tried at the last session. If it fails, it will be owing to a dislike of the preference to Nations in Treaty.

Writings of Madison, Volume 1: 1769-1793, p.519

The debt is not yet funded. The zealots for the assumption of the State debts keep back, in hopes of alarming the zealots for the federal debt. I understand that another effort is to be made for the assumption. Motives are felt, I suspect, which will account for the perseverance.

To James Monroe.

NEW YORK, June 1, 1790.

Writings of Madison, Volume 1: 1769-1793, p.519

DEAR SIR,—The assumption has been revived, and is still depending. I do not believe it will take place, but the event may possibly be governed by circumstances not at present fully in view. The funding bill for the proper debt of the United States is engrossed for the last reading. It conforms in substance to the plan of the Secretary of the Treasury. You will have seen by late papers that an experiment for navigation and commercial purposes has been introduced. It has powerful friends, and from the present aspect of the House of Representatives will succeed there by a great majority. In the Senate its success is not improbable, if I am rightly informed. You will see by the inclosed paper that a removal from this place has been voted by a large majority of our House. The other is pretty nearly balanced. The Senators of the 3 Southern States are disposed to couple the permanent with the temporary question. If they do, I think it will end in either an abortion of both or in a decision of the former in favour of the Delaware. I have good reason to believe that there is no serious purpose in the Northern States to prefer the Potowmac, and that, if supplied with a pretext for a very hasty decision, they will indulge their secret wishes for a permanent establishment on the Delaware. As Rhode Island is again in the Union, and will probably be in the Senate in a day or two, the Potowmac has the less to hope and the more to fear from this quarter. Our friend, Col. Bland, was a victim this morning to the influenza, united with the effects and remains of previous indisposition. His mind was not right for several days before he died. The President has been at the point of death, but is recovered. Mr. Jefferson has had a tedious spell of the head-ache. It has not latterly been very severe, but is still not absolutely removed.

To James Monroe.

NEW YORK, June 17, 1790.

Writings of Madison, Volume 1: 1769-1793, p.520

DEAR SIR,—You will find in the inclosed papers some account of the proceedings on the question relating to the scat of Government. The Senate have hung up the vote for Baltimore, which, as you may suppose, could not have been seriously meant by many who joined in it. It is not improbable that the permanent seat may be coupled with the temporary one. The Potowmac stands a bad chance, and yet it is not impossible that in the vicissitudes of the business it may turn up in some form or other.

Writings of Madison, Volume 1: 1769-1793, p.520

The assumption still hangs over us. The negative of the measure has benumbed the whole revenue business. I suspect that it will yet be unavoidable to admit the evil in some qualified shape. The funding bill is before the Senate, who are making very free with the plan of the Secretary. A committee of that body have reported that the alternatives be struck out, the interest reduced absolutely to 4 per cent., and, as I am informed, the indents be not included in the provision for the principal.

To Edmund Pendleton.

NEW YORK, June 22, 1790.

Writings of Madison, Volume 1: 1769-1793, p.520

DEAR SIR,—The pressure of business as the session approaches its term, the earlier hour at which the House of Representatives has for some time met, and the necessity of devoting a part of the interval to exercise, after so long a confinement, have obliged me to deny myself the pleasure of communicating regularly with my friends. I regret much that this violation of my wishes has unavoidably extended itself to the correspondences on which I set the greatest value, and which, I need not add, include yours. The regret is the greater, as I fear it will not be in my power to atone for past omissions by more punctuality during the residue of the session. In your goodness alone I must consequently look for my title to indulgence.

Writings of Madison, Volume 1: 1769-1793, p.521

The funding and Revenue systems are reduced by the discord of opinions into a very critical state. Out of this extremity, however, some effective provision must, I think, still emerge. The affair of the State debts has been the great source of delay and embarrassment, and, from the zeal and perseverance of its patrons, threatens a very unhappy issue to the session, unless some scheme of accommodation should be devised. The business of the seat of Government is become a labyrinth, for which the votes printed furnish no clue, and which it is impossible in a letter to explain to you. We are endeavoring to keep the pretensions of the Potowmac in view, and to give to all the circumstances that occur a turn favorable to it. If any arrangement should be made that will answer our wishes, it will be the effect of a coincidence of causes as fortuitous as it will be propitious. You will see by the papers inclosed that Great Britain is itching for war. I do not see how one can be avoided, unless Spain should be frightened into concessions. The consequences of such an event must have an important relation to the affairs of the United States. I had not the pleasure of seeing Col. Hoomes during his momentary stay in New York, but had that of hearing that he gave a very favorable account of your health.

To James Monroe.

NEW YORK, July 4, 1790.

Writings of Madison, Volume 1: 1769-1793, p.521

DEAR SIR,—You will find by one of the Gazettes herewith sent, that the bill fixing the permanent seat of Government on the Potowmac, and the temporary at Philadelphia, has go through the Senate. It passed by a single voice only, Izzard and Few having both voted against it. Its passage through the House of Representatives is probable, but attended with great difficulties. If the Potowmac succeeds, even on these terms, it will have resulted from a fortuitous coincidence of circumstances which might never happen again.

Writings of Madison, Volume 1: 1769-1793, p.522

The provision for the public debt has been suspended for some time in the Senate by the question relating to the seat of Government. It is now resumed in that House, and it is to be hoped will soon be brought to an issue. The assumption sleeps, but I am persuaded will be awakened on the first dawn of a favorable opportunity. It seems, indeed, as if the friends of the measure were determined to risk everything rather than suffer that finally to fail.

Writings of Madison, Volume 1: 1769-1793, p.522

We hear nothing further of the controversy between England and Spain.

To James Monroe.

NEW YORK, July 24, 1790.

Writings of Madison, Volume 1: 1769-1793, p.522

DEAR SIR,—After all the vicissitudes through which the assumption has passed, it seems at present in a fair way to succeed as part of the general plan for the public debt. The Senate have included it among their amendments to the funding bill, and a vote of yesterday in the House of Representatives indicates a small majority in favor of the measure. In its present form it will very little affect the interest of Virginia in either way. I have not been able to overcome my other objections, or even to forbear urging them. At the same time, I cannot deny that the crisis demands a spirit of accommodation to a certain extent. If the measure should be adopted, I shall wish it to be considered as an unavoidable evil, and possibly not the worst side of the dilemma.

1791

To Edmund Pendleton.

PHILADELPHIA, Jany 2d, 1791.

Writings of Madison, Volume 1: 1769-1793, p.523

DEAR SIR,—Previous to my leaving New York, I received a letter from you which was not then answered, because the subject of it required more consideration than could then be spared, and because an answer was not prompted by anything agitated or proposed on the subject in Congress. I am afraid that notwithstanding the interval which has passed, I am still not sufficiently prepared to do justice to your queries, some of which are of a delicate, and all of which are of an important nature. I am, however, the less concerned on this account, as I am sure that your own reflections will have embraced every idea which mine, if ever so mature, could have suggested.

Writings of Madison, Volume 1: 1769-1793, p.523

Your first quere is, "are the words of the Treaty, 'there shall be no legal impediment to the bona fide recovery of debts on either side,' a law of repeal, or a covenant that a law of repeal shall be passed?" As Treaties are declared to be the supreme law of the land, I should suppose that the words of the treaty are to be taken for the words of the law, unless the stipulation be expressly or necessarily excutory, which does not in this instance appear to be the case.

Writings of Madison, Volume 1: 1769-1793, p.523

"Was not the contrary the sense of the Congress who made the Treaty, when they called on the States to repeal the several laws containing such impediments?" As well as I recollect, the act of Congress on that occasion supposed the impediments to be repealed by the Treaty, and recommended a repeal by the States, merely as declaratory, and in order to obviate doubts and discussions. Perhaps, too, on a supposition that a legal repeal might have been necessary previous to the new Constitution, it may be rendered unnecessary by the terms of this instrument above quoted, which seem to give a legal force to the Treaty.

Writings of Madison, Volume 1: 1769-1793, p.523

"Admitting the treaty to be a law of repeal, what is the extent of it? does it repeal all acts of limitation, and such as regulate the modes of proving debts?" This question probably involves several very nice points, and requires a more critical knowledge of the state of the American laws, the course of legal proceedings, and the circumstances of the British debts, than I possess. Under this disadvantage, I am afraid to say more than that the probable intention of the parties, and the expression "bona fide recovery of debts," seem to plead for a liberal, and even favorable interpretation of the article. Unless there be very strong and clear objections, such an interpretation would seem to require that the debts should be viewed as in the state in which the original obstacles to their recovery found them, so far at least as the nature of the case will permit.

Writings of Madison, Volume 1: 1769-1793, p.524

"What is meant by the Supreme law, as applied to treaties? is it like those of the Medes and Persians, unalterable? or may not the contracting powers annul it by consent? or a breach on one side discharge the other from an obligation to perform its part?" Treaties, as I understand the Constitution, are made Supreme over the Constitutions and laws of the particular States, and, like a subsequent law of the United States, over pre-existing laws of the United States; provided, however, that the Treaty be within the prerogative of making Treaties, which, no doubt, has certain limits.

Writings of Madison, Volume 1: 1769-1793, p.524

That the contracting powers can annul the Treaty cannot, I presume, be questioned, the same authority, precisely, being exercised in annulling as in making a Treaty.

Writings of Madison, Volume 1: 1769-1793, p.524

That a breach on one side (even of a single article, each being considered as a condition of every other article) discharges the other, is as little questionable; but with this reservation, that the other side is at liberty to take advantage or not of the breach, as dissolving the Treaty. Hence I infer that the Treaty with Great Britain, which has not been annulled by mutual consent, must be regarded as in full force by all on whom its execution in the United States depends, until it shall be declared, by the party to whom a right has accrued by the breach of the other party to declare, that advantage is taken of the breach, and the Treaty is annulled accordingly. In case it should be advisable to take advantage of the adverse breach, a question may perhaps be started, whether the power vested by the Constitution with respect to Treaties in the President and Senate makes them the competent Judges, or whether, as the Treaty is a law, the whole Legislature are to judge of its annulment, or whether, in case the President and Senate be competent in ordinary Treaties, the Legislative authority be requisite to annul a Treaty of peace, as being equivalent to a Declaration of war, to which that authority alone, by our Constitution, is competent.

Writings of Madison, Volume 1: 1769-1793, p.525

Mr. White tells me he has sent you a copy of Col. hamilton's plan of a Bank. I do not therefore inclose one. I augur that you will not be in love with some of its features. Mr. Randolph's Report on the Judiciary is not yet printed. I know that a copy is allotted for you. The report of the ways and means from the Treasury Department for the assumed debt has been in the newspapers, and has, I presume, found its way to you through that channel. There are objections of different sorts to the proposed mode of revenue. But as direct taxes would be still more generally obnoxious, and as imports are already loaded as far as they will bear, an excise is the only resource, and of all articles distilled spirits are least objectionable. Indeed, the duty imposed on imported rum forces a proportional duty on Country rum, and from the latter a duty on other spirits distilled at home results of course. There is, of consequence, scarce an option.

Writings of Madison, Volume 1: 1769-1793, p.525

The Militia bill and a plan for disposing of the public lands have been under consideration for some time, and have made some progress, but are not in a state as yet from which their final shape can be decided. The Senate have before them the Bank, the report of the Secretary of State on weights and measures, and the case of Kentucky. This last subject has experienced no other difficulties than what proceeded from some little scruples concerning punctilios in the transition from the old to the new station of the District. I understand from Col. Monroe that the Senate are really disposed to forward the object. Vermont will probably soon follow, and may even be a member of the Union before the period to which the law of Virginia postpones the actual admission of Kentucky.

Writings of Madison, Volume 1: 1769-1793, p.526

The Gazette of last evening contains the following paragraph under the Philadelphia head:

Writings of Madison, Volume 1: 1769-1793, p.526

"By an express which arrived this afternoon at the post office, from Lewistown, near the capes of Delaware, we have received letters from London down to the 4th of November. The following letter will convey important intelligence to the American public:

Writings of Madison, Volume 1: 1769-1793, p.526

"' Copy of a letter received by the Lord Mayor of London from the Duke of Leeds.

Writings of Madison, Volume 1: 1769-1793, p.526

"' I have the honour to acquaint your Lordship that the Messenger Dressin arrived here this morning, with despatches from Mr. Fitzherbert, Ambassador at the Court of Madrid, dated Sunday, 24 October, containing an account that a Convention for terminating the differences which had arisen with that Court had been agreed upon between his Excellency, on the part of his Majesty, and the Ct de Florida Blanca, on the part of the Catholic King; and that the Convention was to be signed and exchanged by those Ministers the 27 of the same month.

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"' London, 4 Novr. (Signed) LEEDS.'"

Writings of Madison, Volume 1: 1769-1793, p.526

From this extract it may be concluded, unless there be a forgery not to be suspected, that the question which has been so long depending between Great Britain and Spain has issued in peace.

Writings of Madison, Volume 1: 1769-1793, p.526

The date of my letter reminds me of the compliments which belong to the season. I offer them with the sincerest wish that they may yet often be repeated to you, and that the state of health in which this will find you may promise that satisfaction to all your friends, among whom no one will enjoy it in a higher degree than,

Writings of Madison, Volume 1: 1769-1793, p.526

Your affectionate and obt servt.

To James Madison.

PHILADELPHIA, January 23, 1791.

Writings of Madison, Volume 1: 1769-1793, p.527

HONORED SIR,—Since my last to my Brother A., I have received no letter from Orange, although yours and his both preceding left me particularly anxious to know the event of the Influenza attack on my mother's health.

Writings of Madison, Volume 1: 1769-1793, p.527

The peace between Great Britain and Spain has been fully authenticated. The English accounts give a sad picture of affairs in France, but there are more direct accounts which are more favorable.

Writings of Madison, Volume 1: 1769-1793, p.527

The House of Representatives has been long employed on the excise Bill. It is much opposed within and without doors. I think, however, it will pass, as less offensive than a direct tax, which seems to be the alternative. What reception will it meet with in your quarter? Stills will be taxed, but the owner will have the option of returning and paying for the quantity of spirits actually distilled.

Writings of Madison, Volume 1: 1769-1793, p.527

The Kentucky Bill has come down from the Senate, and will probably go through the House of Represents without difficulty. The Bank is also come from the Senate, but will not go through, if at all, without opposition. The militia and western land Bill wait for the conclusion of the excise Bill.

Writings of Madison, Volume 1: 1769-1793, p.527

Let Mr. W. Webb know that I have received his papers from Col. Monroe., and have drawn and presented a petition for him. The fate of it is uncertain, and probably will not be known for a considerable time.

Writings of Madison, Volume 1: 1769-1793, p.527

Your affectionate son.

Writings of Madison, Volume 1: 1769-1793, p.527

What is the number of inhabitants in Orange, and what the; state of the census in general?

To Edmund Pendleton.

PHILADELPHIA, Feby 13, 1791.

Writings of Madison, Volume 1: 1769-1793, p.528

DEAR SIR,—Since the receipt of your favor of the 15th January, I have had the further pleasure of seeing your valuable observations on the Bank more at length, in your communications to Mr. White. The subject has been decided, contrary to your opinion, as well my own, by large majorities in both Houses, and is now before the President. The power of incorporating cannot, by any process of safe reasoning, be drawn within the meaning of the Constitution as an appurtenance of any express power, and it is not pretended that it is itself an express power. The arguments in favor of the measure rather increased my dislike to it, because they were founded on remote implications which strike at the very essence of the Government, as composed of limited and enumerated powers. The plan is, moreover, liable to a variety of other objections, which you have so judiciously developed.

Writings of Madison, Volume 1: 1769-1793, p.528

The excise is not yet returned by the Senate. It has undergone sundry alterations in that House, but none that affect its principle or will affect its passage. In many respects it is displeasing to me, and a greater evil than a direct tax. But the latter would not be listened to in Congress, and would, perhaps, be not less offensive to the ears of the people at large, particularly in the Eastern part of the Union. The Bill contains, as you would wish, an optional clause, permitting the owners of country stills to pay the tax on their capacity, or to keep an account of the liquors actually distilled, and pay according to that and no more.

Writings of Madison, Volume 1: 1769-1793, p.528

The Bill for admitting Kentucky has passed into a law, and another for extending the privileges to Vermont, who is knocking at the door for it, has come from the Senate, and will not be opposed in the House of Representatives. The Bill for selling the public lands has made some progress, and I hope will go through. The fate of the Militia and several other important bills is problematical at the present Session, which will expire on the 4th of next month.

Writings of Madison, Volume 1: 1769-1793, p.529

With the sincerest affection, I am, dear sir, most respectfully yours.

Writings of Madison, Volume 1: 1769-1793, p.529

The enclosed paper, I observe, has a sketch of some of the arguments against the Bank. They are extremely mutilated, and in some instances perverted, but will give an idea of the turn which the question took.

To James Madison, Esq.

PHILADELPHIA, February 13, 1791.

Writings of Madison, Volume 1: 1769-1793, p.529

HONORED SIR,—I have received yours of the 31 ult°, and am glad to find that my sister Hite has withdrawn herself from the region of the small-pox. It gives me particular pleasure, also, to learn that my mother's health has been so far restored.

Writings of Madison, Volume 1: 1769-1793, p.529

You will see by one of the enclosed papers that the price of wheat continues at from 8s. 4d. to 8s. 6d. Whether it will rise or fall, or how much, is more than I can say. I think the chances will justify your refusal of the Virginia prices at least.

Writings of Madison, Volume 1: 1769-1793, p.529

I do not see what better you can do with your certificates than to subscribe them to the public fund at Richmond. Those from North Carolina are to be liquidated and subscribed here. You had best send them by Mr. Hire in the spring. I received Mr. Webb's papers from Col. Monroe, and laid them before the House of Representatives, with a petition, which has been referred to the secretary of the Treasury. The crowd of such business which had been previously referred to him makes it pretty certain that no report can be made to the present session. Let Mr. W. know this, if you please, and save me the trouble of writing to him.

Writings of Madison, Volume 1: 1769-1793, p.529

The Excise Bill has not yet got through the Senate, where it is undergoing sundry alterations, but none that will materially affect it. The optional clause, permitting the owners of stills to pay either the tax on the size of the stills, or on the quantity actually distilled, will pretty certainly remain a part of the Bill, and as an answer to the most popular objection to it. The Bill for incorporating a Bank has passed the two Houses by large majorities, and is before the President. It was opposed in both as being unconstitutional, as well as in other respects objectionable.

Writings of Madison, Volume 1: 1769-1793, p.530

The arguments against it are extremely mutilated, and even perverted in the newspapers, but the sketch will give some idea of the turn of them.

Writings of Madison, Volume 1: 1769-1793, p.530

The Bill for admitting Kentucky has become a law. Vermont is applying for the same privilege, and will be also gratified.

Writings of Madison, Volume 1: 1769-1793, p.530

The subject immediately before the House of Representatives is the Bill for selling the Western Lands. It has made some progress, and I hope will get through. The other important Bills are in some danger of failing at the present session, which will end on the 4th of March.

Writings of Madison, Volume 1: 1769-1793, p.530

I remain, your affectionate and dutiful son.

Writings of Madison, Volume 1: 1769-1793, p.530

The earthquake was not felt here at all. The winter has been very dry, and, with intervals of mild spells, very cold. I am not informed of its effects on the winter grain, but suspect it must have been unfavorable.

Writings of Madison, Volume 1: 1769-1793, p.530

Substance of a conversation held by James Madison, Jr., with Col. Beckwith, at the desire of Mr. Jefferson, Secretary of State.

Writings of Madison, Volume 1: 1769-1793, p.530

Last evening offered the first opportunity of breaking to Col. B. the subject for which he has been thought a proper channel to the Governor of Canada. It was explicitly made known to him, that besides its being generally understood that the N. W. Indians were supplied with the means of war from their intercourse with Detroit, &c., the president had received information, which he considered as certain, that ample supplies of that sort had, about the commencement of last campaign, been received by the hostile tribes from places at present in British hands. It was observed to him at the same time, that as the United States had no other object in the present [Indian] war but to effect and establish peace on their frontier, it was obvious in what light such a circumstance must be viewed by them. And as a further consideration heightening the colour of the fact, he was reminded that the Indians in question were, without an exception, inhabitants of the acknowledged territory of the United States, and, consequently, stood in a certain relation to them well understood by the nations possessing territories on this continent.

Writings of Madison, Volume 1: 1769-1793, p.531

The sum of his answer was, that as a fact so stated, however unaccountable it might be, was not to be contradicted, he could only undertake to affirm that it was impossible it could have proceeded directly or indirectly from the British Government, or have had the sanction or countenance of the authority on the spot. He multiplied assurances that the whole spirit and policy of their Government was opposed to Indian hostilities; and that the sentiments, views, and orders of Lord Dorchester discouraged them as much as possible. This he knew to be the case. He asked whether there were any particulars of time, place, or persons, contained in the information to the President; whether there was any evidence that the articles supplied were in greater quantities than were usual for other purposes than war; intimating that, if there were just ground of complaint, a regular statement and communication of it, in any mode that might be thought not improper, would be most correspondent with the customary proceedings in such cases. For himself, he should be very ready on receiving any such statements or communications to transmit them. He was here, however, not in any formal character; on the contrary, in an informal one—a very informal one, to be sure; and he entered into this conversation as between one private gentleman and another. He had, indeed, been a good while at New York before, as well as here, [Philadelphia,] since the removal of the Government. He hoped his stay would be rendered short by the arrival of some more authentic character. He was at New York before Mr. Jefferson came into the office he now holds, and he believed it was known on what footing he was. Yet he had not in any respect been turned over to Mr. Jefferson, nor had anything passed that could give him any pretensions to be in any communication with the Secretary of State. Such a communication was no doubt thought improper by the Secretary of State with so informal a character, though in a way ever so informal. He did not undertake to suppose it was not right; especially as different forms of Governments have different modes of proceedings, &c.

Writings of Madison, Volume 1: 1769-1793, p.532

The turn given to the conversation shewing pretty clearly a desire to make the occasion subservient to some further and direct intercourse with the Government, it was thought proper for that reason, as well as for avoiding the necessity of another conversation, to reply at once that it was not probable the information received by the President would be made known to him in any way more authentic than the present, which it was true, as he had observed, was merely a conversation between two private gentlemen; but if the fact that the President had received the information, as stated, was made sufficiently credible, the proper effect of the communication need not depend on the mode of it. If the dispositions of Lord Dorchester were such as were described, and of which his reputation for humanity and prudence left no room for doubt, any evidence amounting to probability only would ensure all the interference that might depend on him. The conduct of Governments towards formal and informal characters was certainly not within the compass of this conversation. It was probable, however, that no distinction was made by the Government here which was not made by all Governments; the difference between those characters seeming to lie not in the circumstance of the former being possessed of written and the latter of verbal authority, but in the greater publicity and formality of the written credentials produced from the proper source by the former. The evident impropriety of the military supplies afforded to the Indians required, no doubt, that the countenance of the British Government, or even the sanction of the officer on the spot, ought not to be presumed as long as the fact could be otherwise explained; but as the effect of these aids was the same whether furnished by public authority or by vindictive or avaricious individuals, it was in every case to be expected that the abuse would be corrected; and the circumstance of the Indians in question being within the acknowledged limits of the United States, and receiving the means of war against them from a foreign source, was again brought into view as heightening the colour of the affair. With respect to the particulars of the fact, they did not seem to be material. In what degree the President was possessed of them could not be said. It might be difficult to ascertain the particulars, and yet the general fact be sufficiently established. As the Indians at War traded with British subjects only, their being able to carry on hostilities was of itself sufficient evidence in the case. It might be difficult, also, to mark precisely the line between supplies for war and for hunting; but it was probable that not only the difference of quantity demanded, but other indications, must leave little doubt of the purpose for which they were intended.

Writings of Madison, Volume 1: 1769-1793, p.533

Col. B. professed the strongest disposition to do anything in his power, having been actuated by this disposition in all his communications to Canada, but repeated his wish for more exact information on the subject. The intelligence was itself so vague, and was communicated to him under such reserve, that he was really at a loss how to represent it. "May I, Sir, mention your name in the case ?" He was answered, that, from the nature of the conversation, he would be under no restraint from mentioning any circumstance relating to it he pleased. "May I, Sir, say that I have your permission to use your name?" Answer. The permission being a part of the conversation, he must be equally free to mention it if he thought fit, though it was not perceived to be a circumstance very material. "Will you be so good, Sir, as to repeat the information you mention to have been received by the President?" This request being complied with, he said he should certainly look out for the first opportunity of making the matter known to Lord D., and if Mr. M. should be here on the receipt of an answer, he should be made acquainted with it, repeating his declaration that it was impossible the British Government could in any respect have countennced or approved any supplies to the Indians as an aid or encouragement to their hostilities.

Writings of Madison, Volume 1: 1769-1793, p.534

JAMES MADISON.

PHILADELPHIA, April 18, 1791.

To Thomas Jefferson.

NEW YORK, May 1, 1791.

Writings of Madison, Volume 1: 1769-1793, p.534

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.534

I send you herewith a copy of Priestley's answer to Burke, which has been reprinted here. You will see by a note, page 56, how your idea of limiting the right to bind posterity is germinating under the extravagant doctrines of Burke on that subject. Paine's answer has not yet been received here. The moment it can be got, Freneau tells me it will be published in Childs' paper. It is said that the pamphlet has been suppressed in England, and that the author withdrew to France before or immediately after its appearance. This may account for his not sending copies to his friends in this country.

Writings of Madison, Volume 1: 1769-1793, p.534

From conversations which I have casually heard, it appears that among the enormities produced by the spirit of speculation and fraud, a practice is spreading of taking out administration on the effects of deceased soldiers and other claimants leaving no representatives. By this knavery, if not prevented, a prodigious sam will be unsaved by the public, and reward the worst of its citizens. A number of adventurers are already engaged in the pursuit, and as they easily get security as administrators, and as easily get a commission on the usual suggestion of being creditors, they desire nothing more than to ascertain the name of the party deceased or missing, trusting to the improbability of their being detected or prosecuted by the public. It cannot but have happened, and is, indeed, a fact well understood, that the unclaimed dues from the United States are of very great amount. What a door is here open for collusion also, if any of the clerks in the account offices are not proof against the temptation?

Writings of Madison, Volume 1: 1769-1793, p.535

We understood in Philadelphia that during the suspension of the Bank bill in the hands of the President, its partizans here indulged themselves in reflections not very decent. I have reason to believe that the licentiousness of the tongues of speculators and Tories far exceeded anything that was conceived. The meannest motives were charged on him, and the most insolent menaces held over him, if not in the open streets, under circumstances not less marking the character of the party.

Writings of Madison, Volume 1: 1769-1793, p.535

In returning a visit to Mr. King yesterday, our conversation fell on the conduct of Great Britain towards the United States, which he evidently laments as much as he disapproves. He took Occasion to let me understand, that although he had been averse to the appearance of precipitancy in our measures, he should readily concur in them after all probability should be over of voluntary relaxations in the measures of the other party; and that the next session of Congress would present such a crisis if nothing to prevent it should intervene. He mentioned, also, that a young gentleman here (a son of W. Smith, now Chief Justice of Canada) gives out, as information from his friends in England, that no Minister will be sent to this country until one shall have previously arrived there. What credit may be due to this person or his informers I do not know. It shews, at least, that the conversation and expectations which lately prevailed are dying away.

To Thomas Jefferson.

NEW YORK, May 12, 1791.

Writings of Madison, Volume 1: 1769-1793, p.535

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.535

I had seen Paine's pamphlet, with the preface of the Philadelphia Editor. It immediately occured that you were brought into the Frontispiece in the manner you explain. But I had not foreseen the particular use made of it by the British pattizans. Mr. Adams can least of all complain. Under a mock defence of the Republican Constitutions of his Country, he attacked them with all the force he possessed, and this in a book with his name to it, whilst he was the Representative of his Country at a foreign Court. Since he has been the 2d magistrate in the new Republic, his pen has constantly been at work in the same cause; and though his name has not been prefixed to his anti-republican discourses, the author has been as well known as if that formality had been observed. Surely, if it be innocent and decent in one servant of the public thus to write attacks against its Government, it cannot be very criminal or indecent in another to patronize a written defence of the principles on which that Government is founded. The sensibility of Hammond and Bond for the indignity to the British Constitution is truly ridiculous. If offence could be justly taken in that quarter, what would France have a right to say to Burke's pamphlet, and the countenance given to it and its author, particularly by the King himself? What, in fact, might not the United States say, whose revolution and democratic Governments come in for a large charge of the scurrility lavished on those of France?

Writings of Madison, Volume 1: 1769-1793, p.536

I do not foresee any objection to the route you propose. I had conversed with Beckley on a trip to Boston, &c., and still have that in view; but the time in view for starting from this place will leave room for the previous excursion. Health, recreation, and curiosity, being my objects, I can never be out of my way.

Writings of Madison, Volume 1: 1769-1793, p.536

Not a word of news here. My letters from Virginia say little more than those you had received. Carrington says the returns have come in pretty thickly of late, and warrant the estimate founded on the Counties named to me some time ago. As well as I recollect these averaged upwards of 8,000 souls, and were considered by him as under the general average.

Writings of Madison, Volume 1: 1769-1793, p.536

Yrs affectionately.

To Thomas Jefferson.

(Extract.)

NEW YORk, June 23rd, 1791.

Writings of Madison, Volume 1: 1769-1793, p.537

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.537

You have no doubt seen the French Regulations on the subject of Tobacco, which commence hostilities against the British navigation Act. Mr. King tells me an attack on Paine ha s appeared in a Boston paper under the name of Publicola, and has an affinity in the stile as well as sentiments to the discourses on Davila.

Writings of Madison, Volume 1: 1769-1793, p.537

I observed in a late paper here an extract from a Philadelphia pamphlet on the Bank. If the publication has attracted or deserves notice, I should be glad of a copy from you. I will write again in a few days; in the mean time remaining,

Writings of Madison, Volume 1: 1769-1793, p.537

Yours most affectionately.

To Thomas Jefferson.

NEW YORK, June 27, 1791.

Writings of Madison, Volume 1: 1769-1793, p.537

DEAR SIR,—I have seen Col. Smith more than once. He would have opened his budget fully to me, but I declined giving him the trouble. He has written to the President a statement of all his conversations with the British Ministry, which will get into your hands of course. He mentioned to me his wish to have put them there in the first instance, and your situation on his arrival as an apology for not doing it. From the complexion of the little anecdotes and observations which dropped from him in our interviews, I suspect that report has, as usual, far overrated the importance of what has been confided to him. General professions, which mean nothing, and the sending a Minister, which can be suspended at pleasure, or which, if executed, may produce nothing, are the amount of my present guesses.

Writings of Madison, Volume 1: 1769-1793, p.537

Mr. Adams seems to be getting faster and faster into difficulties. His attack on Paine, which I have not seen, will draw the public attention to his obnoxious principles more than everything he has published. Besides this, I observe in McLean's paper here a long extract from a sensible letter republished from Poughkeepsie, which gives a very unpopular form to his anti-republican doctrines, and presents a strong contrast of them with a quotation from his letter to Mr. Wythe in 1776.

To Thomas Jefferson.

NEW YORK, July 10, 1791.

Writings of Madison, Volume 1: 1769-1793, p.538

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.538

The Bank shares have risen as much in the Market here as at Philadelphia. It seems admitted on all hands now that the plan of the institution gives a moral certainty of gain to the subscribers, with scarce a physical possibility of loss. The subscriptions are consequently a mere scramble for so much public plunder, which will be engrossed by those already loaded with the spoils of individuals. The event shews what would have been the operation of the plan, if, as originally proposed, subscriptions had been limited to the 1st of April, and to the favorite species of stock which the Bank Jobbers had monopolized. It pretty clearly appears, also, in what proportions the public debt lies in the Country, what sort of hands hold it, and by whom the people of the United States are to be governed. Of all the shameful circumstances of this business, it is among the greatest to see the members of the Legislature who were most active in pushing this job openly grasping its emoluments. Schuyler is to be put at the head of the Directors, if the weight of the New York subscribers can effect it. Nothing new is talked of here. In fact, stock-jobbing drowns every other subject. The Coffee-House is in an eternal buzz with the Gamblers.

To Thomas Jefferson.

NEW YORK, July 13, 1791.

Writings of Madison, Volume 1: 1769-1793, p.539

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.539

Beckley has just got back from his eastern trip. He says that the partizans of Mr. Adams's heresies in that quarter are perfectly insignificant in point of number; that particularly in Boston he is become distinguished for his unpopularity; that Publicola is probably the manufacture of his son, out of materials furnished by himself, and that the publication is generally as obnoxious in New England as it appears to be in Pennsylvania. If young Adams be capable of giving the dress in which Publicola presents himself, it is very probable he may have been made the Editor of his father's doctrines.

Writings of Madison, Volume 1: 1769-1793, p.539

I hardly think the printer would so directly disavow the fact if Mr. Adams was himself the writer. There is more of method, also, in the arguments, and much less of clumsiness and heaviness in the style, than characterize his writings. I mentioned to you some time ago an extract from a piece in the Poughkeepsie paper as a sensible comment on Mr. Adams' doctrines. The whole has since been republished here, and is evidently from a better pen than any of the Anti-Publicolas I have seen. In Greenleaf's paper of to-day is a second letter from the same quarter, which confirms the character I have given of the Author.

Writings of Madison, Volume 1: 1769-1793, p.539

We understand here that 800 shares in the Bank, committed by this City to Mr. Constable, have been excluded by the manner in which the business was conducted; that a considerable number from Boston met with the same fate, and that Baltimore has been kept out in toto. It is all charged on the manoeuvres of Philadelphia, which is said to have secured a majority of the whole to herself. The disappointed individuals are clamorous of course, and the language of the place marks a general indignation on the subject. If it should turn out that the cards were packed for the purpose of securing the game to Philadelphia, or even that more than half the Institution, and of course the whole direction of it, have fallen into the hands of that city, some who have been loudest in their plaudits whilst they expected to share in the plunder will be equally so in sounding the injustice of monopoly, and the danger of undue influence on the Government.

Writings of Madison, Volume 1: 1769-1793, p.540

The packet is not yet arrived. By a vessel arrived yesterday, newspapers are received from London which are said to be later than any yet come to hand. I do not find that any particular facts of moment are handed out. The miscellaneous articles come to me thro' Childs' paper, which you get sooner than I could rehearse to you. It has been said here by the Anglicans that the President's message to Congress on the subject of the commercial disposition of Great Britain has been asserted openly by Mr. Pitt to be misrepresentation; and as it would naturally be traced to Gouverneur Morris, it has been suggested that he fell into the hands of the Chevalier Luzerne, who had the dexterity to play off his negotiations for French purposes. I have reason to believe that Beckwith has had a hand in throwing these things into circulation. I wish you success with all my heart in your efforts for Paine. Besides the advantage to him, which he deserves, an appointment for him at this moment would do public good in various ways.

Writings of Madison, Volume 1: 1769-1793, p.540

Always and truly yours.

To Thomas Jefferson.

NEW YORK, August 4, 1791.

Writings of Madison, Volume 1: 1769-1793, p.540

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.540

Stock and scrip continue to be the sole domestic subjects of conversation. The former has mounted in the late sales above par, from which a superficial inference would be drawn that the rate of interest had fallen below 6 per cent. It is a fact, however, which explains the nature of these speculations, that they are carried on with money borrowed at from 2 1/2 per cent. a month, to 1 per cent. a week.

Writings of Madison, Volume 1: 1769-1793, p.540

Adieu. Yours most affectionately.

To Thomas Jefferson.

NEW YORK, August 8, 1791.

Writings of Madison, Volume 1: 1769-1793, p.541

MY DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.541

It is surmised that the deferred debt is to be taken up at the next session, and some anticipated provision made for it. This may either be an invention of those who wish to sell, or it may be a reality imparted in confidence to the purchasers, or smelt out by their sagacity. I have had a hint that something is intended and has dropt from ——— ———, which has led to this speculation. I am unwilling to credit the fact until I have further evidence, which I am in a train of getting, if it exists. It is said that packet boats and expresses are again sent from this place to the Southern States, to buy up the paper of all sorts which has risen in the market here.

Writings of Madison, Volume 1: 1769-1793, p.541

These and other abuses make it a problem whether the system of the old paper under a bad Government, or of the new under a good one, be chargeable with the greater substantial injustice. The true difference seems to be, that by the former the few were the victims to the many; by the latter, the many to the few. It seems agreed on all hands now, that the bank is a certain and gratuitous augmentation of the capitals subscribed, in a proportion of not less than 40 or 50 per cent.; and if the deferred debt should be immediately provided for in favour of the purchasers of it in the deferred shape, and since the unanimous vote that no change should be made in the funding system, my imagination will not attempt to set bounds to the daring depravity of the times. The stock-jobbers will become the pretorian band of the Government, at once its tool and its tyrant; bribed by its largesses, and overawing it by clamours and combinations.

Writings of Madison, Volume 1: 1769-1793, p.541

Nothing new from abroad. I shall not be in Philadelphia till the close of the week.

Writings of Madison, Volume 1: 1769-1793, p.541

Adieu. Yrs most affectionately.

To Robert Pleasants.

PHILADELPHIA, October 30, 1791.

Writings of Madison, Volume 1: 1769-1793, p.542

SIR,—The delay in acknowledging your letter of the 6th June last proceeded from the cause you conjectured. I did not receive it till a few days ago, when it was put into my hands by Mr. James Pemberton, along with your subsequent letter of the 8th August.

Writings of Madison, Volume 1: 1769-1793, p.542

The petition relating to the Militia bill contains nothing that makes it improper for me to present it. I shall, therefore, readily comply with your desire on that subject. I am not satisfied that I am equally at liberty with respect to the other petition. Animadversions such as it contains, and which the authorized object of the petitioners did not require, on the slavery existing in our country, are supposed by the holders of that species of property to lessen the value by weakening the tenure of it. Those from whom I derive my public station are known by me to be greatly interested in that species of property, and to view the matter in that light. It would seem that I might be chargeable at least with want of candour, if not of fidelity, were I to make use of a situation in which their confidence has placed me to become a volunteer in giving a public wound, as they would deem it, to an interest on which they set so great a value. I am the less inclined to disregard this scruple as I am not sensible that the event of the petition would in .the least depend on the circumstance of its being laid before the House by this or that person.

Writings of Madison, Volume 1: 1769-1793, p.542

Such an application as that to our own Assembly, on which you ask my opinion, is a subject, in various respects, of great delicacy and importance. The consequences of every sort ought to be well weighed by those who would hazard it. From the view under which they present themselves to me, I cannot but consider the application as likely to do harm rather than good. It may be worth your own consideration whether it might not produce successful attempts to withdraw\* the privilege now allowed to individuals, of giving freedom to slaves. It would at least be likely to clog it with a condition\* that the persons freed should be removed from the country; there being arguments of great force for such a regulation, and some would concur in it, who, in general, disapprove of the institution of slavery.

Writings of Madison, Volume 1: 1769-1793, p.543

I thank you, sir, for the friendly sentiments you have expressed towards me, and am, with respect, your obt, humble servt.

To Genl H. Lee.

PHILADELPHIA., Decr 18th, 1791.

Writings of Madison, Volume 1: 1769-1793, p.543

MY DEAR SIR,—I have received your favor of the 8th, and handed to Freneau the subscriptions inclosed for him. His paper, in the opinion here, justifies the expectations of his friends, and merits the diffusive circulation they have endeav oured to procure it.

Writings of Madison, Volume 1: 1769-1793, p.543

I regret that I can administer no balm to the wound given by the first report of our Western disaster. You will have seen the official account which has gone into all the Newspapers. It does not seem to contain any of the saving circumstances you are so anxious to learn. The loss of blood is not diminished, and that of impression is as great as the most compleat triumph of the savages can render it. The measures planning for the reparation of the calamity are not yet disclosed. The suspected relation of Indian hostility to the Western posts became here, as with you, a subject of pretty free conversation.

1792

To Edmund Pendleton.

PHILADELPHIA, Decr 18, 1792.

Writings of Madison, Volume 1: 1769-1793, p.543

DEAR SIR,—Your favor of afforded me much pleasure by the information it gave of the return of such flourishing health, and has laid me under great obligation by the valuable state it enclosed of the great question lately argued in the federal court at Richmond. We are all anxious to learn the decision of the Judges, though there is a report that they decline giving their opinions; and were that not so, the importance of them is diminished by the probability of an appeal.

Writings of Madison, Volume 1: 1769-1793, p.544

Notwithstanding the proportion of time which has run off, the last hand has been put to a very inconsiderable part of the business of the Session. The two Houses have been of late chiefly occupied by the Representation bill, which, both in its principles and consequences, is of the first importance. The House of Representatives, by a very great majority, decided in favor of the ratio of 1 for 30,000, as the most obvious intention of the Constitution, or at least of the amendment which is likely to be made a part of it, as most congenial with the republican character of the Government, and as most correspondent with the expectations of the public. In the Senate there were three opinions: one favoring the transfer of the fractions from the Eastern States, where they happen to fall more than on the Southern States; another favoring a small representation in the Government; and a third favoring a large representation. These opinions being strangely compounded in the same individuals, and divided among the body, produced as strange a checker of projects for new-modelling the ratio proposed by the other House. After a miscarriage of sundry of them, and a delay severely felt at Richmond, they at length, by the casting vote of the chair, agreed on a Change of the ratio to 1 for 33,000. To this the House of Representatives disagreed, by a bare majority only. The Senate have insisted, and the question will probably be to-morrow renewed in the House of Representatives. Should they adhere, the Senate will probably recede. Should a conference be proposed, the issue will probably be less favorable. The chance may be bettered if Col. Lee should arrive in time, who is said to be on the road. But it may happen that a vote of concurrence on the part of the House of Representatives will cut the business short without a further appeal to the temper of the Senate.

Writings of Madison, Volume 1: 1769-1793, p.545

Nothing is yet public with respect to any communications of Mr. Hammond with the Executive on the matters in general depending between this country and his. We only learn that he has authoritatively disavowed any encouragement or countenance from the Government of Canada to Indian hostilities against the United States, to which he adds, from analogy and his personal conviction, that no such countenance can have been afforded to the hostile views of the Creeks attached to Bowles. Major Thomas Pinckney, of South Carolina, is to be the counter Minister of the United States at the Court of Great Britain.

Writings of Madison, Volume 1: 1769-1793, p.545

The French revolution seems to have succeeded beyond the most sanguine hopes. The King, by freely accepting the Constitution, has baffled the external machinations against it, and the peaceable election of a Legislative Assembly of the same complexion with their predecessors, and the regular commencement of their functions, have equally suppressed the danger of internal confusions.

Writings of Madison, Volume 1: 1769-1793, p.545

With the most affectionate esteem, I remain, dear sir, your obt friend and servt.

To Edmund Pendleton.

PHILADELPHIA, Jany 21, 1792.

Writings of Madison, Volume 1: 1769-1793, p.545

DEAR SIR,—I have delayed for some time writing, in the daily expectation that I should be able to resume the subject of the Representation bill, the progress and fate of which were mentioned in my last. A motion for reviving it in another form has been some days on the table, and is now the order of the day, but has been kept back partly by a general torpor resulting from the critical loss of the bill, and partly by the interference of other business. The motion alluded to proposes, as compensation for the present inequality of fractions, a repetition of the census in 4 or 5 years, which will have not only the effect of shortening the term of the fractions complained of, but of preventing the accumulation of much greater inequalities within a period of ten years. This expedient is relished generally by the Southern States, and by New York and Vermont, which are growing States. It will be equally unpalatable to Massachusetts, Connecticut, &c., which are very willing to take the benefit of the future operation of an apportionment for ten years, although they raise so great an outcry against the little fractional advantage accruing to other States from the ratio of 1 for 30,000.

Writings of Madison, Volume 1: 1769-1793, p.546

The House of Representatives has been occupied for some days, with shut doors, on the communications of the President relating to the Western Frontiers. There is a pretty general disposition to make the protection effectual, but a great want of unanimity as to the best means. It is probable that much will be left to the judgment of the President; and it is to be hoped that the lessons of past experience will not be without effect.

Writings of Madison, Volume 1: 1769-1793, p.546

I have reserved for you a copy of the Report of the Secretary of the Treasury on Manufactures, for which I hoped to have found before this a private conveyance, it being rather bulky for the mail. Having not yet succeeded in hitting on an opportunity, I send you a part of it in a newspaper, which broaches a new Constitutional doctrine of vast consequence, and demanding the serious attention of the public. I consider it myself as subverting the fundamental and characteristic principle of the Government; as contrary to the true and fair, as well as the received construction, and as bidding defiance to the sense in which the Constitution is known to have been proposed, advocated, and adopted. If Congress can do whatever in their discretion can be done by money, and will promote the General Welfare, the Government is no longer a limited one, possessing enumerated powers, but an indefinite one, subject to particular exceptions. It is to be remarked that the phrase out of which this doctrine is elaborated is copied from the old Articles of Confederation, where it was always understood as nothing more than a general caption to the specified powers, and it is a fact that it was preferred in the new instrument for that very reason, as less liable than any other to misconstruction.

Writings of Madison, Volume 1: 1769-1793, p.547

Remaining always most affectionately yours.

To Genl H. Lee.

PHILADELPHIA, Jany 29th, 1792.

Writings of Madison, Volume 1: 1769-1793, p.547

MY DEAR SIR,—Mr. Marshall called last evening with your favor of the 17th, but not being at home I have not yet seen him. The subject of Western defence is not yet over. In relation to it I have nothing to add to the communications in my last. You will see in Freneau's paper of to-morrow morning the justifying memorial of the Executive against the charge of neglecting the requisite pacific measures.

Writings of Madison, Volume 1: 1769-1793, p.547

Your ideas of reformation in the Western system appear to me to be just in every point on which I can presume to judge. I wish they may occur to those who can give them due effect.

To Genl H. Lee.

PHILADELPHIA, Feby 12th, 1792.

Writings of Madison, Volume 1: 1769-1793, p.547

My DEAR SIR,—I have your favor of the 29th ultimo. The Senate have disagreed to that part of the Military Bill which augmented the regular establishment to about 5,000 men, and will probably send it back with that alteration. They prefer a completion only of the old Regiments, and a liberal provision for temporary forces. Nothing has passed from which I can conjecture, in the most remote degree, whether you may have to decide the point on which I consulted you. It was, as I observed to you, a mere contingency suggested by my own reflections, and so continues. The moment I discover what is meant to be done on that subject, whether correspondent with my own ideas or not, I shall drop you notice, as you desire.

Writings of Madison, Volume 1: 1769-1793, p.548

With respect to the light in which an exchange of Station\* might be regarded within the State, it is not possible for me to judge so well as others. I feel the delicacy involved in your contemplation of the subject. Perhaps this may be one of the cases in which your own feelings will be the best counsellor.

Writings of Madison, Volume 1: 1769-1793, p.548

The papers herewith inclosed will give you the current information, both foreign and domestic. Cornwallis and Tippoo cut the principal figure in those of latest date. The situation of the former is more problematical than it was a few months before the siege of York. An assumption of the State debts is reported, and printed for the members. The motive of State interest in its favor, it appears, can be felt only by about one-third of the house, and yet I shall not be much surprised if the measure be carried.

To Edmund Pendleton.

PHILADELPHIA, Feby 21, 1792.

Writings of Madison, Volume 1: 1769-1793, p.548

DEAR SIR,—Your favor of the 8th did not come to hand till this afternoon. I thank you for the very just and interesting observations contained in it. I have not yet met with an opportunity of forwarding the Report on manufactures, nor has that subject been yet regularly taken up. The Constitutional doctrine, however, advanced in the Report, has been anticipated on another occasion by its zealous friends; and I was drawn into a few hasty animadversions, the substance of which you will find in one of the inclosed papers. It gives me great pleasure to find my exposition of the Constitution so well supported by yours.

Writings of Madison, Volume 1: 1769-1793, p.548

The Bill concerning the election of a President and vice President, and the eventual successor to both, which has long been depending, has finally got through the two Houses. It was made, a question whether the number of electors ought to correspond with the new apportionment or the existing House of Representatives. The text of the Constitution was not decisive, and the Northern interest was strongly in favor of the latter interpretation. The intrinsic rectitude, however, of the former, turned the decision in both houses in favor of the Southern. On another point the Bill certainly errs. It provides that in case of a double vacancy, the Executive powers shall devolve on the President pro tempore of the Senate, and he failing, on the Speaker of the House of Representatives. The objections to this arrangement are various: 1. It may be questioned whether these are officers in the Constitutional sense. 2. If officers, whether both could be introduced. 3. As they are created by the Constitution, they would probably have been there designated if contemplated for such a service, instead of being left to the Legislative selection. 4. Either they will retain their Legislative stations, and then incompatible functions will be blended; or the incompatibility will supersede those stations, and then those being the substratum of the adventitious functions, these must fail also. The Constitution says, Congress may declare what officers, &c., which seems to make it not an appointment or a translation, but an annexation of one office or trust to another office. The House of Representatives proposed to substitute the Secretary of State, but the Senate disagreed, and there being much delicacy in the matter it was not pressed by the former.

Writings of Madison, Volume 1: 1769-1793, p.549

Another Representation Bill has gone to the Senate, modelled on the double idea mentioned in my last. 1 for 30,000 is the ratio fixed both for the late and the proposed census. The fate of the Bill in the Senate is problematical. The Bill immediately before the House of Representatives is a Militia Bill.

To Edmund Pendleton.

PHILADELPHIA, March 25, 1792.

Writings of Madison, Volume 1: 1769-1793, p.549

DEAR SIR,—Your favor of the 14th came to hand yesterday. You were right in saying "that the Northern Cocks are true game," but have erred in adding, "that they die hard on the Representation bill." Their perseverance has gained them a final victory. The bill passed on friday last in the form in which it was sent from the Senate; that is, with the distribution of 120 members among the States, and the provision for a second census expunged. It was carried in the Senate by a majority of one, and in the House of Representatives by a majority of two only. It now remains with the President. The history of this subject involves many unpleasing circumstances, and the result appears to me absolutely irreconcileable with the Constitution. The business next to be taken up are the reports from the Treasury on the new duties on trade, the enlargement of the times for subscribing to the funding system, including the assumption part of it, and a further assumption of the remaining State debts. The last alone is likely to become doubtful, and even that I consider as gaining converts daily. The two first will be urged, as, in the one case, a reasonable indulgence to such as have not obtained due information within the time limited; and the other, as an inevitable consequence of the military augmentation provided for the Western defence. The Militia bill, which originated in the House of Representatives, is before the Senate; and the Mint, which originated in the latter, will receive a decision on its 3d reading in the former tomorrow. We have no late information from Europe. That from St Domingo paints the distress of the Island in the most gloomy colours. The gambling system, which has been pushed to such an excess, is beginning to exhibit its explosions. D…, of N. York, the Prince of the tribe of speculators, has just become a victim to his enterprizes, and involves an unknown number to an unknown amount in his fate. It is said by some that his operations have extended to several millions of dollars, that they have been carried on by usurious loans from 3 to 6 per cent. per month, and that every description and gradation of persons, from the Church to the Stews, are among the dupes of his dexterity and the partners of his distress.

Writings of Madison, Volume 1: 1769-1793, p.550

With the highest esteem and affection, I remain, dear sir, un alterably, your friend and servt.

To Genl H. Lee.

PHILADELPHIA, March 28th, 1792.

Writings of Madison, Volume 1: 1769-1793, p.551

MY DEAR SIR,—No nomination has yet been made of a new Commander for the Military establishment, nor of any of the Brigadiers authorized by the supplemental act lately passed. I refer to the Newspapers for the inferior appointments which have taken place. It is understood that St Clair is not too remain in service. A proposition was yesterday made in the House of Representatives desiring the President to institute an enquiry into the cause of the Western calamities, which, for some particular reasons, was deemed improper, and was disagreed to, but another passed for appointing a committee to make an enquiry. It ought to have confined the Committee to such circumstances and abuses as are proper information for r the House, and an explanatory resolution to that effect was laid on the table, and I will probably be taken up to-day.

Writings of Madison, Volume 1: 1769-1793, p.551

The Mint Bill sent from the Senate passed the House of Representatives yesterday. It was disliked and voted against by some as it stands, because it does not establish any systematic proportion of alloy, conforming to the arbitrary one of the last and basest edition of the Spanish dollar; but by most, on account of the expense, which is estimated at about 30,000 annually, and the additional weight of influence it throws into the preponderating scale. In the course of the bill a small circumstance happened worthy of notice, as an index of political biasses. The Senate had proposed in the Bill that on one side of the coin should be stamped the head of the President for the time being. This was attacked in the House of Representatives as a feature of Monarchy, and an amendment agreed to substituting an emblematic figure of Liberty; on the return of the Bill to the Senate the amendment was instantly disagreed to, and the Bill sent back to the House of Representatives. The question was viewed, on account of the rapidity and decision of the Senate, as more serious than at first. It was agitated with some fervor, and the first vote of the house confirmed by a large majority. The Senate perceiving the temper, and afraid of losing the Bill, as well as unwilling to appeal in such a controversy to the public criticism, departed from their habitual perseverance, and acceded to the alteration proposed.

To Edmund Pendleton.

PHILADELPHIA, April 9, 1792.

Writings of Madison, Volume 1: 1769-1793, p.552

DEAR SIR,—You will find by the inclosed papers that the President's negative has saved us from the unconstitutional allotment of 120 Representatives proposed by the Bill on that subject. The contest is now to be between a ratio of 1 for 30, and one for 33 thousand. If the next bill should begin with the former, I think it most likely to end in the latter, this being most favorable to the northern part of the Union—the circumstance which produced the curious project contained in the other Bill. The assumption of the remainder of the State debts, amounting to about 41,000,000 dollars, has been lately on the anvil. The first vote was in its favor. On the 2d, it was thrown out. It will, however, be pretty certainly renewed, and, in the end, not improbably carried. Besides a legion of objections against the measure, its being pressed is the more extraordinary, as the progress of the Commissioners for settling the final balances among the States promises a conclusion of the work almost as soon as provision can be made for paying the first interest on the debts to be assumed. For the plan is, to pass the assumption now, and leave the revenue to be provided hereafter. The obligation of public faith will then be an answer to all objections against the new taxes, or contrivances that will be called for. The ways and means for the Western defence have been the subject of latest discussion. They consist of increased duties on imports; and it is to be feared that advantage will be taken of the occasion to make the increase permanent, although the object is temporary. New York continues to be a scene of Bankruptcies, resulting from ———'s fate, and the fall of the Stocks. Every day exhibits new victims, and opens new scenes of usury, knavery, and folly. If the Stocks should not be artificially revived, it is suspected that the ensuing week will be a very trying one to this City.

To Genl H. Lee.

PHILADELPHIA, April 15th, 1792.

Writings of Madison, Volume 1: 1769-1793, p.553

MY DEAR SIR,—I have already acquainted you with the nominations of the President for General Officers. They have all been confirmed by the Senate except Wilkinson, who, I am told, will be to-morrow. The Commander-in-Chief, it is said, went through the Senate rather against the bristles. The appointment is well relished of course by some, but does not escape, already, considerable criticism. I am glad to find by your letter of the 4th, which did not come to hand till yesterday, that your inclinations and your anticipations so well coincide as they related to yourself; with respect to mine, the latter are as little disappointed by the event as yours, though that is not the case as to the former. The disappointment, however, would be more regretted if your present station were less important, and particularly to our own Country, at the present moment.

Writings of Madison, Volume 1: 1769-1793, p.553

Your remarks on the augmented duties are solid and weighty, but they will not prevail against the aversion to other taxes, and the collateral views to be answered by duties on imported manufactures. The worst is, that many of the new duties are made permanent, for which an advantage is taken of the pretexts blended with the original cause.

Writings of Madison, Volume 1: 1769-1793, p.553

You will see by the paper republished from New York that the scene there is become more and more gloomy. There are reports which make it much worse. Speculating and Banking are as much execrated in that City as they were idolized a few weeks ago. The language will probably soon become general. Several failures have taken place here, notwithstanding the incessant and elaborate efforts to parry such a catastrophe as New York exhibits. It is thought, however, that an earthquake, though much slighter, will be inevitable within the present month. The train of circumstances which has led to these evils is obvious; and reflections must soon force themselves on the public mind, from which it has hitherto been diverted by a fallacious prosperity, and uncontradicted declamation in the Gazette.

Writings of Madison, Volume 1: 1769-1793, p.554

You know already that the President has exerted his power of checking the unconstitutional career of Congress. The judges Dave also called the attention of the public to Legislative fallibility, by pronouncing a law providing for Invalid Pensioners unconstitutional and void; perhaps they may be wrong in the execution of their power, but such an evidence of its existence gives inquietude to those who do not wish Congress to be controuled or doubted whilst its proceedings correspond with their views. I suspect, also, that the inquietude is increased by the relation of such a power to the Bank Law, in the public contemplation, if not in their own.

Writings of Madison, Volume 1: 1769-1793, p.554

Nothing done since my last on the further assumption, or the Report on the public debt.

Substance of a Conversation with the President,

5 May, 1792.

Writings of Madison, Volume 1: 1769-1793, p.554

In consequence of a note this morning from the President, requesting me to call on him, I did so; when he opened the conversation by observing, that having some time ago communicated to me his intention of retiring from public life on the expiration of his four years, he wished to advise with me on the mode and time most proper for making known that intention. He had, he said, spoken with no one yet on those particular points, and took this opportunity of mentioning them to me, that I might consider the matter, and give him my opinion before the adjournment of Congress, or my departure from Philadelphia. He had, he said, forborne to communicate his intentions to any other persons whatever but Mr. Jefferson, Col. Hamilton, General Knox, and myself, and of late to Mr. Randolph. Col. Hamilton and Genl Knox, he observed, were extremely importunate that he should relinquish his purpose, and had made pressing representations to induce him to it. Mr. Jefferson had expressed his wishes to the like effect. He had not, however, persuaded himself that his continuance in public life could be of so much necessity or importance as was conceived, and his disinclination to it was becoming every day more and more fixed; so that he wished to make up his mind as soon as possible on the points he had mentioned. What he desired was, to prefer that mode which would be most remote from the appearance of arrogantly presuming on his re-election in case he should not withdraw himself, and such a time as would be most convenient to the public in making the choice of his successor. It had, he said, at first occurred to him, that the commencement of the ensuing session of Congress would furnish him with an apt occasion for introducing the intimation; but besides the lateness of the day, he was apprehensive that it might possibly produce some notice in the reply of Congress that might entangle him in farther explanations.

Writings of Madison, Volume 1: 1769-1793, p.555

I replied, that I would revolve the subject as he desired, and communicate the result before my leaving Philadelphia, but that I could not but yet hope there would be no necessity at this time for his decision on the two points he had stated. I told him that when he did me the honor to mention the resolution he had taken, I had forborne to do more than briefly express my apprehensions that it would give a surprise and shock to the public mind, being restrained from enlarging on the subject by an unwillingness to express sentiments sufficiently known to him, or to urge objections to a determination which, if absolute, it might look like affectation to oppose; that the aspect which things had been latterly assuming seemed, however, to impose the task on all who had the opportunity of urging a continuance of his public services; and that, under such an impression, I held it a duty, not indeed to express my wishes, which would be superfluous, but to offer my opinion that his retiring at the present juncture might have effects that ought not to be hazarded; that I was not unaware of the urgency of his inclination, or of the peculiar motives he might feel to withdraw himself from a situation into which it was so well known to myself he had entered with a scrupulous reluctance; that I well recollected the embarrassments under which his mind labored in deciding the question on which he had consulted me, whether it could be his duty to accept his present station after having taken a final leave of public life; and that it was particularly in my recollection that I then entertained and intimated a wish that his acceptance, which appeared to be indispensable, might be known hereafter to have been in no degree the effect of any motive, which strangers to his character might suppose, but of the severe sacrifice which his friends knew he made of his inclinations as a man to his obligations as a citizen; that I owned I had at that time contemplated, and, I believed, suggested, as the most unequivocal though not the only proof of his real motive, a voluntary return to private life as soon as the state of the government would permit; trusting that if any premature casualty should unhappily cut off the possibility of this proof, the evidence known to his friends would in some way or other be saved from oblivion, and do justice to his character; that I was not less anxious on the same point now than I was then; and if I did not conceive that reasons of a like kind to those which required him to undertake still required him to retain, for some time longer, his present station, or did not presume that the purity of his motives would be sufficiently vindicated, I should be the last of his friends to press, or even to wish, such a determination.

Writings of Madison, Volume 1: 1769-1793, p.556

He then entered on a more explicit disclosure of the state of his mind; observing that he could not believe or conceive himself any wise necessary to the successful administration of the Government; that, on the contrary, he had from the beginning found himself deficient in many of the essential qualifications, owing to his inexperience in the forms of public business, his unfitness to judge of legal questions, and questions arising out of the Constitution; that others more conversant in such matters would be better able to execute the trust; that he found himself, also, in the decline of life, his health becoming sensibly more infirm, and perhaps his faculties also; that the fatigues and disagreeableness of his situation were in fact scarcely tolerable to him; that he only uttered his real sentiments when he declared that his inclination would lead him rather to go to his farm, take his spade in his hand, and work for his bread, than remain in his present situation; that it was evident, moreover, that a spirit of party in the Government was becoming a fresh source of difficulty, and he was afraid was dividing some (alluding to the Secretary of State and Secretary of the Treasury) more particularly connected with him in the administration; that there were discontents among the people which were also shewing themselves more and more, and that although the various attacks against public men and measures had not in general been pointed at him, yet, in some instances, it had been visible that he was the indirect object, and it was probable the evidence would grow stronger and stronger that his return to private life was consistent with every public consideration, and, consequently, that he was justified in giving way to his inclination for it.

Writings of Madison, Volume 1: 1769-1793, p.557-p.558

I was led by this explanation to remark to him, that however novel or difficult the business might have been to him, it could not be doubted that, with the aid of the official opinions and informations within his command, his judgment must have been as competent in all cases as that of any one who could have been put in his place, and, in many cases, certainly more so; that in the great point of conciliating and uniting all parties under a Government which had excited such violent controversies and divisions, it was well known that his services had been in a manner essential; that with respect to the spirit of party that was taking place under the operations of the Government, I was sensible of its existence, but considered that as an argument for his remaining, rather than retiring, until the public opinion, the character of the Government, and the course of its administration, should be better decided, which could not fail to happen in a short time, especially under his auspices; that the existing parties did not appear to be so formidable to the Government as some had represented; that in one party there might be a few who, retaining their original disaffection to the Government, might still wish to destroy it, but that they would lose their weight with their associates by betraying any such hostile purposes; that although it was pretty certain that the other were, in general, unfriendly to republican Government, and probably aimed at a gradual approximation of ours to a mixed monarchy, yet the public sentiment was so strongly opposed to their views, and so rapidly manifesting itself, that the party could not long be expected to retain a dangerous influence; that it might reasonably be hoped, therefore, that the conciliating influence of a temperate and wise administration would, before another term of four years should run out, give such a tone and firmness to the Government as would secure it against danger from either of these descriptions of enemies; that although I would not allow myself to believe but that the Government would be safely administered by any successor elected by the people, yet it was not to be denied, that in the present unsettled condition of our young Government, it was to be feared that no successor would answer all the purposes to be expected from the continuance of the present chief magistrate; that the option evidently lay between a few characters; Mr. Adams, Mr. Jay, and Mr. Jefferson, were most likely to be brought into view; that with respect to Mr. Jefferson, his extreme repugnance to public life, and anxiety to exchange it for his farm and his philosophy, made it doubtful with his friends whether it would be possible to obtain his own consent; and if obtained, whether local prejudices in the Northern States, with the views of Pennsylvania in relation to the seat of Government, would not be a bar to his appointment. With respect to Mr. Adams, his monarchical principles, which he had not concealed, with his late conduct on the representation bill, had produced such a settled dislike among republicans every where, and particularly in the Southern States, that he seemed to be out of the question. It would not be in the power of those who might be friendly to his private character and willing to trust him in a public one, notwithstanding his political principles, to make head against the torrent. With respect to Mr. Jay, his election would be extremely dissatisfactory on several accounts. By many he was believed to entertain the same obnoxious principles with Mr. Adams, and at the same time would be less open, and therefore more successful in propagating them. By others, (a pretty numerous class,) he was disliked and distrusted, as being thought to have espoused the claims of British creditors at the expense of the reasonable pretensions of his fellow-citizens in debt to them. Among the Western people, to whom his negotiations for ceding the Mississippi to Spain were generally known, he was considered as their most dangerous enemy, and held in peculiar distrust and disesteem. In this state of our prospects, which was rendered more striking by a variety of temporary circumstances, I could not forbear thinking that although his retirement might not be fatal to the public good, yet a postponement of it was another sacrifice exacted by his patriotism.

Writings of Madison, Volume 1: 1769-1793, p.559

Without appearing to be any wise satisfied with what I had urged, he turned the conversation to other subjects; and when I was withdrawing repeated his request that I would think of the points he had mentioned to me, and let him have my ideas on them before the adjournment. I told him I would do so, but still hoped his decision on the main question would supersede for the present all such incidental questions.

WEDNESDAY EVENING, May 9, 1792.

Writings of Madison, Volume 1: 1769-1793, p.559

Understanding that the President was to set out the ensuing morning for Mount Vernon, I called on him to let him know that, as far as I had formed an opinion on the subject he had mentioned to me, it was in favor of a direct address of notification to the public, in time for its proper effect on the election, which I thought might be put into such a form as would avoid every appearance of presumption or indelicacy, and seemed to be absolutely required by his situation. I observed that no other mode deserving consideration had occurred, except the one he had thought of and rejected, which seemed to me liable to the objections that had weighed with him. I added, that if on farther reflection I should view the subject in any new lights, I would make it the subject of a letter, though I retained my hopes that it would not yet be necessary for him to come to any opinion on it. He begged that I would do so, and also suggest any matters that might occur as proper to be included in what he might say to Congress at the opening of their next session; passing over the idea of his relinquishing his purpose of retiring in a manner that did not indicate the slightest assent to it.

Writings of Madison, Volume 1: 1769-1793, p.560

FRIDAY, May 25, 1792. I met the President on the road returning from Mount Vernon to Philadelphia, when he handed me the letter dated at the latter place on the 20th of May, the copy of the answer to which on the 21st of June is annexed.

To Mr. Jefferson.

ORANGE, June 12th, 1792.

Writings of Madison, Volume 1: 1769-1793, p.560

MY DEAR SIR,—Since I got tO the end of my journey I have been without an opportunity of dropping you a line, and this is written merely to be ready for the first casual conveyance to Fredericksburg.

Writings of Madison, Volume 1: 1769-1793, p.560

I received yesterday your two favors, No. 1 and 2. The Gazettes, under a preceding cover, had come to hand some days before. Your answer to Hammond has, on the whole, got triumphantly through the ordeal. It is certainly not materially injured, though, perhaps, a little defaced, by some of the criticisms to which you have yielded. The points on which you did not relax appear to me to be fully vindicated; the main ones unanswerably so. The doctrine which would make the States the contracting parties could have been as little expected from that quarter as it is irreconcilable with the tenor of their confederation. The expectation of Hammond, if sincere, of final instructions by the meeting of Congress, throws light, I think, on the errand of Bond. He can scarcely calculate on the result of his Court's reconsideration of the subject within the short time allowed by five months, after deducting the double voyage.

Writings of Madison, Volume 1: 1769-1793, p.560

I have letters from Kentucky down to the 8th May. Little depredations from the savages continue to be complained of. The people, however, are chiefly occupied with the approaching distribution of the new offices. Nothing is said as to their probable Govr. Congress and the Judiciary are thought of more importance to the State. Brown can be what he pleases. Some are disposed to fix him on the Bench. None will object to his going into the Senate, if that should be his choice. Campbell and Muter are the other names in conversation for the Senate, and Brackenridge and Greenup for the House of Representatives. I have this information from a Mr. Taylor, a pretty intelligent man, engaged in their public affairs. George Nicholas specifies no names, observing that it is impossible to conjecture those that will succeed in the competitions. Among the contents of the enclosed letter is a printed copy of the Constitution of Kentucky, as finally agreed to. You can take out that or anything else for perusal, as you please, after which you will be good enough to have the letter handed in such way as you may judge best. I would not have thrown the trouble on you if any other Channel had occurred.

Writings of Madison, Volume 1: 1769-1793, p.561

The unpopularity of the excise has evidently increased in this quarter, owing partly to the effect of Sidney,\* who has found his way here, and partly to the unavoidable vexations it carries into the family distilleries.

Writings of Madison, Volume 1: 1769-1793, p.561

The tax on newspapers is another article of grievance. It is not very well understood, but if it were, it would not be satisfactory: first, because too high; secondly, because suspected of being an insidious forerunner of something worse. I am afraid the subscriptions will soon begin to be withdrawn from the Philadelphia papers, unless some step be speedily taken to prevent it. The best that occurs seems to be to advertize that the papers will not be put into the mail, but sent, as heretofore, to all who shall not direct them to be put into the mail. Will you hint this to Freneau? His subscribers in this quarter seem pretty well satisfied with the degree of regularity and safety with which they get the papers, and highly pleased with the paper itself.

Writings of Madison, Volume 1: 1769-1793, p.562

I found this country labouring under a most severe drought. There had been no rain whatever since the 18th or 20th of April. The flax and oats generally destroyed; the corn dying in the hills. No Tobacco planted, and the wheat in weak land suffering; in the strong, not injured materially; in the very strong, perhaps benefited. Eight days ago there was a very local shower here. A day or two after, a better, but still very local. Neither of them, from appearances, extended as far south as Albemarle. For several days past it has rained almost constantly, and is still raining, with the wind from North East, with every appearance of a general rain; so that the only danger now is of too much wet for the wheat, which I am happy to find has effectually supplanted tobacco in the conversation and anxieties of our crop-mongers, and is rapidly doing so in their fields.

Writings of Madison, Volume 1: 1769-1793, p.562

I met the President on the road. I had no conversation with him, but he handed me a letter which he had written to me at home. Its contents are very interesting, but do not absolutely decide the problem\* which dictated yours to him.

Writings of Madison, Volume 1: 1769-1793, p.562

Monroe and his lady left us on Wednesday, on their way home. He is to meet the recisors at Richmond about the 15th. I understood Mrs. M. was to be added to the family at Monticello during his absence.

Writings of Madison, Volume 1: 1769-1793, p.562

Will you be so good as to cover under your next a copy of Mease's inaugural oration on the Hydrophobia? Rush sent me a copy, which had just been printed, the morning I set out, for Dr Jones. I wished to have got one for another friend, but had not time. If the bulk will permit, send two, and I will send one for the amusement of Gilmer, who, I hear, though through imperfect channels, is still in a critical situation.

Writings of Madison, Volume 1: 1769-1793, p.562

Always and affectionately yours.

Writings of Madison, Volume 1: 1769-1793, p.563

The promised list of names is enclosed. When your Tableau of national debts and polls is made out, may I ask a copy?

To President Washington.

ORANGE, June 21, 1792.

Writings of Madison, Volume 1: 1769-1793, p.563

DEAR SIR,—Having been left to myself for some days past, I have made use of the opportunity for bestowing on your letter of the 20th ult°, handed to me on the road, the attention which its important contents claimed. The questions which it presents for consideration are—1st. At what time a notification of your purpose to retire will be most convenient? 2. What mode will be most eligible? 3. Whether a valedictory address will be requisite or advisable? 4. If either, whether it would be more properly annexed to the notification, or postponed to your actual retirement?

Writings of Madison, Volume 1: 1769-1793, p.563

The answer to the first question involves two points: first, the expediency of delaying the notification; secondly, the propriety of making it before the choice of electors takes place, that the people may make the choice with an eye to the circumstances under which the trust is to be executed. On the first point, the reasons for as much delay as possible are too obvious to need recital. The second, depending on the times fixed in the several States, which must be within 34 days preceding the first Wednesday in December, requires that the notification should be in time to pervade every part of the Union by the beginning of November. Allowing six weeks for this purpose, the middle of September, or perhaps a little earlier, would seem a convenient date for the act.

Writings of Madison, Volume 1: 1769-1793, p.563

2. With regard to the mode, none better occurs than a simple publication in the newspapers. If it were proper to address it through the medium of the general Legislature, there will be no opportunity. Nor does the change of situation seem to admit a recurrence to the State governments, which were the channels used for the former valedictory address. A direct address to the people, who are your only constituents, can be made, I think, with most propriety, through the independent channel of the press, through which they are, as a constituent Body, usually addressed.

Writings of Madison, Volume 1: 1769-1793, p.564

3. On the third question, I think there can be no doubt that such an address is rendered proper in itself by the peculiarity and importance of the circumstances which mark your situation, and advisable by the salutary and operative lessons of which it may be made the vehicle. The precedent at your military exit might also subject an omission now to conjectures and interpretations which it would not be well to leave room for.

Writings of Madison, Volume 1: 1769-1793, p.564

4. The remaining question is less easily decided. Advantages and objections lie on both sides of the alternative. The occasion on which you are necessarily addressing the people evidently introduces, most easily and most delicately, any voluntary observations that are meditated. In another view, a farewell address before the final moment of departure is liable to the appearance of being premature and awkward. On the opposite side of the alternative, however, a postponement will beget a dryness and an abridgment in the first address little corresponding with the feelings which the occasion would naturally produce both in the author and the objects of it; and though not liable to the above objection, would require a resumption of the subject apparently more forced, and on which the impressions having been anticipated and familiarized, and the public mind diverted, perhaps, to other scenes, a second address would be received with less sensibility and effect than if incorporated with the impressions incident to the original one. It is possible, too, that, previous to the close of the term, circumstances might intervene in relation to public affairs, or the succession to the Presidency, which would be more embarrassing, if existing at the time of a valedictory appeal to the public, than if unknown at the time of that delicate measure.

Writings of Madison, Volume 1: 1769-1793, p.564

On the whole, my judgment leans to the propriety of blending the acts together; and the more so, as the crisis which will terminate your public career will still afford an opportunity, if any immediate contingency should call for a supplement to your farewell observations. But as more correct views of the subject may produce a different result in your mind, I have endeavored to fit the draught enclosed to either determination. You will readily observe that in executing it I have arrived at that plainness and modesty of language which you had in view, and which, indeed, are so peculiarly becoming the character and the occasion; and that I have had little more to do as to the matter than to follow the very just and comprehensive outline which you had sketched. I flatter myself, however, that in everything which has depended on me, much improvement will be made before so interesting a paper shall have taken its last form.

Writings of Madison, Volume 1: 1769-1793, p.565

Having thus, sir, complied with your wishes, by proceeding on a supposition that the idea of retiring from public life is to be carried into execution, I must now gratify my own by hoping that a reconsideration of the measure, in all its circumstances and consequences, will have produced an acquiescence in one more sacrifice, severe as it may be, to the desires and interests of your country. I forbear to enter into the arguments which plead for item my mind, because it would be only repeating what I have already taken the liberty of fully explaining. But I could not conclude such a letter as the present without a repetition of my ardent wishes and hopes that our country may not, at this important conjuncture, be deprived of the inestimable advantage of having you at the head of its counsels.

[Draught enclosed in the above.] The period which will close the appointment with which my fellow-citizens have honored me being not very distant, and the time actually arrived at which their thoughts must be designating the citizen who is to administer the Executive Government of the U. S. during the ensuing term, it may be requisite to a more distinct expression of the public voice that I should apprize such of my fellow-citizens as may retain their partiality towards me, that I am not to be numbered among those out of whom a choice is to be made.

Writings of Madison, Volume 1: 1769-1793, p.565

I beg them to be assured that the resolution which dictates this intimation has not been taken without the strictest regard to the relation which, as a dutiful citizen, I bear to my country; and that in withdrawing that tender of my service which silence in my situation might imply, I am not influenced by the smallest deficiency of zeal for its future interests, or of grateful respect for its past kindness, but by the fullest persuasion that such a step is compatible with both.

Writings of Madison, Volume 1: 1769-1793, p.566

The impressions under which I entered on the present arduous trust were explained on the proper occasion. In discharge of this trust, I can only say that I have contributed towards the organization and administration of the Government the best exertions of which a very fallible judgment was capable. For any errors which may have flowed from this source, I feel all the regret which an anxiety for the public good can excite; not without the double consolation, however, arising from a consciousness of their being involuntary, and an experience of the candor which will interpret them. If there were any circumstances which could give value to my inferior qualifications for the trust, these circumstances must have been temporary. In this light was the undertaking viewed when I ventured upon it. Being, moreover, still farther advanced into the decline of life, I am every day more sensible that the increasing weight of years renders the private walks of it in the shade of retirement as necessary as they will be acceptable to me. May I be allowed to add that it will be among the highest, as well as the purest enjoyments that can sweeten the remnant of my days, to partake in a private station, in the midst of my fellow-citizens, of that benign influence of good laws under a free Government which has been the ultimate object of all our wishes, and in which I confide as the happy reward of our cares and labors? May I be allowed further to add, as a consideration far more important, that an early example of rotation in an office of so high and delicate a nature may equally accord with the republican spirit of our Constitution, and the ideas of liberty and safety entertained by the people?

(If a farewell address is to be added at the expiration of the term, the following paragraph may conclude the present:)

Writings of Madison, Volume 1: 1769-1793, p.567

Under these circumstances, a return to my private station, according to the purpose with which I quitted it, is the part which duty as well as inclination assigns me. In executing it, I shall carry with me every tender recollection which gratitude to my fellow-citizens can awaken, and a sensibility to the permanent happiness of my country that will render it the object of my unceasing vows and most fervent supplications.

(Should no further address be intended, the preceding clause may be omitted, and the present address proceed as follows:)

Writings of Madison, Volume 1: 1769-1793, p.567

In contemplating the moment at which the curtain is to drop forever on the public scenes of my life, my sensations anticipate, and do not permit me to suspend, the deep acknowledgments required by that debt of gratitude which I owe to my beloved country for the many honors it has conferred on me, for the distinguished confidence it has reposed in me, and for the opportunities I have thus enjoyed of testifying my inviolable attachment by the most stedfast services which my faculties could render. All the returns I have now to make will be in those vows which I shall carry with me to my retirement and to my grave, that Heaven may continue to favor the people of the United States with the choicest tokens of its beneficence; that their union and brotherly affection may be perpetual; that the free Constitution, which is the work of their own hands, may be sacredly maintained; that its administration in every Department may be stamped with wisdom and with virtue, and that this character may be ensured to it by that watchfulness over public servants and public measures which, on one hand, will be necessary to prevent or correct a degeneracy, and that forbearance, on the other, from unfounded or indiscriminate jealousies, which would deprive the public of the best services by depriving a conscious integrity of one of the noblest incitements to perform them; that, in fine, the happiness of the people of America under the auspices of liberty may be made complete, by so careful a preservation and so prudent a use of this blessing as will acquire them the glorious satisfaction of recommending it to the affection, the praise, and the adoption, of every nation which is yet a stranger to it.

Writings of Madison, Volume 1: 1769-1793, p.568

And may we not dwell with well-grounded hopes on this flattering prospect, when we reflect on the many ties by which the people of America are bound together, and the many proofs they have given of an enlightened judgment and a magnanimous patriotism?

Writings of Madison, Volume 1: 1769-1793, p.568

We may all be considered as the children of one common country. We have all been embarked in one common cause. We have all had our share in common sufferings and common successes. The portion of the earth allotted for the theatre of our fortunes fulfils our most sanguine desires. All its essential interests are the same; whilst the diversities arising from climate, from soil, and from other local and lesser peculiarities, will naturally form a mutual relation of the parts that must give to the whole a more entire independence than has, perhaps, fallen to the lot of any other nation.

Writings of Madison, Volume 1: 1769-1793, p.568

To confirm these motives to an affectionate and permanent union, and to secure the great objects of it, we have established a common Government, which, being free in its principles, being rounded in our own choice, being intended as the guardian of our common rights and the patron of our common interests, and wisely containing within itself a provision for its own amendment as experience may point out its errors, seems to promise everything that can be expected from such an institution; and if supported by wise counsels, by virtuous conduct, and by mutual and friendly allowances, must approach as near to perfection as any human work can aspire, and nearer than any which the annals of mankind have recorded.

Writings of Madison, Volume 1: 1769-1793, p.568

With these wishes and hopes I shall make my exit from civil life, and I have taken the same liberty of expressing them which I formerly used in offering the sentiments which were suggested by my exit from military life. If, in either instance, I have presumed more than I ought on the indulgence of my fellow-citizens, they will be too generous to ascribe it to any other cause than the extreme solicitude which I am bound to feel, and which I can never cease to feel, for their liberty, their prosperity, and their happiness.

To Edmund Randolph.

ORANGE, Septr 13, 1792.

Writings of Madison, Volume 1: 1769-1793, p.569

MY DEAR FRIEND,—Your favor of the 12th ultimo having arrived during an excursion into Albemarle, I did not receive it till my return on yesterday. I lose not a moment in thanking you for it, particularly for the very friendly paragraph in the publication in Fenno's paper. As I do not get his paper here, it was by accident I first saw this extraordinary manoeuvre of calumny, the quarter, the motive, and the object of which speak of themselves. As it respects Mr. Jefferson, I have no doubt that it will be of service both to him and the public, if it should lead to such an investigation of his political opinions and character as may be expected. With respect to myself, the consequence, in a public view, is of little account. In any view, there could not have been a charge founded on a grosser perversion of facts, and, consequently, against which I could feel myself more invulnerable.

Writings of Madison, Volume 1: 1769-1793, p.569

That I wished and recommended Mr. Freneau to be appointed to his present Clerkship is certain. But the Department of State was not the only, nor, as I recollect, the first one, to which I mentioned his name and character. I was governed in these recommendations by an acquaintance of long standing, by a respect for his talents, and by a knowledge of his merit and sufferings in the course of the Revolution. Had I been less abstemious in my practice from solicitations in behalf of my friends, I should probably have been more early in thinking of Mr. F. The truth is, that my application, when made, did not originate with myself. It was suggested by another gentleman,\* who could feel no motive but a disposition to patronize merit, and who wished me to co-operate with him. That, with others of Mr. Freneau's particular acquaintances, I wished and advised him to establish a press at Philadelphia, instead of one meditated by him in New Jersey, is also certain. I advised the change because I thought his interest would be advanced by it, and because, as a friend, I was desirous that his interest should be advanced. This was my primary and governing motive. That, as a consequential one, I entertained hopes that a free paper meant for general circulation, and edited by a man of genius of republican principles, and a friend to the Constitution, would be some antidote to the doctrines and discourses circulated in favour of Monarchy and Aristocracy, and would be an acceptable vehicle of public information in many places not sufficiently supplied with it, this, also, is a certain truth; but it is a truth which I never could be tempted to conceal, or wish to be concealed. If there be a temptation in the case, it would be to make a merit of it.

Writings of Madison, Volume 1: 1769-1793, p.570

But that the establishment of Mr. Freneau's press was wished in order to sap the Constitution, and that I forwarded the measure, or that my agency negotiated it, by an illicit or improper connection between the functions of a translating clerk in a public Office and those of an Editor of a Gazette, these are charges which ought to be as impotent as they are malicious. The first is surely incredible, if any charge could be so; and the second is, I hope, at least improbable, and not to be credited, until unequivocal proof shall be substituted for anonymous and virulent assertions.

Writings of Madison, Volume 1: 1769-1793, p.570

When I first saw the publication, I was half disposed to meet it with a note to the printer, with my name subscribed. I was thrown into suspense, however, by reflecting that as I was not named, and was only incidentally brought into view, such a step might be precipitate, if not improper, in case the principal should not concur in such a mode of vindication. 2. That I was not enough acquainted with the turn the thing might take, and the light in which it might be viewed on the spot. 3. That in a case the least doubtful, prudence would not rush into the newspapers. These considerations have been since sanctioned by the opinion of two or three judicious and neutral friends whom I have consulted. The part finally proper, however, remains to be decided, and on that I shall always be thankful for the ideas of my friends most in a condition to judge.

To Edmund Pendleton.

PHILADELPHIA, Novr 16, 1792.

Writings of Madison, Volume 1: 1769-1793, p.571

DEAR SIR,—I make use of the opportunity afforded by the return of Col. Hoomes to inclose a parcel of the late newspapers, which may contain some things not in the other papers you get. You will find in them all the particulars known here concerning the affairs of France, and sketches of the business as yet brought before Congress. The President's speech and the two answers are, I believe, also in the collection. The passages relating to the excise are particularly interesting in several respects. The answer of the House of Representatives on that subject is thought by some of us to have been carried too far. That laws in force should be supported is right, and ought to be asserted; but to say, first, that a free Government should listen to representations with a disposition to give redress where proper, and then to prejudge them by saying that the progress of contentment is as obvious as it is rational, does not appear very consistent. And as little prudent was it, perhaps, to add, what will be regarded as an insinuation, that the opposition to the excise proceeds from a selfish and unjust wish to avoid a common share of burden; an insinuation not generally true, and more likely to inflame than heal the wound. We are anxious for the arrival of Col. Taylor. I hear with much pleasure from Col. H. of your good health. Wishing a continuance of it and every other blessing, I remain, dear sir, your affecte friend.

Writings of Madison, Volume 1: 1769-1793, p.571

P. S. I throw in for your amusement an anonymous pamphlet, which makes pretty free with the characters of several of your friends. In what respects myself, every thing happens to be notoriously false which I would wish not to be true.

To Edmund Pendleton.

PHILADELPHIA, Decr, 1792.

Writings of Madison, Volume 1: 1769-1793, p.572

DEAR SIR,—I am just favored with yours of the 28th ult. I wish I could remove your anxiety for the French. The last accounts are so imperfect and contradictory that it is difficult to make anything of them. They come, also, through the Brussels and English channels, which increases the uncertainty. It appears, on the whole, that the combination against the revolution, and particularly against their new Republic, is extremely formidable, and that there is still greater danger within from the follies and barbarities which prevail in Paris. On the other hand, it seems tolerably clear that the nation is united against Royalty, and well disposed to second the Government in the means of defence. At this distance it is impossible to appreciate particular measures, or foresee the turn which things may finally take.

Writings of Madison, Volume 1: 1769-1793, p.572

The newspaper tax noticed by the President has been referred to a Committee, but no report has yet been made. It is of great importance that some change should take place that will remove the obstruction which has been thrown in the way of information to the people. In all Governments the public censorship is necessary, in order to prevent abuses. In such an one as ours, where the members are so far removed from the eye of their constituents, an easy and prompt circulation of public proceedings is peculiarly essential.

Writings of Madison, Volume 1: 1769-1793, p.572

The election of a Vice President has excited in this quarter considerable animation, and called forth comparative portraits of the political characters of Mr. Adams and Governor Clinton, the only candidates brought into the field. The former has been exhibited in all its monarchical features, and the latter in the anti-federal colors it wore in 1788. There are not sufficient data here to calculate with certainty the event of the contest. The probability is rather favorable to Mr. Adams, but not in such a degree as to prevent pretty keen apprehensions among his friends. As the opposition to him is levelled entirely against his political principles, and is made under very great disadvantages, the extent of it, whether successful or not, will satisfy him that the people at large are not yet ripe for his system.

Writings of Madison, Volume 1: 1769-1793, p.573

We are informed by the last advices from Europe that the harvest has generally been scanty, and that in England, particularly, it has suffered prodigiously from the wetness of the season. From this cause, and the general state of things abroad, a great demand on our stock is anticipated. Wheat is already up at 9s., and flour at 45s., of this currency. The rise must soon communicate itself to Virginia, and it is to be hoped the farmers will not lose the benefit of it by premature sales. We all regret the detention of Col. Taylor. I hope the cause of it has ceased, and that we shall soon have his arrival in proof of it. It is probable that Mr. Jefferson will not remain very long in his public station, but it is certain that his retirement is not to be ascribed to the newspaper calumnies which may have had that in view.

Writings of Madison, Volume 1: 1769-1793, p.573

I remain, dear sir, yours, &c.

To Edmund Pendleton.

PHILADELPHIA, Decr 10, 1792.

Writings of Madison, Volume 1: 1769-1793, p.573

DEAR SIR,—As you find an amusement in our newspapers, I inclose two of the last; which, however, contain little of consequence, except a new Report from the Treasury Department. The mover of the reference which gave birth to it declared he did not mean to authorize a proposition of new taxes, and it appeared that some at least voted for the motion on that idea. You will find, however, that a different construction has been made by the head of that Department. Quere: Is not a tax on horses a direct tax, and therefore unconstitutional in the form proposed? Quere: How much will Virginia pay more than her share of such a tax compared with (Connecticut, and the Southern States, generally, than the Eastern? Quere: Is it not rather hard that those who are to have least of the benefit should constantly be saddled with most of the burden? Quere: If a new tax and a direct tax is to be encountered, is it not mockery to begin with one that is to raise forty odd thousand dollars only as a fund for sinking the debt? Quere but there would be no end to the Queries arising out of the project.

Writings of Madison, Volume 1: 1769-1793, p.574

Yours affectionately.

1793

To Edmund Pendleton.

PHILADELPHIA, Feby 23, 1793.

Writings of Madison, Volume 1: 1769-1793, p.574

DEAR SIR,—Since we had the pleasure of Col. Taylor's arrival, I have left in his better hands the trust of keeping you supplied with whatever communications might interest or amuse you. As the political scene here is, however, soon to be suspended, I cannot refuse myself the last opportunity I shall have before a dispersion of the dramatis person takes place of enjoying the pleasure I always feel in tendering my respects and affection, as well as testifying the high value I set on your correspondence.

Writings of Madison, Volume 1: 1769-1793, p.574

I seize the opportunity in this case with the more avidity, as it permits me, at the same time, to tell you how much we have been charmed with the successor to Col. R. H. Lee, and to entreat your co-operation with a number of his other friends in overcoming his repugnance to his present station. His talents, during the fraction of time he has been on the federal theatre, have been of such infinite service to the republican cause, and such a terror to its adversaries, that his sudden retirement, on which he is strongly bent, ought to be regarded as a public calamity, and counterworked by all the means his friends can use. We think it essential that he should be prevailed on to prolong his stay in the Government at least through the next session, which will form a critical epoch in our political History. Much will depend on the turn our affairs will then take; and that will depend not a little on the character which Virginia, in particular, will exhibit in the National Councils. In this view, it is to be desired that her weight of talents in one branch should correspond with her force of numbers in the other. The figure she is to make in the latter, with respect to talents, will depend on the issue of the approaching elections. We understand, in general, that there will be no scarcity of competitors; but our information is too defective for an accurate conjecture of the re-suit. Your district has been said to abound more than any other in candidates. Mr. C., I presume, is most distinguished for parliamentary talents and activity, and on that score claims a favorable wish, if the course he would be likely to take should furnish no objection, of which those most in the knowledge of his politics are the best judges.

Writings of Madison, Volume 1: 1769-1793, p.575

You will have discovered from the newspapers that a pretty interesting scrutiny has been started into the administration of the Treasury Department.\* The documents furnished shew that there has been, at least, a very blameable irregularity and secrecy in some particulars of it, and many appearances which at least require explanation. With some, suspicions are carried very far; others resolve the whole that is wrong into favoritism to the Bank, &c.; whilst the partizans of the Secretary either see nothing amiss, or are willing to ascribe everything that is so to venial, if not laudable motives.

Writings of Madison, Volume 1: 1769-1793, p.575

The January Packet has just arrived at New York. Her budget is not yet fully opened to the public. The Government of England, it is said, remains firm in the saddle, notwithstanding the spurs which Mr. Paine has so vigorously applied to the people. Whether a war is to be forced with France is still uncertain, though the affirmative is most countenanced by individual opinions. The arms of France continue to maintain their reputation. She is threatened with a further trial of them by all the efforts that Austria and Prussia, at least, can make. Spain is disposed to be neutral, but would fain make the preservation of Louis a condition. You will find by the inclosed paper that his fate must ere this have been decided by an appeal to the judgment of the nation.

Writings of Madison, Volume 1: 1769-1793, p.576

With every sentiment of esteem and attachment, I am, dear sir, yours.

To Thomas Jefferson.

ORANGE, April 12, 1793.

Writings of Madison, Volume 1: 1769-1793, p.576

DEAR SIR,—Your favor of the 31 ult., and the preceding one without date, have been received. The refusal of Dunlap in the case you mention confirms the idea of a combined influence against the freedom of the press. If symptoms of a dangerous success in the experiment should shew themselves, it will be necessary, before it be too late, to convey to the public through the channels that remain open an explicit statement of the fact, and a proper warning of its tendency. In the mean time, it is, perhaps, best to avoid any premature denunciations that might fix wavering or timid presses on the wrong side. You say that the subject of the three millions of florins is to be revived. Have you discovered in what mode; whether through the next Congress or through the press; and if the latter, whether avowedly or anonymously? I suspect that the President may not be satisfied with the aspect under which that and other parts of the fiscal administration have been left.

Writings of Madison, Volume 1: 1769-1793, p.576

As far as I can learn, the people of this country continue to be united and firm in the political sentiments expressed by their Representatives. The re-election of all who were most decided in those sentiments is among the proofs of the fact.

Writings of Madison, Volume 1: 1769-1793, p.576

The only individual discontinued is the one who dissented most from his colleagues. The vote at the election stood thus: for R., 886; S., 403; W. 276. It is said that the singular vote on assuming the balances gave the coup de grace to his popularity. We were told at Alexandria that if the member for that district had been opposed, his election would have failed; and at Fredericksburg, that a notice of G.'s vote on the resolutions of censure had nearly turned the scale against him. I have seen and conversed with Mr. F. Walker. I think it impossible he can go otherwise than right. He tells me that J. Cole, and not Clay, as in the newspapers, is elected for the Halifax District. Hancock is the new member from the district adjoining Moore, and Preston for that beyond him. I fell in with Mr. Brackenridge on his way to Kentucky. He had adverted to Greenup's late vote with indignation, and dropped threats of its effect on his future pretensions.

Writings of Madison, Volume 1: 1769-1793, p.577

The sympathy with the fate of Louis has found its way pretty generally into the mass of our citizens; but relating merely to the man, and not to the Monarch, and being derived from the spurious accounts in the papers of his innocence, and the blood-thirstyness of his enemies, I have not found a single instance in which a fair statement of the case has not new-modelled the sentiment. "If he was a Traitor, he ought to be punished as well as another man." This has been the language of so many plain men to me, that I am persuaded it will be found to express the universal sentiment, whenever the truth shall be made known.

Writings of Madison, Volume 1: 1769-1793, p.577

Our fields continue to anticipate a luxuriant harvest. The greatest danger is apprehended from too rapid a vegetation under the present warm and moist weather. The night before last it received a small check from a smart frost. The thermometer was down at 37, and we were alarmed for the fruit. It appears, however, that no harm was done. We have at present the most plentiful prospect of every kind of it.

Writings of Madison, Volume 1: 1769-1793, p.577

Will you be go good, in case an opportunity should offer, to enquire of Doctor Logan as to the ploughs he was to have made and sent to Mrs. House's, and to repay what may have been advanced for those and two or three other articles that were to be forwarded to Fredericksburg by water? I forgot to make the proper arrangements before I left Philadelphia.

Writings of Madison, Volume 1: 1769-1793, p.577

Adieu. Yours affectionately.

To Thomas Jefferson.

ORANGE, May 8th, 1793.

Writings of Madison, Volume 1: 1769-1793, p.578

DEAR SIR,—Your last received was of the 28 April. The receipt of all the preceding is verified by the uninterrupted dates of the Gazettes inclosed. I anxiously wish that the re ception of Genet may testify what I believe to be the real affections of the people. It is the more desirable, as a seasonable plum after the bitter pills which it seems must be administered. Having neither the Treaty nor law of Nations at hand, I form no opinion as to the stipulations of the former, or the precise neutrality defined by the latter. I had always supposed that the terms of the Treaty made some sort of difference, at least as far as would consist with the Law of Nations, between France and Nations not in Treaty, particularly Great Britain. I should still doubt whether the term impartial, in the Proclamation, is not stronger than was necessary, if not than was proper. Peace is no doubt to be preserved at any price that honor and good faith will permit. But it is no less to be considered that the least departure from these will not only be most likely to end in the loss of peace, but is pregnant with every other evil that could happen to us. In explaining our own engagements under the Treaty with France, it would be honorable as well as just to adhere to the sense that would at the time have been put on them. The attempt to shuffle off the Treaty altogether, by quibbling on Vattel, is equally contemptible for the meanness and folly of it. If a change of Government is an absolution from public engagements, why not from those of a domestic as well as of a foreign nature; and what then becomes of public debts, &c., &c? In fact, the doctrine would perpetuate every existing Despotism, by involving in a reform of the Government a destruction of the social pact, an annihilation of property, and a compleat establishment of the state of nature. What most surprises me is, that such a proposition should have been discussed.

Writings of Madison, Volume 1: 1769-1793, p.578

Our weather has not been favorable of late, owing more to want of sun than excess of rain. Vegetation of all sorts, even the wheat, nevertheless continues to flourish; and the fruit having no longer anything to fear from frost, we are sure of good crops of that agreeable article.

Writings of Madison, Volume 1: 1769-1793, p.579

Yours always and affectionately.

Writings of Madison, Volume 1: 1769-1793, p.579

Will you send me a copy of the little pamphlet advertised under the title of an examination of the proceedings in the case of the Secretary of the Treasury?

To Thomas Jefferson.

May 27, 1793.

Writings of Madison, Volume 1: 1769-1793, p.579

DEAR SIR,—I have received your letter, with the unsealed one for Monroe, and have forwarded the latter. Your subsequent one, which I calculate to have been written on the 12th instant, came to hand two days ago. I feel for your situation, but you must bear it. Every consideration, private as well as public, requires a further sacrifice of your longings for the repose of Monticello. You must not make your final exit from public life till will be marked with justifying circumstances which all good citizens will respect, and to which your friends can appeal. At the present crisis, what would the former think? what could the latter say? The real motives, whatever they might be, would either not be admitted, or could not be explained; and if they should be viewed as satisfactory at a future day, the intermediate effects would not be lessened, and could not be compensated. I am anxious to see what reception Genet will find in Philadelphia. I hear that the fiscal party in Alex andria was an over-match for those who wished to testify the American sentiment. George Town, it is said, repaired the omission. A public dinner was intended for him at Fredericksburg, but he passed with such rapidity that the compliment miscarried. It would not be amiss if a knowledge of this would in a proper mode get to him. I think it certain that he will be misled if he takes either the fashionable cant of the cities, or the cold caution of the Government, for the sense of the public; and I am equally persuaded that nothing but the habit of implicit respect will save the Executive from blame, if, through the mask of neutrality, a secret Anglomany should betray itself.

Writings of Madison, Volume 1: 1769-1793, p.580

I forgot, when I requested your attention to my ploughs, to ask the favor of you to pay for them, and to let me know the amount of your several advances.

Writings of Madison, Volume 1: 1769-1793, p.580

Yours always and affectionately.

To Thomas Jefferson.

ORANGE, June 13, 1793.

Writings of Madison, Volume 1: 1769-1793, p.580

MY DEAR SIR,—My last was of the 27 May. It enclosed, among other things, a letter to the French Minister de I'Intefièure, in answer to one enclosing a Decree of the National Assembly. On the propriety of the answer I wished your freest judgment; and as the sending one at all may be rendered by events improper, I must request the favor of you not to forward the letter if intelligence should confirm such to be the state of things that it would be totally mal-apropos there. Provided it be proper there, and consequently proper in itself, I shall not trouble myself about any comments which the publication attending all such things may produce here. The letter preceding my last, as well as the last, contained some other papers which I wish to know have been received.

Writings of Madison, Volume 1: 1769-1793, p.580

Your two last favors were of May 27 and June 2. The latter confirms the apostasy of Dumouriez, but relieves us from the more alarming account of his being supported in it by the army. Still, however, much is to be dreaded from the general posture of things. Should they take a turn decidedly wrong, I fear little regard will be paid to the limited object avowed by the Austrain general in his first proclamation. In fact, if the plan of Dumouriez had succeeded, it is probable that, under the clause of the proclamation relating to an amendment of imperfections in the Constitution of 1791, the form of the national sanction would have been obtained, as in the Restoration of Charles II, to whatever establishment military despotism might please to dictate. The only hope of France, next to the success of her own efforts, seems to lie in the number and discordant views of her combined enemies.

Writings of Madison, Volume 1: 1769-1793, p.581

I observe that the newspapers continue to criticise the President's proclamation, and I find that some of the criticisms excite the attention of dispassionate and judicious individuals here. I have heard it remarked by such, with some surprise, that the President should have declared the United States to be neutral in the unqualified terms used, when we were so notoriously and unequivocally under eventual engagements to defend the American possessions of France. I have heard it remarked, also, that the impartiality enjoined on the people was as little reconcileable with their moral obligations as the unconditional neutrality proclaimed by the Government is with the express articles of the Treaty. It has been asked, also, whether the authority of the Executive extended by any part of the Constitution to a declaration of the Disposition of the United States on the subject of war and peace? I have been mortified that on these points I could offer no bona fide explanations that ought to be satisfactory. On the last point, I must own my surprise that such a prerogative should have been exercised. Perhaps I may have not attended to some parts of the Constitution with sufficient care, or may have misapprehended its meaning. But, as I have always supposed and still conceive, a proclamation on the subject could not properly go beyond a declaration of the fact that the United States were at war or peace, and an injunction of a suitable conduct on the citizens. The right to decide the question whether the duty and interest of the United States require war or peace under any given circumstances, and whether their disposition be towards the one or the other, seems to be essentially and exclusively involved in the right vested in the Legislature of declaring war in time of peace, and in the President and Senate of making peace in time of war. Did no such view of the subject present itself in the discussions of the Cabinet? I am extremely afraid that the President may not be sufficiently aware of the snares that may be laid for his good intentions by men whose politics at bottom are very different from his own. An assumption of prerogatives not clearly found in the Constitution, and having the appearance of being copied from a monarchical model, will beget animadversion equally mortifying to him and disadvantageous to the Government. Whilst animadversions of this sort can be plausibly ascribed to the spirit of party, the force of them may not be felt. But all his real friends will be anxious that his public conduct may bear the strictest scrutiny of future times, as well as of the present day; and all such friends of the Constitution would be doubly pained at infractions of it under auspices that may consecrate the evil till it be incurable.

Writings of Madison, Volume 1: 1769-1793, p.582

The great danger of misconstruing the sentiment of Virginia with regard to liberty and France is from the heretical tone of conversation in the Towns on the post roads. The voice of the country is universally and warmly right. If the popular disposition could be collected and carried into effect, a most important use might be made of it in obtaining contributions of the necessaries called for by the danger of famine in France. Unfortunately, the disaffection of the Towns, which alone could give effect to a plan for the purpose, locks up the public gratitude and beneficence.

Writings of Madison, Volume 1: 1769-1793, p.582

Our fine prospects in the wheat fields have been severely injured by the weather for some time past. A warm and moist spring had pushed the wheat into rather a luxuriant state. It had got safe into the head, however, and with tolerable weather would have ripened into a most exuberant crop. Just as the grain was in a milky state the weather became wetter than ever, and has continued raining or cloudy almost constantly since. This has brought on a little of the rust, and pretty universally in this quarter a decay of the ear called the Rot. Should the weather be ever so favorable henceforward, a considerable proportion will be lost; and if unfavorable, the loss may be almost entire. We are at this moment both excessively wet and hot. The forwardest wheat is turning fast, and may be nearly safe. The generality is not sufficiently advanced to be out of danger of future, or beyond the effect of past causes.

Writings of Madison, Volume 1: 1769-1793, p.583

The Kentucky coffee trees in this neighborhood are too young to bear for some years. I will do all I can to get the seed for Bartram from Kentucky as soon as possible.

Writings of Madison, Volume 1: 1769-1793, p.583

Adieu.

To Thomas Jefferson.

ORANGE, June 17, 1793.

Writings of Madison, Volume 1: 1769-1793, p.583

MY DEAR,—Your favor of the 9th I received late last night by a messenger from the neighbourhood of Fredericksburg, who returns early this morning. I have therefore not had time to read the papers inclosed in it, and even the letter itself but hastily. Its silence as to France is a cordial to the fears we have been kept in by the newspapers and reports here, of hearing every moment of her final catastrophe. If the army had stood by Dumouriez's treason, as was the uncontradicted idea for a time, scarce a possibility seemed to remain of any other result. I fell in two days ago with French Strother, who was returning circuitously from Richmond. He had seen W. C. Nicholas on his way, and spoke of him as among the decided friends of the French cause. In general, I discovered that his testimony and conviction corroborated the fact that the people of this Country, where you cannot trace the causes of particular exceptions, are unanimous and explicit in their sympathy with the Revolution. He was in Richmond during the session of the Court of the United States, and heard the opinions of the Judges on the subject of the British debts. Jay's, he says, was, that the depreciated payments into the Treasury discharged the debtor, but leaves the State liable to the creditor. It would be a hard tax on those who have suffered themselves by the depreciation to bear such a burden. It would be severely felt by those who put money into the Treasury on loan, and have received certificates by the scale, and those again further reduced by the modifications of the assumption.

To Thomas Jefferson,

ORANGE, June 19, 1793.

Writings of Madison, Volume 1: 1769-1793, p.584

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.584

Every Gazette I see (except that of the United States) exhibits a spirit of criticism on the Anglified complexion charged on the Executive politics. I regret extremely the position into which the President has been thrown. The unpopular cause of Anglomany is openly laying claim to him. His enemies, masking themselves under the popular cause of France, are playing off the most tremendous batteries on him. The proclamation was, in truth, a most unfortunate error. It wounds the national honor, by seeming to disregard the stipulated duties to France. It wounds the popular feelings, by a seeming indifference to the cause of liberty. And it seems to violate the forms and spirit of the Constitution, by making the Executive Magistrate the organ of the disposition, the duty, and the interest of the nation, in relation to war and peace—subjects appropriated to other departments of the Government. It is mortifying to the real friends of the President that his fame and his influence should have been unnecessarily made to depend in any degree on political events in a foreign quarter of the Globe; and particularly so that he should have anything to apprehend from the success of liberty in another country, since he owes his pre-eminence to the success of it in his own. If France triumphs, the ill-fated proclamation will be a millstone, which would sink any other character, and will force a struggle even on his.

To Thomas Jefferson.

June 29, 1793.

Writings of Madison, Volume 1: 1769-1793, p.585

MY DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 1: 1769-1793, p.585

My last was of the 19th. I have since seen several of the National Gazettes, which continue to teem with animadversions on the Proclamation. My opinion of it was expressed in my last. I foresee that a communication of it will make a part of the speech to the next Congress, and that it will bring on some embarrassments. Much will depend on events in Europe; and it is to be regretted that the popularity of the President or the policy of our Government should ever be staked on such contingencies. I observe that our vessels are frequently and insolently seized and searched for French goods. Is not this complained of by our own people as a breach of the modern law of nations; and whilst British goods are protected by the neutrality of our bottoms, will not remonstrances come from France on the subject?

To Thomas Jefferson.

July 18, 1793.

Writings of Madison, Volume 1: 1769-1793, p.585

DEAR SIR,—The season of harvest having suspended all intercourse with Fredericksburg, your favor of the 7th instant has but just been received. That of the 29th ult. came to hand at the same time. The preceding one of the 23d would have been acknowledged before, but for the cause above mentioned. The present is the first opportunity, and, like several others, leaves me but a moment to prepare for it.

Writings of Madison, Volume 1: 1769-1793, p.585

I have read over the subject which you recommend to my attention. It excites equally surprise and indignation, and ought certainly to be taken notice of by some one who can do it justice. In my present disposition, which is perfectly alienated from such things, and in my present situation, which deprives me of some material facts and many important lights, the task would be in bad hands if I were otherwise better qualified for it. I am in hopes of finding that some one else has undertaken it. In the mean time, I will feel my own pulse, and if nothing uprears, may possibly try to supply the omission.

Writings of Madison, Volume 1: 1769-1793, p.586

Return my thanks to Dr. Logan for the pamphlet, and also for the ploughs arrived at Fredericksburg, though, by a singular succession of errors and accidents, they are still on the road between this and that. Your account of Genet is dreadful. He must be brought right, if possible. His folly will otherwise do mischief which no wisdom can repair. Is there no one through whom he can be effectually counselled? De la Forest is said to be able, and if himself rightly disposed, as I have understood him to be, might, perhaps, be of great use. The result of the Harvest is perhaps less favorable than I once supposed. I hope, however, the crop of wheat, as to quantity at least, will be tolerable. Of the quality, I have great apprehensions. The season for getting it in was as bad as was possible. Every other article of our cultivation is prosperous, and will help to make amends if the rest of the year be favorable. The corn is particularly luxuriant in all quarters.

Writings of Madison, Volume 1: 1769-1793, p.586

Yours always and affecy.

To Thomas Jefferson.

July 22, 1793.

Writings of Madison, Volume 1: 1769-1793, p.586

DEAR SIR,—My last was on the 18th, and acknowledged yours of the 30th Ult. and 7th instant. I had not then time to mention that W. C. Nicholas passed an evening with me on his way home from his brother's, where he had met Edmund Randolph on his return to Philadelphia. From his conversation, his sentiments are right and firm on the French Revolution, and in other respects I discovered no symptoms of heresy. He spoke particularly and emphatically of the unquestionable unanimity of the Country in favor of the cause of France. I have no doubt that he held this language to every one, and, consequently, that the impressions depending on him have been rightly made. I could not but infer from all that he said with regard to Ed. Randolph that he considered the sentiments of him on French affairs as similar to his own, and to such as were expressed by himself. Some allowance, however, in all such conversations, must be made for the politeness or policy of respecting the known sentiments of the party to which they are addressed or communicated. He had seen the first part of Hamilton's publication,\* and spoke of it as from that quarter. He expressed some surprise at the doctrines and cabinet efforts of the author, as he had learnt them from E. Randolph, and seemed unable to account for some things without suspecting Hamilton of a secret design to commit and sacrifice the President. His ideas on this subject must have grown out of the language of E. Randolph, if not actually copied from it.

Writings of Madison, Volume 1: 1769-1793, p.587

I have read over, with some attention, the printed papers you inclosed, and have made notes towards a discussion of the subject. I find myself, however, under some difficulties: first, from my not knowing how far concessions have been made on particular points behind the curtain. 2dly. From my not knowing how far the President considers himself as actually committed with respect to some doctrines. 3dly. From the want of some lights from the law of nations as applicable to the construction of the Treaty. 4th. From my ignorance of some material facts, such as whether any call was made by Great Britain, or any other Belligerent power, for the intentions of the United States prior to the proclamation; whether France was heard on the subject of her constructions and pretensions under the Treaty; whether the Executive had before them any authentic documents, or entered into any discussions on the question whether the war between France and Great Britain is offensive or defensive, &c.

Writings of Madison, Volume 1: 1769-1793, p.587

I do not mean that all such information ought to be brought into the controversy, though some of it is necessary, and some more might be used to advantage. But all or most of it seems proper, in order to avoid vulnerable assertions or suppositions, which might give occasion to triumphant replies. If an answer to the publication be undertaken, it ought to be both a solid and a prudent one. None but intelligent readers will enter into such a controversy, and to their minds it ought principally to be accommodated. If you can lay your hands on the explanatory publication of the real object of the Proclamation referred to in your last, or the preceding one, send it to me. The one I had is no longer in my hands. I expect to-day to receive your letter next in date to the 7th.

To Thomas Jefferson.

July 30, 1793.

Writings of Madison, Volume 1: 1769-1793, p.588

DEAR SIR,—My last was of the 22d instant. I have since received yours covering the paper now returned, that covering the report of the Commissioners of accounts between the United States and the particular States, and that of the 21st instant. The intermediate one of the 14th was left by mistake in a secure place by the person who was to bring it up from Fredericksburg, and is not yet arrived. The delay has been inconvenient, as it deprives me of part of the publication, which I wish to see in all its parts before I formed a regular view of any. As I intimated in my last, I have forced myself into the task of a reply. I can truly say I find it the most grating one I ever experienced; and the more so, as I feel at every step I take the want of counsel on some points of delicacy, as well as of information as to sundry matters of fact. I shall be still more sensible of the latter want when I get to the attack on French proceedings, and perhaps to the last topic proposed by the writer, if I ever do get to it. As yet I have but roughly and partially gone over the first; and being obliged to proceed in scraps of time, with a distaste to the subject, and a distressing lassitude from the excessive and continued heat of the season, I cannot say when I shall finish even that. One thing that particularly vexes me is, that I fore-know, from the prolixity and pertinacity of the writer, that the business will not be terminated by a single fire, and, of course, that I must return to the charge in order to prevent a triumph without a victory.

Writings of Madison, Volume 1: 1769-1793, p.589

Do you know what is the idea of France with regard to the defensive quality of the guaranty, and of the criterion between offensive and defensive war, which I find differently defined by different jurists; also, what are the ideas of the President on these points? I could lay my course with more advantage through some other parts of the subject if I could also know how far he considers the Proclamation as expressing a neutrality, in the sense given to that term, or how far he approves the vindication of it on that ground.

Writings of Madison, Volume 1: 1769-1793, p.589

I am sorry to find the journey to Virginia, from which useful lessons were hoped, ending in a confirmation of errors. I can only account for it by supposing the public sentiment to have been collected from tainted sources, which ought to have suggested to a cautious and unbiassed mind the danger of confiding in them. The body of the people are unquestionably attached to the Union, and friendly to the Constitution; but that they have no dissatisfaction at the measures and spirit of the Government, I consider as notoriously untrue. I am the more surprised at the misconception of our Friend, as the two latest sources consulted, the two brothers, I mean, are understood to be both of them rightly disposed, as well as correctly informed.

Writings of Madison, Volume 1: 1769-1793, p.589

I have got my ploughs at last. They are fine ones, and much admired. Repeat my thanks to Dr Logan, if you have an opportunity and think of it. The patent plough is worth your looking at, if you should visit his farm. You will see your theory of a mould-board more nearly realized than in any other instance, and with the advantage of having the iron wing, which in common bar shares or in great lies useless under the wood, turned up into the sweep of the board, and relieving it from the brunt of the friction. By fixing the colter, which is detached, to the point of the share, it will, I think, be nearly complete. I propose to have one so constructed. The detached form may answer best in old, clear ground, but will not stand the shocks of our rough and rooty land, especially in the hands of our ploughmen.

Writings of Madison, Volume 1: 1769-1793, p.590

Little wheat having been yet tried in bread, I cannot say how the quality will turn out. The more I see and hear of it, the more I fear it will be worse than was at first supposed. The corn suffers now for want of rain, but appearances as to that article are, on the whole, very flattering. The worst effect of the dry weather at present felt is the extreme hardness of the earth, which makes ploughing, particularly in fallow land, but barely possible. So many heavy rains on ground wet for six months, succeeded by the present hot spell, has almost beat it and baked it into brick.

To Thomas Jefferson.

August 5, 1793.

Writings of Madison, Volume 1: 1769-1793, p.590

DEAR SIR,—Your account of the ticklish situation with respect to Genet in the 14th is truly distressing. His folly would almost beget suspicions of the worst sort. The consequences you point out, in case matters come to an extremity, are so certain and obvious, that it is hardly conceivable he can be blind to them. Something must be done, if .possible, to get him into a better train. I find by the paper of the 27, that Pacificus has entered, and I suppose closed, his last topic. I think it a feeble defence of one important point I am striking at, viz: the making a declaration, in his sense of it, before the arrival of Genet. I argue that the act does not import a decision against the cas. fed., from the manifest impropriety of doing so, on the ground that France was the aggressor in every war, without, at least, waiting for evidence as to the question of fact who made the first attack, admitting, for the sake of argument, that to be the intention.

To Thomas Jefferson.

Aug. 11th, 1793.

Writings of Madison, Volume 1: 1769-1793, p.591

DEAR SIR,—Yours of August 3d has just come to hand. All the preceding have been acknowledged. I am extremely mortified, in looking for the Key to the Gypher, to find that I left it in Philadelphia. You must therefore repeat, anything that may be of use still to be known, particularly anything that may relate to the time of your leaving Philadelphia, which I wish to know as long as possible before it takes place. The task on which you have put me must be abridged, so as not to go beyond that period. You will see that the first topic is not yet completed. I hope the 2d and 3d, to wit, the meaning of the Treaty and the obligations of gratitude, will be less essential. The former is particularly delicate, and tho' I think it may be put in a light that would reflect ignominy on the author of P., yet I had rather not meddle with the subject, if it could be avoided.

Writings of Madison, Volume 1: 1769-1793, p.591

I cannot say when I shall be able to take up those two parts of the job. Just as I was embarking in the general subject, I received from the reputed Author of Franklin a large pamphlet, written by him against the fiscal system, particularly the Bank, which I could not but attend to. It is put on a footing that requires me to communicate personally with Monroe, whom I ought to have seen before this, as the publication of the work is to be contrived for the Author. It really has merit, always for its ingenuity, generally for its solidity, and is enriched with many fine strokes of imagination, and a continued vein of pleasantry and keen satire, that will sting deeply. I have received a letter from the Author, wishing to hear from me. I must, therefore, take a ride as far as Charlottesville, as soon as I make out the next packet for you, and suspend the residue of the business till I return. I shall endeavour in my absence to fulfil a promise to Wilson Nicholas, which will lengthen the suspension. I forward to F. a copy of the little thing of Ld Ch.; the last sentence is struck out as not necessary, and which may, perhaps, wound too indiscriminately certain characters not at present interested in supporting public corruptions.

Writings of Madison, Volume 1: 1769-1793, p.592

The paper for J. F. could not otherwise get to him than with your aid. You must therefore take the trouble of having it handed into the Post Office, whence the penny post will take it, unless you can do it at some shorter hand. I wish you would look over what is said critically, and if you think there be any thing of importance wrong, or that may do more harm than good, that you will either erase it, where that will not break the sense, or arrest the whole till I can make the correction. Delay, I know, is bad; but vulnerable parts that would be seized for victories and triumphs would be worse. I beg you, also, to attend particularly to those passages slightly marked with a pencil: the first, the declaration of the principles and sentiments of the Author; the 2d, beginning with, "Writers such as Locke and Montesquieu," &c., to the pencil mark in the ¶. 3d. The quotation from the Federalist. If you think the first had better be omitted, it can come out without leaving the least gap; so can the 2d. My doubts as to that proceed from the danger of turning the controversy too much into the wilderness of books. I use Montesquieu, also, from memory, tho', I believe, without inaccuracy. The 3d can also come out without affecting the piece; and I wish you to erase it, if you think the most scrupulous delicacy, conjecturing the Author, could disapprove it. One Nº more, or two short Nos., will close the first topic and supersede the last. They will be sent as soon as finished and copied. These would have been sent somewhat sooner, but for the delay caused by the last circumstance.

Writings of Madison, Volume 1: 1769-1793, p.592

The drought has done irreparable injury to the corn in many parts of the country. It has been interrupted, within a few days past, by a pretty extensive rain. We shared in it here but scantily. I understand that at Charlottesville, which had been favored with preceding ones, it was plentiful. Be good enough to contrive an excuse to Mr. Randolph, at Monticello, for my not forwarding the Gazettes latterly, if you have not already thought of it. I know not how to apologize myself, and shall feel some awkwardness, as I shall not carry them when I go into his neighborhood.

To Thomas Jefferson.

August 20th, 1793.

Writings of Madison, Volume 1: 1769-1793, p.593

DEAR SIR,—Your favor of the 11th came to hand the day before yesterday. I am just setting off to Monroe's, and hope to prevent the trouble of an express from Monticello with the letter referred to in it. I have already acquainted you with the immediate object of this visit. I have just received a line from him expressing a particular desire to communicate with me, and reminding me that he sets off the last of this month for the Courts, and of course will be occupied for some days before with preparations. This hurries me; and has forced me to hurry what will be inclosed herewith, particularly the last N°., 5, which required particular care in the execution. I shall be obliged to leave that, and the greater part of the other Nos., to be transcribed, sealed up, and forwarded in my absence. It is certain, therefore, that many little errors will take place. As I cannot let them be detained till I return, I must pray you to make such corrections as will not betray your hand. In pointing and erasures, not breaking the sense, there will be no difficulty. I have already requested you to make free with the latter. You will find more quotations from the Federalist. Dash them out, if you think the most squeamish critic could object to them. In N°. 5 I suggest to your attention a long preliminary remark, into which I suffered myself to be led before I was aware of the prolixity. As the piece is full long without it, it had probably better be lopped off. The propriety of the two last paragraphs claims your particular criticism. I would not have hazarded them without the prospect of your revisal, and, if proper, your erasure. That which regards Spain, &c., may contain unsound reasoning, or be too delicate to be touched in a newspaper. The propriety of the last, as to the President's answers to addressers, depends on the truth of the fact, of which you can judge. I am not sure that I have seen all the answers. My last was of the 12th, and covered the two first Nos. of Helvidius. I am assured that it was put into the post office on Tuesday evening. It ought, therefore, to have reached you on Saturday last. As an opportunity to Fredericksburg may happen before more than the 3d Nº may be transcribed, it is possible that this may be accompanied by that alone.

Writings of Madison, Volume 1: 1769-1793, p.594

The drought has been dreadful to the Corn. There has been no rain, making any sensible impression, for seven weeks of the hottest weather of the hottest year remembered, and at the very period critical to that crop. Yesterday afternoon we had a small shower, and more seemed to be passing around us. No weather, however, can now possibly add 5 per cent. to the prospect. There cannot be more than half crops made generally, and much less in many places.

Writings of Madison, Volume 1: 1769-1793, p.594

Yrs affly.

To Thomas Jefferson.

AT COL. MONROE'S, Aug. 22d, 1793.

Writings of Madison, Volume 1: 1769-1793, p.594

DEAR SIR,—I left home the day before yesterday, which was the date of my last; it was to be accompanied by 2, and perhaps, tho' not probably, 3 additional Numbers of Helvidius. The last, to wit, Nº. 5, contained two paragraphs, the one relating to the accession of Spain and Portugal to the war against France, the other to the answers of the President to the addresses on his Proclamation, which I particularly requested you to revise, and, if improper, to erase. The whole piece was more hurried than it ought to have been, and these paragraphs penned in the instant of my setting out, which had been delayed as late as would leave enough of the day for the journey. I mention this as the only apology for the gross error of fact committed with respect to the term neutrality, which, it is asserted, the President has not used in any of his answers. I find, on looking into them here, that he used it in the first of all, to the Merchants of Philadelphia, and in one other, out of three which I have examined. I must make my conditional request, therefore, an absolute one, as to that passage. If he should forbear the use of the term in all his answers subsequent to the perversion of it by Pacificus, it will strengthen the argument used; but that must be a future and contingent consideration. Mr. D. R. was not arrived yesterday. The family here well; so, also, at Monticello, as you will, no doubt, learn from the spot itself.

Writings of Madison, Volume 1: 1769-1793, p.595

Adieu. Yrs afttly.

To Thomas Jefferson.

August 27th, 1793.

Writings of Madison, Volume 1: 1769-1793, p.595

DEAR SIR,—I wrote you a few lines by the last post from this place, just to apprise you of my movement to it. I have since seen the Richmond and the Philada papers, containing, the latter, the certificate of Jay & King, and file publications relating to the subject of it; the former, the proceedings at Richmond, dictated, no doubt, by the cabal at Philada. It is painful to observe the success of the management for putting g Wythe at the head of them. I understand, however, that a considerable revolution has taken place in his political sentiments, under the influence of some disgusts he has received from the State Legislature. By what has appeared, I discoverer that a determination has been formed to drag before the public the indiscretions of Genet, and turn them and the popularity of the President to the purposes driven at. Some impression will be made here, of course. A plan is evidently laid in Richmond to render it extensive. If an early and well-digested effort for calling out the real sense of the people be not made, there is room to apprehend they may, in many places, be misled.

Writings of Madison, Volume 1: 1769-1793, p.595

This has employed the conversation ofand myself. We shall endeavor at some means of repelling the danger, particularly by setting on foot expressions of the public mind in important counties, and under the auspices of respectable names. I have written, with this view, to Caroline, and have suggested a proper train of ideas, and a wish that Mr. P. would patronize the measure. Such an example would have great effect. Even if it should not be followed, it would be considered as an authentic specimen of the Country temper, and would put other places on their guard against the snares that may be laid for them. The want of opportunities, and our ignorance of trustworthy characters, will circumscribe our efforts in this way to a very narrow compass. The rains for several days have delayed my trip to the gentleman named in my last. Unless to-morrow should be a favorable day, I shall be obliged to decline it altogether. In two or three days I shall be in a situation to receive and answer your letters, as usual. That by Mr. D. R. has not reached me.

To Thomas Jefferson.

Septr 2d, 1793.

Writings of Madison, Volume 1: 1769-1793, p.596

DEAR SIR,—I have received your two favors of the 11th ult. by Mr. D. R., and of the 18th by post.

Writings of Madison, Volume 1: 1769-1793, p.596-p.598

The conduct of Genet, as developed in these, and in his proceedings as exhibited in the newspapers, is as unaccountable as it is distressing. The effect is beginning to be strongly felt here, in the surprise and disgust of those who are attached to the French cause, and viewed this Minister as the instrument for cementing, instead of alienating, the two Republics. These sensations are powerfully reinforced by the general and habitual veneration for the President. The Anglican party is busy, as you may suppose, in making the worst of everything, and in turning the public feelings against France, and thence in favor of England. The only antidote for their poison is to distinguish between the nation and its agent; between principles and events; and to impress the well-meaning with the fact that the enemies of France and of Liberty are at work to lead them from their honorable connection with these into the arms, and ultimately into the Government, of Great Britain. If the genuine sense of the people could be collected on the several points comprehended in the occasion, the calamity would be greatly alleviated, if not absolutely controuled. But this is scarcely possible. The country is too much uninformed, and too inert to speak for itself; and the language of the Towns, which are generally directed by an adverse interest, will insidiously inflame the evil. It is, however, of such infinite importance to our own Government, as well as to that of France, that the real sentiments of the people here should be understood, that something ought to be attempted on that head. I inclose a copy of a train of Ideas sketched on the first rumour of the war between the Executive and Genet, and particularly suggested by the Richmond Resolutions, as a groundwork for those who might take the lead in County meetings. It was intended that they should be modified in every particular, according to the state of information and the particular temper of the place. A copy has been sent to Caroline, with a hope that Mr. Pendleton might find it not improper to step forward; another is gone to the District Court at Staunton in the hands of Monroe, who carried a letter from me on the subject to A. Stuart; and a third will be for consideration at the district court at Charlottesville. If these examples should be set, there may be a chance of like proceedings elsewhere; and in themselves they will be respectable specimens of the principles and sensations of the agricultural, which is the commanding part of the Society. I am not sanguine, however, that the effort will succeed. If it does not, the State Legislatures, and the federal also, if possible, must be induced to take up the matter in its true point of view. Monroe and myself read with attention your despatch by D. R., and had much conversation on what passed between you and the President. It appeared to both of us that a real anxiety was marked to retain you in office; that over and above other motives, it was felt that your presence and implied sanction might be a necessary shield against certain criticisms from certain quarters; that the departure of the only counsellor possessing the confidence of the Republicans would be a signal for new and perhaps very disagreeable attacks; that in this point of view the respectful and conciliatory language of the President is worthy of particular attention, and that it affords a better hope than has existed of your being able to command attention, and to moderate the predominant tone. We agreed in opinion, also, that whilst this end is pursued, it would be wise to make as few concessions as possible that might embarrass the free pursuit of measures which may be dictated by Republican principles, and required by the public good. In a word, we think you ought to make the most of the value we perceive to be placed on your participation in the Executive counsels. I am extremely glad to find that you are to remain another quarter. The season will be more apropos in several respects; and it will prevent any cooperation which a successor might be disposed to make towards a final breach with France. I have little hope that you will have one whose policy will have the same healing tendency with yours. I foresee, I think, that it will be either King, if Johnson is put at the Treasury, or E. Rutledge, if Wolcott should be put there. I am glad the President rightly infers my determination from antecedent circumstances, so as to free me from imputations in his mind connected with the present state of things. Monroe is particularly solicitous that you should take the view of your present position and opportunities above suggested. He sees so forcibly the difficulty of keeping the feelings of the people as to Genèt distinct from those due to his constituents, that he can hardly prevail on himself, absolutely and openly, to abandon him. I concur with him that it ought to be done no farther than is forced upon us; that general silence is better than open denunciation and crimination; and that it is not unfair to admit the apologetic influence of the errors in our own government, which may have inflamed the passions which now discolor every object to his eye—such as the refusal, in the outset of the government, to favor the commerce of France more than that of Great Britain; the unfortunate appointment Gouv. Morris to the former; the language of the proclamation; the attempts of Pacificus to explain away and dissolve the Treaty; the notoriety of the author, and the appearance of its being an informal manifestation of the views of the Executive, &c.

Writings of Madison, Volume 1: 1769-1793, p.598

I paid a short visit to Mr. W. C. Nicholas, as I proposed. tie talks like a sound Republican and sincere friend to the French cause, in every respect. I collected from him that Edmund Randolph had admitted to him that he drew the proclamation; that he had been attacked on it at Chatham by Mr. Jos. Jones; that he reprobated the comment of Pacificus, &c. W. C. N. observed that Hamilton had taken the Executive in by gaining phrases, of which he could make the use he has done.

Writings of Madison, Volume 1: 1769-1793, p.599

I hope you have received the five Nos. of Helvidius. I must resume the task, I suppose, in relation to the Treaty and gratitude. I feel, however, so much awkwardness under the new posture of things, that I shall deliberate whether a considerable postponement, at least, may not be advisable.

Writings of Madison, Volume 1: 1769-1793, p.599

I found, also, on my return, a house full of particular friends, who will stay some weeks, and receive and return visits, from which I cannot decently exclude myself. If I should perceive it impossible or improper to continue the publication, so as to avail myself of the channel used to the press, I shall suspend it till I see and talk with you on the whole matter. Adieu.

Sketch—[Referred to in p. 597.]

Writings of Madison, Volume 1: 1769-1793, p.599

It being considered that it is at all times the right, and at certain periods the duty, of the people to declare their principles and opinions on subjects which concern the national interest; that at the present conjuncture this duty is rendered the more indispensable by the prevailing practice of declaratory resolutions, in places where the inhabitants can more easily assemble and consult than in the country at large, and where interests, views, and political opinions, different from those of the great body of the people, may happen to predominate, whence there may be danger of unfair and delusive inferences concerning the true and general sense of the people; it being also considered that, under the disadvantage a great proportion of the people [suffer?] in their distant and dispersed situation, from the want of timely and correct knowledge of particular incidents, and the conduct of particular persons connected with public transactions, it is most prudent and safe to wait with a decent reserve for full and satisfactory information in relation thereto, and in public declarations to abide by those great principles, just sentiments, and established truths, which can be little affected by personal or transitory occurrences:

Writings of Madison, Volume 1: 1769-1793, p.600

Therefore, as the sense of the present Meeting,

Writings of Madison, Volume 1: 1769-1793, p.600

Resolved, That the Constitution of the United States ought to be firmly and vigilantly supported against all direct or indirect attempts that may be made to subvert or violate the Same:

Writings of Madison, Volume 1: 1769-1793, p.600

That as it is the interest of the United States to cultivate the preservation of peace by all just and honorable means, the Executive authority ought to be supported in the exercise of its Constitutional powers and functions for enforcing the laws existing for that purpose:

Writings of Madison, Volume 1: 1769-1793, p.600

That the eminent virtues and services of our illustrious fellow-citizen, George Washington, President of the United States, entitle him to the highest respect and lasting gratitude of his Country, whose peace, liberty, and safety, must ever remind it of his distinguished agency in promoting the same:

Writings of Madison, Volume 1: 1769-1793, p.600

That the eminent and generous aids rendered to the United States in their arduous struggle for liberty by the French Nation ought ever to be remembered and acknowledged with gratitude, and that the spectacle exhibited by the severe and glorious contest in which it is now engaged for its own liberty, ought and must be peculiarly interesting to the wishes, the friendship, and the sympathy of the people of America:

Writings of Madison, Volume 1: 1769-1793, p.600

That all attempts which may be made, in whatever form or disguise, to alienate the good will of the people of America from the cause of liberty and republican Government in France, have a tendency to weaken their affection to the free principles of their own Government, and manifest designs which ought to be narrowly watched and seasonably counteracted:

Writings of Madison, Volume 1: 1769-1793, p.600

That such attempts to disunite Nations mutually attached to the cause of liberty, and viewed with unfriendly eyes by all who hate it, ought more particularly to be reprobated at the present crisis, when such vast efforts are making by a combination of Princes and Nobles to crush an example that may open the eyes of all mankind to their natural and political rights:

Writings of Madison, Volume 1: 1769-1793, p.601

That a dissolution of the honorable and beneficial connection between the United States and France would obviously tend to forward a plan of connecting them with Great Britain, as one great, leading step towards assimilating our Government to the form and spirit of the British Monarchy; and that this apprehension is greatly strengthened by the active zeal displayed by persons disaffected to the American Revolution, and by others of known monarchical principles, in propagating prejudices against the French Nation and Revolution.

To James Monroe.

September 15, 1793.

Writings of Madison, Volume 1: 1769-1793, p.601

DEAR SIR,—Since I parted from you I have had several letters from Mr. Jefferson, in which all the facts involving Genet are detailed. His conduct has been that of a madman. He is abandoned even by his votaries in Philadelphia. Hutchison declares that he has ruined the Republican interest in that place. I wish I could forward the details I have received, but they are too confidential to be hazarded by the casual conveyance to which this is destined. They ought, however, to have no other effect on the steps to be pursued than to caution against rounding any of them on the presumed inculpability of Genet. As he has put himself on such unjustifiable ground, perhaps it is fortunate that he has done it in so flagrant a manner. It will be the more easily believed here that he has acted against the sense of his constituents, and the latter will be the less likely to support him in his errors. I find that the Anglicans and Monocrats, from Boston to Philadelphia, are betrayed by the occasion into the most palpable discovery of their real views. They already lose sight of the Agent, and direct their hostilities immediately against France. This will do good, if proper use be made of it. You will see by the late papers that Great Britain has made war on our commerce, by intercepting uncontraband articles bound to unblockaded ports, and taking them to herself at her own price. This must bring on a crisis with us unless the order be revoked on our demand, of which there is not the least probability. I understand that the malignant fever in Philadelphia is raging still with great violence, and all the inhabitants who can are flying from it in every direction. The mortality at first was in the ratio of 3 out of 4. It had been reduced to 1 out of 3. Mr. Jefferson is in raptures with the performance of our friend in Caroline. He means to have it appear about two weeks before the meeting of Congress. This will not coincide with the plan of the Author, who wished its publication to be in time for the meeting of the State Legislature. Think of this, and let me know your ideas.

Writings of Madison, Volume 1: 1769-1793, p.602

On my return home I found a letter from Mr. Jones, which I enclose, as the shortest [way?] of making you acquainted with what he wishes. With all due respect to Mrs. Monroe,

Writings of Madison, Volume 1: 1769-1793, p.602

I am, yours affectionately.

To George Washington.

ORANGE, Oct. 24th, 1793.

Writings of Madison, Volume 1: 1769-1793, p.602

DEAR SIR,—Your letter of the 14th Inst. did not arrive till Sunday night, and being not then at home, I did not receive it till last night. I now lose not a moment in complying with its request; tho' I foresee it cannot reach you before you will have left Mount Vernon, and before you will probably have made up a final determination on some, if not all the questions proposed. These are:

Writings of Madison, Volume 1: 1769-1793, p.602

1. Ought the President to summon Congress at a time and place to be named by him ? or,

Writings of Madison, Volume 1: 1769-1793, p.602

2. If the President has no power to change the place, ought he to abstain from all interposition whatever ? or, 3. Ought he to notify the obstacle to a meeting at Philada, state the defect of a regular provision for the exigency, and suggest his purpose of repairing to a place deemed most eligible for a meeting in the first instance?

Writings of Madison, Volume 1: 1769-1793, p.603

4. What is the place liable to the fewest objections?

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From the best investigation I have been able to make in so short a time, the first expedient, tho' most adequate to the exigency, seems to require an authority that does not exist under the Constitution and laws of the U. S.

Writings of Madison, Volume 1: 1769-1793, p.603

The only passage in the Constitution in which such an authority could be sought is that which says: "The President may, on extraordinary occasions, convene both Houses, or either of them." But the obvious import of these terms is satisfied by referring them to the time only at which the extraordinary meeting is summoned. If, indeed, they included a discretion as to the place as well as the time, it would be unnecessary to recur to the expedient of altering the time in order to get at an alteration of the place. The President could as well alter the place without interfering with the time, as alter the time without interfering with the place. Besides, the effect of a change as to place would not be in all respects similar to a change as to time. In the latter case, an extraordinary Session, running into the period of an ordinary one, would allow the ordinary one to go on under all the circumstances prescribed by law. In the former case, this would not happen. The ordinary part of the Session would be held out of the place prescribed for it, unless prevented by a positive act for returning to it.

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The obvious meaning here assigned to the phrase is confirmed by other parts of the Constitution. It is well known that much jealousy has always appeared in everything connected with the residence of the General Government. The solicitude of the Constitution to appease this jealousy is particularly marked by the 1st paragraph of section 6th, and the 3d paragraph of section the 7th, of Article I. The light in which these paragraphs must be viewed cannot well be reconciled with a supposition that it was meant to entrust the executive alone with any power on that subject.

Writings of Madison, Volume 1: 1769-1793, p.603

Laying aside the Constitution and consulting the law, the expedient seems to be no less inadmissible. The act of July, 1790, "establishing the temporary and permanent seat of the Government of the U. S," cannot be understood to leave any such power in the President. And as the power, if exercised so as to interfere with the provision relating to the temporary seat, might beget an alarm, lest, in the hands of a President unfriendly to the permanent seat, it should be turned on some pretext or other against that arrangement, prudential reasons unite with legal ones for avoiding the precedent.

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The 2d mode of treating the difficulty would seem to be best, if the danger at Germantown were out of the way. A voluntary resort to that place might be relied on; and the members of the Legislature, finding themselves together and with the President, might legalize the necessary steps; or, if that should be thought wrong, might deliberate and decide for themselves on the emergency. But as the danger might defeat such an expectation, it results that the

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3d expedient is called for by the occasion; and being sufficient, is all that can be justified by it.

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The 4th point to be considered is the delicate one of naming the place.

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In deciding this point, it would seem proper to attend, first, to the risk of the infection; this consideration lies, as you observe, against Trenton and Wilmington. Secondly, to Northern and Southern jealousies. This applies to N. York and Annapolis. Thirdly, to the disposition of Pennsyla; which is entitled to some regard, as well by her calamity as by the circumstance of her being in possession of the Government.

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In combining these considerations, we are led to look for some place within the State of Pennsyla not materially different from Philada in relation to North and South. Lancaster and Reading appear to have occurred. With the former I am but little acquainted. The latter I never saw. If the object of the Executive should be merely to put Congress in the most neutral situation possible for choosing a place for themselves, as would have been the case at Germantown, Reading seems to have the better pretensions. If the object should be to provide a place, at once marking an impartiality in the Executive, and capable of retaining Congress daring the Session, Lancaster seems to claim a preference.

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If the measure which my present view of the subject favors should be deemed least objectionable, something like the following form might be given to it:

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Whereas a very dangerous and infectious malady, which continues to rage in the City of Philada, renders it indispensable that the approaching Session of Congress should be held, as well as the Executive Department be for the present administered, at some other place; And whereas no regular provision exists for such an emergency, so that, unless some other place be pointed out at which the members of Congress may assemble in the first instance, great embarrassments may happen; under these peculiar circumstances, I have thought it incumbent on me to notify the obstacle to a meeting of Congress at the ordinary place of their Session, and to recommend that the several members assemble on the day appointed at ——, in the State of ————, at which place I shah be ready to meet them.

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G. W., P. U. S.

To James Monroe.

October 29, 1793.

Writings of Madison, Volume 1: 1769-1793, p.605

DEAR, SIR,—Inclosed are two newspapers, one of which contains the Resolutions proposed at Fredericksburg and a letter from Bourdeaux, which is not uninteresting. You will find, also, two pieces, one from Alexandria, and another answering it, which, as connected with the present crisis, may be worth reading. At Culpeper Court the proposed meeting took effect, General Stephens in the chair. The result, as stated to me, is not censurable, if at all, on the score surmised. It has not the smallest tincture of Anglomany or Aristocracy. I am informed that one of the Resolutions, which speaks of the attempts to alienate America from France in the past, as well as future time, was carried in the Committee, after considerable debate, and confirmed by the people on a motion to amend. The Resolutions in Fauquier are said to be a servile echo of those in Richmond. When you come on, pray bring with you such of Davis' papers as may have been received since I left you. I send the little balance of tea due to Mrs. Monroe, which I intended, but failed, to procure before my late trip. As you are becoming a worshipper of Ceres, I add an ear of corn, which is forwarder, by three weeks, than the ordinary sort, and if given to your overseer, may supply a seasonable dish on your return next summer. Mr. Jefferson is so delighted with it, that he not only requested me to forward some to Mr. Randolph, but took an ear with him, to be brought back on his return, that there might be no possible disappointment. Should you have an opportunity, after you know the day of your setting out, be so good as to drop me notice of it My compliments to Mrs. Monroe.

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Yrs, always and affly.

Proclamation of Neutrality.

APRIL 22, 1793.

Writings of Madison, Volume 1: 1769-1793, p.609

Whereas it appears that a state of war exists between Austria, Prussia, Sardinia, Great Britain, and the United Netherlands, of the one part, and France on the other, and the duty and interest of the United States require that they should with sincerity and good faith adept and pursue a conduct friendly and impartial towards the belligerent powers:

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I have therefore thought fit, by these presents, to declare the disposition of the United States to observe the conduct aforesaid towards those powers respectively; and to exhort and warn the citizens of the United States carefully to avoid all acts and proceedings whatsoever, which may in any manner tend to contravene such disposition.

Writings of Madison, Volume 1: 1769-1793, p.609

And I do hereby also make known that whosoever of the citizens of the United States shall render himself liable to punishment or forfeiture under the law of nations, by committing, aiding, or abetting hostilities against any of the said powers, or by carrying to any of them those articles which are deemed contraband by the modern usage of nations, will not receive the protection of the United States against such punishment or forfeiture; and further, that I have given instructions to those officers, to whom it belongs, to cause prosecutions to be instituted against all persons who shall, within the cognizance of the courts of the United States, violate the law of nations, with respect to the powers at war, or any of them.

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In testimony whereof, I have caused the seal of the United States of America to be affixed to these presents, and signed the same with my [L. S.] hand. Done at the City of Philadelphia, the twenty-second day of April, one thousand seven hundred and ninety-three, and of the Independence of the United States of America the seventeenth.

Writings of Madison, Volume 1: 1769-1793, p.609

G. WASHINGTON.

Writings of Madison, Volume 1: 1769-1793, p.609

BY THE PRESIDENT:

THOMAS JEFFERSON.

Helvidius.

Number I.

Writings of Madison, Volume 1: 1769-1793, p.611

Several pieces with the signature of PACIFICUS were lately published, which have been read with singular pleasure and applause by the foreigners and degenerate citizens among us, who hate our republican government, and the French revolution; whilst the publication seems to have been too little regarded, or too much despised, by the steady friends to both.

Writings of Madison, Volume 1: 1769-1793, p.611

Had the doctrines inculcated by the writer, with the natural consequences from them, been nakedly presented to the public, this treatment might have been proper. Their true character would then have struck every eye, and been rejected by the feelings of every heart. But they offer themselves to the reader in the dress of an elaborate dissertation; they are mingled with a few truths that may serve them as a passport to credulity; and they are introduced with professions of anxiety for the preservation of peace, for the welfare of the government, and for the respect due to the present head of the executive, that may prove a snare to patriotism.

Writings of Madison, Volume 1: 1769-1793, p.611

In these disguises they have appeared to claim the attention I propose to bestow on them, with a view to show, from the publication itself, that under color of vindicating an important public act of a chief magistrate who enjoys the confidence and love of his country, principles are advanced which strike at the vitals of its constitution, as well as at its honor and true interest.

Writings of Madison, Volume 1: 1769-1793, p.611

As it is not improbable that attempts may be made to apply insinuations, which are seldom spared when particular purposes are to be answered, to the author of the ensuing observations, it may not be improper to premise, that he is a friend to the constitution, that he wishes for the preservation of peace, and that the present chief magistrate has not a fellow-citizen who is penetrated with deeper respect for his merits, or feels a purer solicitude for his glory.

Writings of Madison, Volume 1: 1769-1793, p.612

This declaration is made with no view of courting a more favorable ear to what may be said than it deserves. The sole purpose of it is, to obviate imputations which might weaken the impressions of truth; and which are the more likely to be resorted to, in proportion as solid and fair arguments may be wanting.

Writings of Madison, Volume 1: 1769-1793, p.612

The substance of the first piece, sifted from its inconsistencies and its vague expressions, may be thrown into the following propositions:

Writings of Madison, Volume 1: 1769-1793, p.612

That the powers of declaring war and making treaties are, in their nature, executive powers:

Writings of Madison, Volume 1: 1769-1793, p.612

That being particularly vested by the constitution in other departments, they are to be considered as exceptions out of the general grant to the executive department:

Writings of Madison, Volume 1: 1769-1793, p.612

That being, as exceptions, to be construed strictly, the powers not strictly within them remain with the executive:

Writings of Madison, Volume 1: 1769-1793, p.612

That the executive, consequently, as the organ of inter course with foreign nations, and the interpreter and executon of treaties, and the law of nations, is authorized to expound all articles of treaties, those involving questions of war and peace, as well as others; to judge of the obligations of the United States to make war or not, under any casus foederis, or eventual operation of the contract relating to war; and to pronounce the state of things resulting from the obligations of the United States, as understood by the executive:

Writings of Madison, Volume 1: 1769-1793, p.612

That, in particular, the executive had authority to judge whether, in the case of the mutual guaranty between the United States and France, the former were bound by it to engage in the war:

Writings of Madison, Volume 1: 1769-1793, p.612

That the executive has, in pursuance of that authority, decided that the United States are not bound: and

Writings of Madison, Volume 1: 1769-1793, p.612

That its proclamation of the 22d of April last is to be taken as the effect and expression of that decision. The basis of the reasoning is, we perceive, the extraordinary doctrine that the powers of making war and treaties are, in their nature, executive, and therefore comprehended in the general grant of executive Power, where not especially and strictly excepted out of the grant.

Writings of Madison, Volume 1: 1769-1793, p.613

Let us examine this doctrine; and that we may avoid the possibility of mistaking the writer, it shall be laid down in his own words; a precaution the more necessary, as scarce any tiring else could outweigh the improbability that so extravagant a tenet should be hazarded at so early a day, in the face of the public.

Writings of Madison, Volume 1: 1769-1793, p.613

His words are: "Two of these [exceptions and qualifications "to the executive powers] have been already noticed—the par" ticipation of the senate in the appointment of officers and the "making of treaties. A third remains to be mentioned—the "right of the legislature to declare war and grant letters of "marque and reprisal."

Writings of Madison, Volume 1: 1769-1793, p.613

Again: "It deserves to he remarked, that as the participation "of the senate in the making of treaties, and the power of the "legislature to declare war, are exceptions out of the general "executive power vested in the president, they are to be con"strued strictly, and ought to be extended no further than is "essential to their execution."

Writings of Madison, Volume 1: 1769-1793, p.613

If there be any countenance to these positions, it must be found either, first, in the writers of authority on public law; or, 2d, in the quality and operation of the powers to make war and treaties; or, 3d, in the constitution of the United States.

Writings of Madison, Volume 1: 1769-1793, p.613

It would be of little use to enter far into the first source of information, not only because our own reason and our own constitution are the best guides, but because a just analysis and discrimination of the powers of government, according to their executive, legislative, and judiciary qualities, are not to be expected in the works of the most received jurists, who wrote before a critical attention was paid to those objects, and with their eyes too much on monarchical governments, where all powers are confounded in the sovereignty of the prince. It will be found, however, I believe, that all of them, particularly that the present chief magistrate has not a fellow-citizen who is penetrated with deeper respect for his merits, or feels a purer solicitude for his glory.

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If there be any countenance to these positions, it must be found either, first, in the writers of authority on public law; or, 2d, in the quality and operation of the powers to make war and treaties; or, 3d, in the constitution of the United States.

Writings of Madison, Volume 1: 1769-1793, p.613

It would be of little use to enter far into the first source of information, not only because our own reason and our own constitution are the best guides, but because a just analysis and discrimination of the powers of government, according to their executive, legislative, and judiciary qualities, are not to be expected in the works of the most received jurists, who wrote before a critical attention was paid to those objects, and with their eyes too much on monarchical governments, where all powers are confounded in the sovereignty of the prince. It will be found, however, I believe, that all of them, particularly Wolfius, Burlamaqui, and Vattel, speak of the powers to declare war, to conclude peace, and to form alliances, as among the highest acts of the sovereignty, of which the legislative power must at least be an integral and pre-eminent part.

Writings of Madison, Volume 1: 1769-1793, p.614

Writers, such as Locke and Montesquieu, who have discussed more particularly the principles of liberty and the structure of government, lie under the same disadvantage of having written before these subjects were illuminated by the events and discussions which distinguish a very recent period. Both of them, too, are evidently warped by a regard to the particular government of England, to which one of them owed allegiance;\* and the other professed an admiration bordering on idolatry. Montesquieu, however, has rather distinguished himself by enforcing the reasons and the importance of avoiding a confusion of the several powers of government, than by enumerating and defining the powers which belong to each particular class. And Locke, notwithstanding the early date of his work on civil government, and the example of his own government before his eyes, admits that the particular powers in question, which, after some of the writers on public law, he calls federa-five, are really distinct from the executive, though almost always united with it, and hardly to be separated into distinct hands. Had he not lived under a monarchy in which these powers were united, or had he written by the lamp which truth now presents to lawgivers, the last observation would probably never have dropped from his pen. But let us quit a field of research which is more likely to perplex than to decide, and bring the question to other tests of which it will be more easy to judge.

Writings of Madison, Volume 1: 1769-1793, p.614

2. If we consult for a moment the nature and operation of the two powers to declare war and to make treaties, it will be impossible not to see that they can never fall within a proper definition of executive powers. The natural province of the executive magistrate is to execute laws, as that of the legislature is to make laws. All his acts, therefore, properly executive, must presuppose the existence of the laws to be executed. A treaty is not an execution of laws; it does not presuppose the existence of laws. It is, on the contrary, to have itself the force of a law, and to be carried into execution, like all other laws, by the executive magistrate. To say, then, that the power of making treaties, which are confessedly laws, belongs naturally to the department which is to execute laws, is to say that the executive department naturally includes a legislative power. In theory this is an absurdity; in practice, a tyranny.

Writings of Madison, Volume 1: 1769-1793, p.615

The power to declare war is subject to similar reasoning. A declaration that there shall be war is not an execution of laws; it does not suppose pre-existing laws to be executed; it is not, in any respect, an act merely executive. It is, on the contrary, one of the most deliberative acts that can be performed, and, when performed, has the effect of repealing all the laws operating in a state of peace, so far as they are inconsistent with a state of war, and of enacting as a rule for the executive a new code adapted to the relation between the society and its foreign enemy. In like manner, a conclusion of peace annuls all the laws peculiar to a state of war, and revives the general laws incident to a state of peace.

Writings of Madison, Volume 1: 1769-1793, p.615

These remarks will be strengthened by adding that treaties, particularly treaties of peace, have sometimes the effect of changing not only the external laws of the society, but operate also on the internal code, which is purely municipal, and to which the legislative authority of the country is of itself competent and complete.

Writings of Madison, Volume 1: 1769-1793, p.615

From this view of the subject it must be evident, that although the executive may be a convenient organ of preliminary communications with foreign governments on the subjects of treaty or war, and the proper agent for carrying into execution the final determinations of the competent authority, yet it can have no pretensions, from the nature of the powers in question compared with the nature of the executive trust, to that essential agency which gives validity to such determinations. It must be further evident, that if these powers be not, in their nature, purely legislative, they partake so much more of that than of any other quality, that under a constitution leaving them to result to their most natural department, the legislature would be without a rival in its claim.

Writings of Madison, Volume 1: 1769-1793, p.616

Another important inference to be noted is, that the powers of making war and treaty being substantially of a legislative, not an executive nature, the rule of interpreting exceptions strictly must narrow, instead of enlarging, executive pretensions on those subjects.

Writings of Madison, Volume 1: 1769-1793, p.616

3. It remains to be inquired, whether there be anything in the constitution itself which shows that the powers of making war and peace are considered as of an executive nature, and as comprehended within a general grant of executive power.

Writings of Madison, Volume 1: 1769-1793, p.616

It will not be pretended that this appears from any direct position to be found in the instrument.

Writings of Madison, Volume 1: 1769-1793, p.616

If it were deducible from any particular expressions, it may be presumed that the publication would have saved us the trouble of the research.

Writings of Madison, Volume 1: 1769-1793, p.616

Does the doctrine, then, result from the actual distribution of powers among the several branches of the government? or from any fair analogy between the powers of war and treaty, and the enumerated powers vested in the executive alone?

Writings of Madison, Volume 1: 1769-1793, p.616

Let us examine:

Writings of Madison, Volume 1: 1769-1793, p.616

In the general distribution of powers, we find that of declaring war expressly vested in the Congress, where every other legislative power is declared to be vested, and without any other qualification than what is common to every other legislative act. The constitutional idea of this power would seem, then, clearly to be, that it is of a legislative, and not an executive nature.

Writings of Madison, Volume 1: 1769-1793, p.616

This conclusion becomes irresistible, when it is recollected that the constitution cannot be supposed to have placed either any power legislative in its nature entirely among executive powers, or any power executive in its nature entirely among legislative powers, without charging the constitution with that kind of intermixture and consolidation of different powers which would violate a fundamental principle in the organization of free governments. If it were not unnecessary to enlarge on this topic here, it could be shown that the constitution was originally vindicated, and has been constantly expounded, with a disavowal of any such intermixture.

Writings of Madison, Volume 1: 1769-1793, p.617

The power of treaties is vested jointly in the president and in the senate, which is a branch of the legislature. From this arrangement merely, there can be no inference that would necessarily exclude the power from the executive class: since the senate is joined with the president in another power, that of appointing to offices, which, as far as relate to executive offices, at least, is considered as of an executive nature. Yet, on the other hand, there are sufficient indications that the power of treaties is regarded by the constitution as materially different from mere executive power, and as having more affinity to the legislative than to the executive character.

Writings of Madison, Volume 1: 1769-1793, p.617

One circumstance indicating this, is the constitutional regulation under which the senate give their consent in the case of treaties. In all other cases, the consent of the body is expressed by a majority of voices. In this particular case, a concurrence of two-thirds, at least, is made necessary, as a substitute or compensation for the other branch of the legislature, which, on certain occasions, could not be conveniently a party to the transaction.

Writings of Madison, Volume 1: 1769-1793, p.617

But the conclusive circumstance is, that treaties, when formed according to the constitutional mode, are confessedly to have the force and operation of laws, and are to be a rule for the courts in controversies between man and man, as much as any other laws. They are even emphatically declared by the constitution to be "the supreme law of the land."

Writings of Madison, Volume 1: 1769-1793, p.617

So far, the argument from the constitution is precisely in opposition to the doctrine. As little will be gained in its favor from a comparison of the two powers with those particularly vested in the president alone.

Writings of Madison, Volume 1: 1769-1793, p.618

As there are but few, it will be most satisfactory to review them one by one.

Writings of Madison, Volume 1: 1769-1793, p.618

"The president shall be commander-in-chief of the army and navy of the United States, and of the militia when called into the actual service of the United States."

Writings of Madison, Volume 1: 1769-1793, p.618

There can be no relation worth examining between this power and the general power of making treaties. And instead of being analogous to the power of declaring war, it affords a striking illustration of the incompatibility of the two powers in the same hands. Those who are to conduct a war cannot, in the nature of things, be proper or safe judges, whether a war ought to be commenced, continued, or concluded. They are barred from the latter function by a great principle in free government, analogous to that which separates the sword from the purse, or the power of executing from the power of enacting laws.

Writings of Madison, Volume 1: 1769-1793, p.618

"He may require the opinion in writing of the principal officers in each of the executive departments upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in case of impeachment." These powers can have nothing to do with the subject.

Writings of Madison, Volume 1: 1769-1793, p.618

"The president shall have power to fill up vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of the next session." The same remark is applicable to this power, as also to that of "receiving ambassadors, other public ministers, and consuls." The particular use attempted to be made of this last power will be considered in another place.

Writings of Madison, Volume 1: 1769-1793, p.618

"He shall take care that the laws shall be faithfully executed, and shall commission all officers of the United States." To see the laws faithfully executed constitutes the essence of the executive authority. But what relation has it to the power of making treaties and war; that is, of determining what the laws shall be with regard to other nations? No other, certainly, than what subsists between the powers of executing and enacting laws; no other, consequently, than what forbids a coalition of the powers in the same department.

Writings of Madison, Volume 1: 1769-1793, p.619

I pass over the few other specified functions assigned to the president, such as that of convening the legislature, &c., &c., which cannot be drawn into the present question.

Writings of Madison, Volume 1: 1769-1793, p.619

It may be proper, however, to take notice of the power of removal from office, which appears to have been adjudged to the president by the laws establishing the executive departments, and which the writer has endeavored to press into his service. To justify any favorable inference from this case, it must be shown that the powers of war and treaties are of a kindred nature to the power of removal, or at least are equally within a grant of executive power. Nothing of this sort has been attempted, nor probably will be attempted. Nothing can, in truth, be clearer, than that no analogy, or shade of analogy, can be traced between a power in the supreme officer, responsible for the faithful execution of the laws, to displace a subaltern officer employed in the execution of the laws; and a power to make treaties, and to declare war, such as these have been found to be in their nature, their operation, and their consequences.

Writings of Madison, Volume 1: 1769-1793, p.619

Thus it appears, that by whatever standard we try this doctrine, it must be condemned as no less vicious in theory than it would be dangerous in practice. It is countenanced neither by the writers on law; nor by the nature of the powers themselves; nor by any general arrangements, or particular expressions, or plausible analogies, to be found in the constitution.

Writings of Madison, Volume 1: 1769-1793, p.619

Whence, then, can the writer have borrowed it? There is but one answer to this question.

Writings of Madison, Volume 1: 1769-1793, p.619

The power of making treaties and the power of declaring war, are royal prerogatives in the British government, and are accordingly treated as executive prerogative by British commentators.

Writings of Madison, Volume 1: 1769-1793, p.619

We shall be the more confirmed in the necessity of this solution of the problem by looking back to the era of the constitution, and satisfying ourselves that the writer could not have been misled by the doctrines maintained by our own commentators on our own government. That I may not ramble beyond prescribed limits, I shall content myself with an extract from a work which entered into a systematic explanation and defence of the constitution, and to which there has frequently been ascribed some influence in conciliating the public assent to the government in the form proposed. Three circumstances conspire in giving weight to this cotemporary exposition. It was made at a time when no application to persons or measures could bias: the opinion given was not transiently mentioned, but formally and critically elucidated: it related to a point in the constitution which must consequently have been viewed as of importance in the public mind. The passage relates to the power of making treaties; that of declaring war being arranged with such obvious propriety among the legislative powers, as to be passed over without particular discussion.

Writings of Madison, Volume 1: 1769-1793, p.620

"Though several writers on the subject of government place that power [of making treaties] in the class of executive authorities, yet this is evidently an arbitrary disposition. For if we attend carefully to its operation, it will be found to partake more of the legislative than of the executive character, though it does not seem strictly to fall within the definition of either of them. The essence of the legislative authority is to enact laws; or, in other words, to prescribe rules for the regulation of the society; while the execution of the laws and the employment of the common strength, either for this purpose or for the common defence, seem to comprise all the functions of the executive magistrate. The power of making treaties is plainly neither the one nor the other. It relates neither to the execution of the subsisting laws, nor to the enaction of new ones, and still less to an exertion of the common strength. Its objects are contracts with foreign nations, which have the force of law, but derive it from the obligations of good faith. They are not rules prescribed by the sovereign to the subject, but agreements between sovereign and sovereign. The power in question seems, therefore, to form a distinct department, and to belong properly neither to the legislative nor to the executive. The qualities elsewhere detailed as indispensable in the management; of foreign negotiations point out the executive as the most fit agent in those transactions; whilst the vast importance of the trust, and the operation of treaties as laws, plead strongly for the participation of the whole or a part of the legislative body in the office of making them."—Federalist, p. 343.\*

Writings of Madison, Volume 1: 1769-1793, p.621

It will not fail to be remarked on this commentary, that whatever doubts may be started as to the correctness of its reasoning against the legislative nature of the power to make treaties; it is clear, consistent, and confident, in deciding that the power is plainly and evidently not an executive power.

Number II.

Writings of Madison, Volume 1: 1769-1793, p.621

The doctrine which has been examined is pregnant with inferences and consequences, against which no ramparts in the constitution could defend the public liberty, or scarcely the forms of republican government. Were it once established that the powers of war and treaty are in their nature executive; that so far as they are not by strict construction transferred to the legislature, they actually belong to the executive; that of course all powers not less executive in their nature than those powers, if not granted to the legislature, may be claimed by the executive; if granted, are to be taken strictly, with a residuary right in the executive; or, as will hereafter appear, perhaps claimed as a concurrent right by the executive; and no citizen could any longer guess at the character of the government under which he lives; the most penetrating jurist would be unable to scan the extent of constructive prerogative.

Writings of Madison, Volume 1: 1769-1793, p.621

Leaving, however, to the leisure of the reader deductions which the author, having omitted, might not choose to own, I proceed to the examination of one with which that liberty can not be taken.

Writings of Madison, Volume 1: 1769-1793, p.622

"However true it may be (says he) that the right of the legislature to declare war includes the right of judging whether the legislature be under obligations to make war or not, it will not follow that the executive is, in any case, excluded from a similar right of judging, in the execution of its own functions."

Writings of Madison, Volume 1: 1769-1793, p.622

A material error of the writer, in this application of his doctrine, lies in his shrinking from its regular consequences. Had he stuck to his principle in its full extent, and reasoned from it without restraint, he would only have had to defend himself against his opponents. By yielding the great point, that the right to declare war, though to be taken strictly, includes the right to judge whether the nation be under obligation to make war or not, he is compelled to defend his argument, not only against others, but against himself also. Observe how he struggles in his own toils.

Writings of Madison, Volume 1: 1769-1793, p.622

He had before admitted, that the right to declare war is vested in the legislature. He here admits that the right to declare war includes the right to judge whether the United States be obliged to declare war or not. Can the inference be avoided that the executive, instead of having a similar right to judge, is as much excluded from the right to judge as from the right to declare?

Writings of Madison, Volume 1: 1769-1793, p.622

If the right to declare war be an exception out of the general grant to the executive power, every thing included in the right must be included in the exception; and, being included in the exception, is excluded from the grant.

Writings of Madison, Volume 1: 1769-1793, p.622

He cannot disentangle himself by considering the right of the executive to judge as concurrent with that of the legislature: for if the executive have a concurrent right to judge, and the right to judge be included in (it is, in fact, the very essence of) the right to declare, he must go on and say that the executive has a concurrent right also to declare. And then, what will he do with his other admission, that the power to declare is an exception out of the executive power?

Writings of Madison, Volume 1: 1769-1793, p.623

Perhaps an attempt may be made to creep out of the difficulty through the words, "in the execution of its functions." Here, again, he must equally fail.

Writings of Madison, Volume 1: 1769-1793, p.623

Whatever difficulties may arise in defining the executive authority in particular cases, there can be none in deciding on an authority clearly placed by the constitution in another department. In this case, the constitution has decided what shall not be deemed an executive authority; though it may not have clearly decided in every case what shall be so deemed. The declaring of war is expressly made a legislative function. The judging of the obligations to make war, is admitted to be included as a legislative function. Whenever, then, a question occurs, whether war shall be declared, or whether public stipulations require it, the question necessarily belongs to the department to which those functions belong; and no other department can be in the execution of its pro\_per functions if it should undertake to decide such a question.

Writings of Madison, Volume 1: 1769-1793, p.623

There can be no refuge against this conclusion but in the pretext of a concurrent right in both departments to judge of the obligation to declare war; and this must be intended by the writer, when he says: "It will not follow that the ex"ecutive is excluded in any case from a similar right of judg"ing," &c.

Writings of Madison, Volume 1: 1769-1793, p.623

As this is the ground on which the ultimate defence is to be made, and which must either be maintained or the works erected on it demolished, it will be proper to give its strength a fair trial.

Writings of Madison, Volume 1: 1769-1793, p.623

It has been seen that the idea of a concurrent right is at variance with other ideas advanced or admitted by the writer. Laying aside, for the present, that consideration, it seems impossible to avoid concluding, that if the executive, as such, has a concurrent right with the legislature to judge of obligations to declare war, and the right to judge be essentially included in the right to declare, it must have the same concurrent right to declare as it has to judge, and, by another analogy, the same right to judge of other causes of war as of the particular cause found in a public stipulation. So that, whenever the executive, in the course of its functions, shall meet with these cases, it must either infer an equal authority in all, or acknowledge its want of authority in any.

Writings of Madison, Volume 1: 1769-1793, p.624

If any doubt can remain, or rather if any doubt could ever have arisen, which side of the alternative ought to be embraced, it can be with those only who overlook or reject some of the most obvious and essential truths in political science.

Writings of Madison, Volume 1: 1769-1793, p.624

The power to judge of the causes of war, as involved in the power to declare war, is expressly vested where all other legislative powers are vested, that is, in the Congress of the United States. It is, consequently, determined by the constitution to be a legislative power. Now, omitting the inquiry here, in what respects a compound power may be partly legislative and partly executive, and accordingly vested partly in the one and partly in the other department, or jointly in both; a remark used on another occasion is equally conclusive on this, that the same power cannot belong, in the whole, to both departments, or be properly so vested as to operate separately in each. Still more evident is it, that the same specific function or act cannot possibly belong to the two departments, and be separately exercisable by each.

Writings of Madison, Volume 1: 1769-1793, p.624

Legislative power may be concurrently vested in different legislative bodies. Executive powers may be concurrently vested in different executive magistrates. In legislative acts the executive may have a participation, as in the qualified negative on the laws. In executive acts, the legislature, or at least a branch of it, may participate, as in the appointment to offices. Arrangements of this sort are familiar in theory, as well as in practice. But an independent exercise of an executive act by the legislature done, or of a legislative act by the executive alone, one or other of which must happen in every case where the same act is exercisable by each, and the latter of which would happen in the case urged by the writer, is contrary to one of the first and best maxims of a well-organized government, and ought never to be rounded in a forced construction, much less in opposition to a fair one. Instances, it is true, may be discovered among ourselves, where this maxim has not been faithfully pursued; but being generally acknowledged to be errors, they confirm rather than impeach the truth and value of the maxim.

Writings of Madison, Volume 1: 1769-1793, p.625

It may happen, also, that different independent departments, the legislative and executive, for example, may, in the exercise of their functions, interpret the constitution differently, and thence lay claim each to the same power. This difference of opinion is an inconvenience not entirely to be avoided. It results from what may be called, if it be thought fit, a concurrent right to expound the constitution. But this species of concurrence is obviously and radically different from that in question. The former supposes the constitution to have given the power to one department only, and the doubt to be to which it has been given. The latter supposes it to belong to both; and that it may be exercised by either or both, according to the course of exigencies.

Writings of Madison, Volume 1: 1769-1793, p.625

A concurrent authority in two independent departments to perform the same function with respect to the same thing, would be as awkward in practice as it is unnatural in theory.

Writings of Madison, Volume 1: 1769-1793, p.625

If the legislature and executive have both a fight to judge of the obligations to make war or not, it must sometimes happen, though not at present, that they will judge differently. The executive may proceed to consider the question to-day; may determine that the United States are not bound to take part in a war; and, in the execution of its functions, proclaim that determination to all the world. To-morrow, the legislature may follow in the consideration of the same subject; may determine that the obligations impose war on the United States, and, in the execution of its functions, enter into a constitutional declaration, expressly contradicting the constitutional proclamation.

Writings of Madison, Volume 1: 1769-1793, p.625

In what light does this present the constitution to the people who established it ? In what light would it present to the world a nation, thus speaking through two different organs, equally constitutional and authentic, two opposite languages, on the same subject, and under the same existing circumstances?

Writings of Madison, Volume 1: 1769-1793, p.626

But it is not with the legislative rights alone that this doctrine interferes. The rights of the judiciary may be equally invaded. For it is clear, that if a right declared by the constitution to be legislative, and actually vested by it in the legislature, leaves, notwithstanding, a similar right in the executive, whenever a case for exercising it occurs in the course of its functions; a right declared to be judiciary, and vested in that department, may, on the same principle, be assumed and exercised by the executive in the course of its functions; and it is evident that occasions and pretexts for the latter interference may be as frequent as for the former. So again the judiciary department may find equal occasions in the execution of its functions, for usurping the authorities of the executive, and the legislature for stepping into the jurisdiction of both. And thus all the powers of government, of which a partition is so carefully made among the several branches, would be thrown into absolute hotchpot, and exposed to a general scramble.

Writings of Madison, Volume 1: 1769-1793, p.626

It is time, however, for the writer himself to be heard, in defence of his text. His comment is in the words following:

"If the legislature have a right to make war on the one hand, it is, on the other, the duty of the executive to preserve peace till war is declared; and in fulfilling that duty, it must necessarily possess a right of judging what is the nature of the obligations which the treaties of the country impose on the government; and when, in pursuance of this right, it has concluded that there is nothing inconsistent with a state of neutrality, it becomes both its province and its duty to enforce the laws incident to that state of the nation. The executive is charged with the execution of all laws—the laws of nations, as well as the municipal law which recognizes and adopts those laws. It is, consequently, bound, by faith fully executing the laws of neutrality, when that is the state of the nation, to avoid giving a cause of war to foreign powers."

Writings of Madison, Volume 1: 1769-1793, p.626

To do full justice to this masterpiece of logic, the reader must have the patience to follow it step by step.

Writings of Madison, Volume 1: 1769-1793, p.627

If the legislature have a right to make war on the one hand, it is, on the other, the duty of the executive to preserve peace till war is declared.

Writings of Madison, Volume 1: 1769-1793, p.627

It will be observed that here is an explicit and peremptory assertion, that it is the duty of the executive to preserve peace till war is declared.

And in fulfilling that duty, it must necessarily possess a right of judging what is the nature of the obligations which the treaties of the country impose on the government: that is to say, in fulfilling the duty to preserve peace, it must necessarily possess the right to judge whether peace ought to be preserved; in other words, whether its duty should be preformed. Can words express a flatter contradiction? It is self-evident that the duty in this case is so far from necessarily implying the right that it necessarily excludes it.

And when, in pursuance of this right, it has concluded that there is nothing in them (obligations) inconsistent with a state of neutrality, IT BECOMES both its province and its duty to enforce the laws incident to that state of the nation.

Writings of Madison, Volume 1: 1769-1793, p.627

And what if it should conclude that there is something inconsistent? Is it or is it not the province and duty of the executive to enforce the same laws? Say it is, you destroy the right to judge. Say it is not, you cancel the duty to preserve peace till war is declared.

Writings of Madison, Volume 1: 1769-1793, p.627

Take this sentence in connexion with the preceding, and the contradictions are multiplied. Take it by itself, and it makes the right to judge and conclude whether war be obligatory, absolute, and imperative; and the duty to preserve peace, subordinate and conditional.

Writings of Madison, Volume 1: 1769-1793, p.627

It will have been remarked by the attentive reader, that the term peace, in the first clause, has been silently exchanged in the present one for the term neutrality. Nothing, however, is gained by shifting the terms. Neutrality means peace, wish an allusion to the circumstance of other nations being at war. The term has no reference to the existence or non-existence of treaties or alliances between the nation at peace and the nations at war. The laws incident to a state of neutrality are the laws incident to a state of peace, with such circumstantial modifications only as are required by the new relation of the nations at war; until war, therefore, be duly authorised by the United States, they are as actually neutral when other nations are at war, as they are at peace (if such a distinction in the terms is to be kept up) when other nations are not at war. The existence of eventual engagements, which can only take effect on the declaration of the legislature, cannot, without that declaration, change the actual state of the country any more in the eye of the executive than in the eye of the judiciary department. The laws to be the guide of both, remain the same to each, and the same to both.

Writings of Madison, Volume 1: 1769-1793, p.628

Nor would more be gained by allowing the writer to define, than to shift the term neutrality. For suppose, if you please, the existence of obligations to join in war to be inconsistent with neutrality, the question returns upon him, what laws are to be enforced by the executive until effect shall be given to those obligations by the declaration of the legislature? Are they to be the laws incident to those obligations; that is, incident to war? However strongly the doctrines or deductions of the writer may tend to this point, it will not be avowed. Are the laws to be enforced by the executive, then, in such a state of things, to be the same as if no such obligations existed? Admit this, which you must admit, if you reject the other alternative, and the argument lands precisely where it embarked, in the position that it is the absolute duty of the executive, in all cases, to preserve peace till war is declared; not that it is "to become the province and duty of the executive," after it has concluded that there is nothing in those obligations inconsistent with a state of peace and neutrality. The right to judge and conclude, therefore, so solemnly maintained in the text, is lost in the comment.

Writings of Madison, Volume 1: 1769-1793, p.628

We shall see whether it can be reinstated by what follows:

Writings of Madison, Volume 1: 1769-1793, p.628

The executive is charged with the execution of all laws, the laws of nations as well as the municipal law, which recognizes and adopts those laws. It is, consequently, bound, by faithfully executing the laws of neutrality, when that is the state of the nation, to avoid giving cause of war to foreign powers.

Writings of Madison, Volume 1: 1769-1793, p.629

The first sentence is a truth, but nothing to the point in question. The last is partly true in its proper meaning, but totally untrue in the meaning of the writer. That the executive is bound faithfully to execute the laws of neutrality, whilst those laws continue unaltered by the competent authority, is true; but not for the reason here given, to wit, to avoid giving cause of war to foreign powers. It is bound to the faithful execution of these as of all other laws, internal and external, by the nature of its trust and the sanction of its oath, even if turbulent citizens should consider its so doing as a cause of war at home, or unfriendly nations should consider its so doing as a cause of war abroad. The duty of the executive to preserve external peace can no more suspend the force of external laws, than its duty to preserve internal peace can suspend the force of municipal laws.

Writings of Madison, Volume 1: 1769-1793, p.629

It is certain that a faithful execution of the laws of neutrality may tend as much in some cases to incur war from one quarter, as in others to avoid war from other quarters. The executive must, nevertheless, execute the laws of neutrality whilst in force, and leave it to the legislature to decide whether they ought to be altered or not. The executive has no other discretion than to convene and give information to the legislature on occasions that may demand it; and whilst this discretion is duly exercised, the trust of the executive is satisfied, and that department is not responsible for the consequences. It could not be made responsible for them without vesting it with the legislative as well as with the executive trust.

Writings of Madison, Volume 1: 1769-1793, p.629

These remarks are obvious and conclusive, on the supposition that the expression "laws of neutrality" means simply what the words import, and what alone they can mean, to give force or color to the inference of the writer from his own premises. As the inference itself, however, in its proper meaning, does not approach towards his avowed object, which is to work out a prerogative for the executive to judge, in common with the legislature, whether there be cause of war or not in a public obligation, it is to be presumed that, "in faithfully executing the laws of neutrality," an exercise of that prerogative was meant to be included. On this supposition, the inference, as will have been seen, does not result from his own premises, and has been already so amply discussed, and, it is conceived, so clearly disproved, that not a word more can be necessary on this branch of his argument.

Number III.

Writings of Madison, Volume 1: 1769-1793, p.630

In order to give color to a right in the executive to exercise the legislative power of judging whether there be a cause of war in a public stipulation, two other arguments are subjoined by the writer to that last examined.

Writings of Madison, Volume 1: 1769-1793, p.630

The first is simply this: "It is the right and duty of the executive to judge of and interpret those articles of our treaties which give to France particular privileges, in order to the enforcement of those privileges," from which it is stated, as a necessary consequence, that the executive has certain other rights, among which is the right in question.

Writings of Madison, Volume 1: 1769-1793, p.630

This argument is answered by a very obvious distinction. The first right is essential to the execution of the treaty, as a law in operation, and interferes with no right vested in another department. The second—viz: the right in question is not essential to the execution of the treaty, or any other law: on the contrary, the article to which the right is applied cannot, as has been shown, from the very nature of it, be in operation as a law, without a previous declaration of the legislature; and all the laws to be enforced by the executive remain, in the mean time, precisely the same, whatever be the disposition or judgment of the executive. This second right would also interfere with a right acknowledged to be in the legislative department.

Writings of Madison, Volume 1: 1769-1793, p.630

If nothing else could suggest this distinction to the writer, he ought to have been reminded of it by his own words, "in order to the enforcement of those privileges." Was it in order to the enforcement of the article of guaranty that the right is ascribed to the executive?

Writings of Madison, Volume 1: 1769-1793, p.631

The other of the two arguments reduces itself into the following form: The executive has the right to receive public ministers; this right includes the right of deciding, in the case of a revolution, whether the new government sending the minister ought to be recognised or not; and this, again, the right to give or refuse operation to pre-existing treaties.

Writings of Madison, Volume 1: 1769-1793, p.631

The power of the legislature to declare war and judge of the causes for declaring it, is one of the most express and explicit parts of the constitution. To endeavor to abridge or affect it by strained inferences and by hypothetical or singular occurences, naturally warns the reader of some lurking fallacy.

Writings of Madison, Volume 1: 1769-1793, p.631

The words of the constitution are: "He (the president) shall receive ambassadors, other public ministers, and consuls." I shall not undertake to examine what would be the precise extent and effect of this function in various cases which fancy may suggest, or which time may produce. It will be more proper to observe, in general, and every candid reader will second the observation, that little, if anything, more was intended by the clause than to provide for a particular mode of communication almost grown into a right among modern nations; by pointing out the department of the government most proper for the ceremony of admitting public ministers, of examining their credentials, and of authenticating their title to the privileges annexed to their character by the law of nations. This being the apparent design of the constitution, it would be highly improper to magnify the function into an important Prerogative, even where no rights of other departments could be affected by it.

Writings of Madison, Volume 1: 1769-1793, p.631

To show that the view here given of the clause is not a new construction, invented or strained for a particular occasion, I will take the liberty of recurring to the cotemporary work already quoted, which contains the obvious and original gloss put on this part of the constitution by its friends and advocates:

Writings of Madison, Volume 1: 1769-1793, p.632

"The president is also to be authorized to receive ambassadors and other public ministers. This, though it has been a rich theme of declamation, is more a matter of dignity than of authority. It is a circumstance that will be without consequence in the administration of the government, and it is far more convenient that it should be arranged in this manner, than that there should be a necessity for convening the legislature, or one of its branches, upon every arrival of a foreign minister, though it were merely to take the place of a departed predecessor."—Fed. vol. 2, p. 237.\*

Writings of Madison, Volume 1: 1769-1793, p.632

Had it been foretold in the year 1788, when this work was published, that before the end of the year 1793, a writer, assuming the merit of being a friend to the constitution, would appear, and gravely maintain, that this function, which was to be without consequence in the administration of the government, might have the consequence of deciding on the validity of revolutions in favor of liberty, "of putting the United States in a condition to become an associate in war," nay, "of laying the legislature under an obligation of declaring war," what would have been thought and said of so visionary a prophet?

Writings of Madison, Volume 1: 1769-1793, p.632

The moderate opponents of the constitution would probably have disowned his extravagance. By the advocates of the constitution, his prediction must have been treated as "an expertment on public credulity, dictated either by a deliberate intention to deceive, or by the overflowing of a zeal too intern" perate to be ingenuous."

Writings of Madison, Volume 1: 1769-1793, p.632

But how does it follow from the function to receive ambassadors and other public ministers, that so consequential a prerogative may be exercised by the executive? When a foreign minister presents himself, two questions immediately arise: Are his credentials from the existing and acting government of his country? Are they properly authenticated? These questions belong of necessity to the executive; but they involve no cognizance of the question, whether those exercising the government have the right along with the possession. This belongs to the nation, and to the nation alone, on whom the government operates. The questions before the executive are merely questions of fact; and the executive would have precisely the same right, or rather be under the same necessity of deciding them, if its function was simply to receive without any discretion to reject public ministers. It is evident, therefore, that if the executive has a right to reject a public minister, it must be rounded on some other consideration than a change in the government, or the newness of the government; and consequently a right to refuse to acknowledge a new government cannot be implied by the right to refuse a public minister.

Writings of Madison, Volume 1: 1769-1793, p.633

It is not denied that there may be cases in which a respect to the general principles of liberty, the essential rights of the people, or the overruling sentiments of humanity, might require a government, whether new or old, to be treated as an illegitimate despotism. Such are, in fact, discussed and admitted by the most approved authorities. But they are great and extraordinary cases, by no means submitted to so limited an organ of the national will as the executive of the United States; and certainly not to be brought by any torture of words, within the right to receive ambassadors.

Writings of Madison, Volume 1: 1769-1793, p.633

That the authority of the executive does not extend to a question, whether an existing government ought to be recognized or not, will still more clearly appear from an examination of the next inference of the writer, to wit: that the executive has a right to give or refuse activity and operation to pre-existing treaties.

Writings of Madison, Volume 1: 1769-1793, p.633

If there be a principle that ought not to be questioned within the United States, it is that every nation has a right to abolish an old government and establish a new one. This principle is not only recorded in every public archive, written in every American heart, and sealed with the blood of a host of American martyrs, but is the only lawful tenure by which the United States hold their existence as a nation.

Writings of Madison, Volume 1: 1769-1793, p.633

It is a principle incorporated with the above, that governments are established for the national good, and are organs of the national will.

Writings of Madison, Volume 1: 1769-1793, p.634

From these two principles results a third, that treaties formed by the government are treaties of the nation, unless otherwise expressed in the treaties.

Writings of Madison, Volume 1: 1769-1793, p.634

Another consequence is, that a nation, by exercising the right of changing the organ of its will, can neither disengage itself from the obligations, nor forfeit the benefits of its treaties. This is a truth of vast importance, and happily rests with sufficient firmness on its own authority. To silence or prevent cavil, I insert, however, the following extracts: "Since, then, such a treaty (a treaty not personal to the sovereign) directly relates to the body of the State, it subsists though the form of the republic happens to be changed, and though it should be even transformed into a monarchy; for the State and the nation are always the same, whatever changes are made in the form of the government, and the treaty concluded with the nation remains in force as long as the nation exists."—Vattel, B. II, § 85. "It follows that as a treaty, notwithstanding the change of a democratic government into a monarchy, continues in force with the new king, in a like manner if a monarchy becomes a republic, the treaty made with the king does not expire on that account, unless it was manifestly personal."—Burlam., part IV, c. IX, § 16, ¶ 6.

Writings of Madison, Volume 1: 1769-1793, p.634

As a change of government, then, makes no change in the obligations or rights of the party to a treaty, it is clear that the executive can have no more right to suspend or prevent the operation of a treaty on account of the change, than to suspend or prevent the operation where no such change has happened. Nor can it have any more right to suspend the operation of a treaty in force as a law, than to suspend the operation of any other law.

Writings of Madison, Volume 1: 1769-1793, p.634

The logic employed by the writer on this occasion will be best understood by accommodating to it the language of a proclamation, founded on the prerogative and policy of suspending the treaty with France:

Writings of Madison, Volume 1: 1769-1793, p.634

Whereas a treaty was concluded on the —— day of——between the United States and the French nation, through the kingly government, which was then the organ of its will; and whereas the said nation hath since exercised its right (nowise abridged by the said treaty) of changing the organ of its will by abolishing the said kingly government, as inconsistent with the rights and happiness of the people, and establishing a republican in lieu thereof, as most favorable to the public happiness, and best suited to the genius of a people become sensible of their rights and ashamed of their chains; and whereas, by the constitution of the United States, the executive is authorized to receive ambassadors, other public ministers, and consuls; and whereas a public minister, duly appointed and commissioned by the new republic of France, hath arrived and presented himself to the executive, in order to be received in his proper character, now be it known, that by virtue of the said right vested in the executive to receive ambassadors, other public ministers, and consuls, and of the rights included therein, the executive hath refused to receive the said minister from the said republic, and hath thereby caused the activity and operation of all treaties with the French nation, hitherto in force as supreme laws of the land, to be suspended until the executive, by taking off the said suspension, shall revive the same; of which all persons concerned are to take notice at their peril.

Writings of Madison, Volume 1: 1769-1793, p.635

The writer, as if beginning to feel that he was grasping at more than he can hold, endeavors all of a sudden to squeeze his doctrine into a smaller size, and a less vulnerable shape. The reader shall see the operation in his own words.

Writings of Madison, Volume 1: 1769-1793, p.635

"And where a treaty antecedently exists between the United States and such nation, [a nation whose government has undergone a revolution,] that right [the right of judging whether the new rulers ought to be recognized or not] involves the power of giving operation or not to such treaty. For until the new government is acknowledged, the treaties between the nations, as far at least as regards public rights, are, of course, suspended."

Writings of Madison, Volume 1: 1769-1793, p.635

This qualification of the suspending power, though reluctantly and inexplicitly made, was prudent for two reasons: first, because it is pretty evident that private rights, whether of judiciary or executive cognizance, may be carried into effect without the agency of the foreign government; and therefore would not be suspended, of course, by a rejection of that agency; secondly, because the judiciary, being an independent department, and acting under an oath to pursue the law of treaties as the supreme law of the land, might not readily follow the executive example; and a right in one expositor of treaties to consider them as not in force, whilst it would be the duty of anther expositor to consider them as in force, would be a phenomenon not so easy to be explained. Indeed, as the doctrine stands qualified, it leaves the executive the right of suspending the law of treaties in relation to rights of one description, without exempting it from the duty of enforcing it in relation to rights of another description.

Writings of Madison, Volume 1: 1769-1793, p.636

But the writer is embarked in so unsound an argument that he does not save the rest of his inference by this sacrifice of one half of it. It is not true, that all public rights are of course suspended by a refusal to acknowledge the government, or even by a suspension of the government. And in the next place, the right in question does not follow from the necessary suspension of public rights, in consequence of a refusal to acknowledge the government.

Writings of Madison, Volume 1: 1769-1793, p.636

Public rights are of two sorts: those which require the agency of government; those which may be carried into effect without that agency.

Writings of Madison, Volume 1: 1769-1793, p.636

As public rights are the rights of the nation, not of the government, it is clear that wherever they can be made good to the nation, without the office of government, they are not suspended by the want of an acknowledged government, or even by the want of an existing government; and that there are important rights of this description, will be illustrated by the following case:

Writings of Madison, Volume 1: 1769-1793, p.636

Suppose, that after the conclusion of the treaty of alliance between the United States and France, a party of the enemy had surprised and put to death every member of Congress; that the occasion had been used by the people of America for changing the old confederacy into such a government as now exists and that in the progress of this revolution, an interregnum had happened. Suppose further, that during this interval, the States of South Carolina and Georgia, or any other parts of the United States, had been attacked, and been put into evident and imminent danger of being irrecoverably lost, without the interposition of the French arms; is it not manifest, that as the Treaty is the Treaty of the United States, not of their government, the people of the United States, could not forfeit their right to the guaranty of their territory by the accidental suspension of their government; and that any attempt, on the part of France, to evade the obligations of the Treaty, by pleading the suspension of government, or by refusing to acknowledge it; would justly have been received with universal indignation, as an ignominious perfidy?

Writings of Madison, Volume 1: 1769-1793, p.637

With respect to public rights that cannot take effect in favour of a nation without the agency of its government, it is admitted that they are suspended of course where there is no government in existence, and also by a refusal to acknowledge an existing government. But no inference in favour of a right to suspend the operation of Treaties, can be drawn from either case. Where the existence of the government is suspended, it is a case of necessity; it would be a case happening without the act of the executive, and consequently could prove nothing for or against the right.

Writings of Madison, Volume 1: 1769-1793, p.637

In the other case, to wit, of a refusal by the executive to recognise an existing government, however certain it may be, that a suspension of some of the public rights might ensue; yet, it is equally certain, that the refusal would be without right or authority; and that no right or authority could be implied or produced by the unauthorised act. If a right to do whatever might bear an analogy to the necessary consequence of what was done without right, could be inferred from the analogy, there would be no other limit to power than the limit to its ingenuity.

Writings of Madison, Volume 1: 1769-1793, p.637

It is no answer to say that it may be doubtful whether a government does or does not exist; or doubtful which may be the existing and acting government. The case stated by the writer is, that there are existing rulers; that there is an acting government; but that they are new rulers; and that it is a new government. The full reply, however, is to repeat what has been already observed; that questions of this sort are mere questions of fact; that as such only, they belong to the executive; that they would equally belong to the executive, if it was tied down to the reception of public ministers, without any discretion to receive or reject them; that where the fact appears to be, that no government exists, the consequential suspension is independent of the executive; that where the fact appears to be, that the government does exist, the executive must be governed by the fact, and can have no right or discretion, on account of the date or form of the government, to refuse to acknowledge it, either by rejecting its public minister, or by any other step taken on that account. If it does refuse on that account, the refusal is a wrongful act, and can neither prove nor illustrate a rightful power.

Writings of Madison, Volume 1: 1769-1793, p.638

I have spent more time on this part of the discussion than may appear to some, to have been requisite. But it was considered as a proper opportunity for presenting some important ideas, connected with the general subject, and it may be of use in shewing how very superficially, as well as erroneously, the writer has treated it.

Writings of Madison, Volume 1: 1769-1793, p.638

In other respects so particular an investigation was less necessary. For allowing it to be as contended, that a suspension of treaties might happen from a consequential operation of a right to receive public ministers, which is an express right vested by the constitution; it could be no proof, that the same or a similar effect could be produced by the direct operation of a constructive power.

Writings of Madison, Volume 1: 1769-1793, p.638

Hence the embarrassments and gross contradictions of the writer in defining, and applying his ultimate inference from the operation of the executive power with regard to public ministers.

Writings of Madison, Volume 1: 1769-1793, p.638

At first it exhibits an "important instance of the right of the executive to decide the obligation of the nation with regard to foreign nations."

Writings of Madison, Volume 1: 1769-1793, p.638

Rising from that, it confers on the executive, a right "to put the United States in a condition to become an associate in war,"

Writings of Madison, Volume 1: 1769-1793, p.639

And, at its full height, it authorizes the executive "to lay the. legislature under an obligation of declaring war."

Writings of Madison, Volume 1: 1769-1793, p.639

From this towering prerogative, it suddenly brings down the executive to the right of "consequentially affecting the proper or improper exercise of the power of the legislature to declare war,"

Writings of Madison, Volume 1: 1769-1793, p.639

And then, by a caprice as unexpected as it is sudden, it espouses the cause of the legislature; rescues it from the executive right "to lay it under an obligation of declaring war;" and asserts it to be "free to perform its own duties, according to its own sense of them," without any other controul than what it is liable to, in every other legislative act.

Writings of Madison, Volume 1: 1769-1793, p.639

The point at which it finally seems to rest, is, that "the executive in the exercise of its constitutional powers, may establish an antecedent state of things, which ought to weigh in the legislative decisions;" a prerogative which will import a great deal, or nothing, according to the handle by which you take it; and which, at the same time, you can take by no handle that does not clash with some inference preceding.

Writings of Madison, Volume 1: 1769-1793, p.639

If "by weighing in the legislative decisions" be meant having an influence on the expediency of this or that decision in the opinion of the legislature; this is no more than what every antecedent state of things ought to have, from whatever cause proceeding; whether from the use or abuse of constitutional powers, or from the exercise of constitutional or assumed powers. In this sense the power to establish an antecedent state of things is not contested. But then it is of no use to the writer, and is also in direct contradiction to the inference, that the executive may "lay the legislature under an obligation to decide in favour of war."

Writings of Madison, Volume 1: 1769-1793, p.639

If the meaning be as is implied by the force of the terms "constitutional powers," that the antecedent state of things produced by the executive, ought to have a constitutional weight with the legislative: or, in plainer words, imposes a constitutional obligation on the legislative decisions, the writer will not only have to combat the arguments by which such a prerogative has been disproved; but to reconcile it with his last concession, that "the legislature is free to perform its duties according to its own sense of them." He must shew that the legislature is, at the same time, constitutionally free to pursue its own judgment and constitutionally bound by the judgment of the executive.

Number IV.

Writings of Madison, Volume 1: 1769-1793, p.640

The last papers completed the view proposed to be taken of the arguments in support of the new and aspiring doctrine, which ascribes to the executive the prerogative of judging and deciding whether there be causes of war or not, in the obligations of treaties; notwithstanding the express provision in the constitution, by which the legislature is made the organ of the national will, on questions whether there be or be not a cause for declaring war. If the answer to these arguments has imparted the conviction which dictated. it, the reader will have pronounced that they are generally superficial, abounding in contradictions, never in the least degree conclusive to the main point, and not unfrequently conclusive against the writer himself; whilst the doctrine, that the powers of treaty and war are in their nature executive powers, which forms the basis of those arguments, is as indefensible and as dangerous as the particular doctrine to which they are applied.

Writings of Madison, Volume 1: 1769-1793, p.640

But it is not to be forgotten that these doctrines, though ever so clearly disproved, or ever so weakly defended, remain before the public a striking monument of the principles and views which are entertained and propagated in the community.

Writings of Madison, Volume 1: 1769-1793, p.640

It is also to be remembered, that however the consequences flowing from such premises may be disavowed at this time, or by this individual, we are to regard it as morally certain, that in proportion as the doctrines make their way into the creed of the government and the acquiescence of the public, every power that can be deduced from them, will be deduced and exercised sooner or later by those who may have an interest in so doing. The character of human nature gives this salutary warning to every sober and reflecting mind. And the history of government in all its forms, and in every period of time, ratifies the danger. A people, therefore, who are so happy as to possess the inestimable blessing of a free and defined constitution, cannot be too watchful against the introduction, nor too critical in tracing the consequences, of new principles and new constructions, that may remove the landmarks of power.

Writings of Madison, Volume 1: 1769-1793, p.641

Should the prerogative which has been examined be allowed, in its most limited sense, to usurp the public countenance, the interval would probably be very short before it would be heard from some quarter or other, that the prerogative either amounts to nothing, or means a right to judge and conclude that the obligations of treaty impose war as well as that they permit peace; that it is fair reasoning to say, that if the prerogative exists at all, an operative rather than an inert character ought to be given to it.

Writings of Madison, Volume 1: 1769-1793, p.641

In support of this conclusion there would be enough to echo, "that the prerogative in this active sense is connected with the executive in various capacities, as the organ of intercourse between the nation and foreign nations, as the interpreter of national treaties," (a violation of which may be a cause of war,) "as that power which is charged with the execution of the laws, of which treaties make a part, as that power which is charged with the command and application of the public force."

Writings of Madison, Volume 1: 1769-1793, p.641

With additional force, it might be said that the executive is as much the executor as the interpreter of treaties; that if by virtue of the first character, it is to judge of the obligations of treaties, it is, by virtue of the second, equally authorized to carry those obligations into effect. Should there occur, for example, a casus foederis, claiming a military co-operation of the United States, and a military force should happen to be under the command of the executive, it must have the same right, as executor of public treaties, to employ the public force, as it has in quality of interpreter of public treaties to decide whether it ought to be employed.

Writings of Madison, Volume 1: 1769-1793, p.642

The case of a treaty of peace would be an auxiliary to comments of this sort: it is a condition, annexed to every treaty, that an infraction even of an important article, on one side, extinguishes the obligations on the other; and the immediate consequence of a dissolution of a treaty of peace is a restoration of a state of war. If the executive is "to decide on the obligation of the nation with regard to foreign nations;" "to pronounce the existing condition [in the sense annexed by the writer] of the nation with regard to them; and to admonish the citizens of their obligations and duties, as founded upon that condition of things;" "to judge what are the reciprocal rights and obligations of the United States, and of all and each of the powers at war;" add that if the executive, moreover, possesses all powers relating to war, not strictly within the power to declare war, which any pupil of political casuistry could distinguish from a mere relapse into a war that had been declared: with this store of materials, and the example given of the use to be made of them, would it be difficult to fabricate a power in the executive to plunge the nation into war, whenever a treaty of peace might happen to be infringed?

Writings of Madison, Volume 1: 1769-1793, p.642

But if any difficulty should arise, there is another mode chalked out, by which the end might clearly be brought about, even without the violation of the treaty of peace; especially if the other party should happen to change its government at the crisis. The executive could suspend the treaty of peace by refusing to receive an ambassador from the new government; and the state of war emerges of course.

Writings of Madison, Volume 1: 1769-1793, p.642

This is a sample of the use to which the extraordinary publication we are reviewing might be turned. Some of the inferences could not be repelled at all. And the least regular of them must go smoothly down with those who had swallowed the gross sophistry which wrapped up the original dose.

Writings of Madison, Volume 1: 1769-1793, p.642

Every just view that can be taken of this subject admonishes the public of the necessity of a rigid adherence to the simple, the received, and the fundamental doctrine of the constitution, that the power to declare war, including the power of judging of the causes of war, is fully and exclusively vested in the legislature; that the executive has no right, in any case, to decide the question, whether there is or is not cause for declaring war; that the right of convening and informing Congress, whenever such a question seems to call for a decision, is all the right which the constitution has deemed requisite or proper; and that for such, more than for any other contingency, this right was specially given to the executive.

Writings of Madison, Volume 1: 1769-1793, p.643

In no part of the constitution is more wisdom to be found, than in the clause which confides the question of war or peace to the legislature, and not to the executive department. Beside the objection to such a mixture of heterogeneous powers, the trust and the temptation would be too great for any one man; not such as nature may offer as the prodigy of many centuries, but such as may be expected in the ordinary successions of magistracy. War is, in fact, the true nurse of executive aggrandizement. In war, a physical force is to be created, and it is the executive will which is to direct it. In war, the public treasures are to be unlocked, and it is the executive hand which is to dispense them. In war, the honors and emoluments of office are to be multiplied; and it is the executive patronage under which they are to be enjoyed. It is in war, finally, that laurels are to be gathered; and it is the executive brow they are to encircle. The strongest passions and most dangerous weaknesses of the human breast, ambition, avarice, vanity, the honorable or venial love of fame, are all in conspiracy against the desire and duty of peace.

Writings of Madison, Volume 1: 1769-1793, p.643

Hence it has grown into an axiom that the executive is the department of power most distinguished by its propensity to war; hence it is the practice of all States, in proportion as they are free, to disarm this propensity of its influence.

Writings of Madison, Volume 1: 1769-1793, p.643

As the best praise, then, that can be pronounced on an executive magistrate, is that he is the friend of peace—a praise that rises in its value as there may be a known capacity to shine in war—so it must be one of the most sacred duties of a free people to mark the first omen in the society, of principles that may stimulate the hopes of other magistrates of another propensity, to intrude into questions on which its gratification depends. If a free people be a wise people also, they will not forget that the danger of surprise can never be so great as when the advocates for the prerogative of war can sheathe it in a symbol of peace.

Writings of Madison, Volume 1: 1769-1793, p.644

The constitution has manifested a similar prudence in refusing to the executive the sole power of making peace. The trust in this instance, also, would be too great for the wisdom, and the temptations too strong for the virtue, of a single citizen. The principal reasons on which the constitution proceeded in its regulation of the power of treaties, including treaties of peace, are so aptly furnished by the work already quoted more than once, that I shall borrow another comment from that source.

Writings of Madison, Volume 1: 1769-1793, p.644

"However proper or safe it may be in a government where the executive magistrate is an hereditary monarch, to commit to him the entire power of making treaties, it would be utterly unsafe and improper to entrust that power to an elective magistrate of four years' duration. It has been remarked upon another occasion, and the remark is unquestionably just, that an hereditary monarch, though often the oppressor of his people, has personally too much at stake in the government to be in any material danger of being corrupted by foreign powers; but that a man raised from the station of a private citizen to the rank of chief magistrate, possessed of but a moderate or slender fortune, and looking forward to a period not very remote when he may probably be obliged to return to the station from which he was taken, might sometimes be under temptations to sacrifice his duty to his interest, which it would require superlative virtue to withstand. An avaricious man might be tempted to betray the interests of the State to the acquisition of wealth. An ambitious man might make his own aggrandizement, by the aid of a foreign power, the price of his treachery to his constituents. The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind as those which concern its intercourse with the rest of the world to the sole disposal of a magistrate created and circumstanced as would be a president of the United States."—Federalist, vol. 2, p. 344.\*

Writings of Madison, Volume 1: 1769-1793, p.645

I shall conclude this paper and this branch of the subject with two reflections, which naturally arise from this view of the constitution.

Writings of Madison, Volume 1: 1769-1793, p.645

The first is, that as the personal interest of an hereditary monarch in the government is the only security against the temptation incident to the commitment of the delicate and momentous interests of the nation, which concerns its intercourse with the rest of the world to the disposal of a single magistrate, it is a plain consequence, that every addition that may be made to the sole agency and influence of the executive, in the intercourse of the nation with foreign nations, is an increase of the dangerous temptation to which an elective and temporary magistrate is exposed; and an argument and advance towards the security afforded by the personal interests of an hereditary magistrate.

Writings of Madison, Volume 1: 1769-1793, p.645

Secondly, as the constitution has not permitted the executive singly to conclude or judge that peace ought to be made, it might be inferred from that circumstance alone that it never meant to give it authority, singly, to judge and conclude that war ought not to be made: The trust would be precisely similar and equivalent in the two cases. The right to say that war ought not to go on, would be no greater than the right to say that war ought not to begin. Every danger of error or corruption incident to such a prerogative in one case is incident to it in the other. If the constitution, therefore, has deemed it unsafe or improper in the one case, it must be deemed equally so in the other case.

Number V.

Writings of Madison, Volume 1: 1769-1793, p.646

Having seen that the executive has no constitutional right to interfere in any question, whether there be or be not a cause of war, and the extensive consequences flowing from the doctrines on which such a claim has been asserted, it remains to be inquired, whether the writer is better warranted in the fact which he assumes, namely, that the proclamation of the executive has undertaken to decide the question whether there be a cause of war or not, in the article of guaranty between the United States and France, and in so doing has exercised the right which is claimed for that department.

Writings of Madison, Volume 1: 1769-1793, p.646

Before I proceed to the examination of this point, it may not be amiss to advert to the novelty of the phraseology, as well as of the doctrines espoused by this writer. The source from which the former is evidently borrowed may enlighten our conjectures with regard to the source of the latter. It is a just observation, also, that words have often a gradual influence on ideas, and when used in an improper sense may cover fallacies which would not otherwise escape detection.

Writings of Madison, Volume 1: 1769-1793, p.646

I allude particularly to his application of the term government to the executive authority alone. The proclamation is a "manifestation of the sense of the government." "Why did not the government wait," &c. "The policy on the part of the government of removing all doubt as to its own disposition."\* "It was of great importance that our citizens should understand as early as possible the opinion entertained by the government," &c. "If, in addition to the rest, the early manifestation of the views of the government had any effect in fixing the public opinion," &c. The reader will probably be struck with the reflection, that if the proclamation really possessed the character, and was to have the effects, here ascribed to it, something more than the authority of the government, in the writer's sense of government, would have been a necessary sanction to the act; and if the term "government" be removed, and that of "president" substituted, in the sentences quoted, the justice of the reflection will be felt with peculiar force. But I remark only on the singularity of the style adopted by the writer, as showing either that the phraseology of a foreign government is more familiar to him than the phraseology proper to our own, or that he wishes to propagate a familiarity of the former in preference to the latter. I do not know what degree of disapprobation others may think due to this innovation of language; but I consider it as far above a trivial criticism to observe, that it is by no means unworthy of attention, whether viewed with an eye to its probable cause or its apparent tendency. "The government" unquestionably means, in the United States, the whole government, not the executive part, either exclusively or pre-eminently; as it may do in a monarchy, where the splendor of prerogative eclipses, and the machinery of influence directs, every other part of the government. In the former and proper sense, the term has hitherto been used in official proceedings, in public discussions, and in private discourse. It is as short and as easy, and less liable to misapprehension, to say the executive or the president, as to say the government. In a word, the new dialect could not proceed either from necessity, conveniency, propriety, or perspicuity; and being in opposition to common usage, so marked a fondness for it justifies the notice hare taken of it. It shall no longer detain me, however, from the more important subject of the present paper.

Writings of Madison, Volume 1: 1769-1793, p.647

I proceed, therefore, to observe, that as a "proclamation," in its ordinary use, is an address to citizens or subjects only; as it is always understood to relate to the law actually in operation, and to be an act purely and exclusively executive, there can be no implication in the name or the form of such an instrument, that it was meant principally for the information of foreign nations; far less that it related to an eventual stipulation on the subject acknowledged to be within the legislative province.

Writings of Madison, Volume 1: 1769-1793, p.647

When the writer, therefore, undertook to engraft his new prerogative on the proclamation by ascribing to it so unusual and unimplied a meaning, it was evidently incumbent on him to show that the text of the instrument could not be satisfied by any other construction than his own. Has he done this? No. What has he done? He has called the proclamation a proclamation of neutrality; he has put his own arbitrary meaning on that phrase, and has then proceeded in his arguments and his inferences with as much confidence as if no question was ever to be asked, whether the term "neutrality" be in the proclamation, or whether, if there, it could justify the use he makes of it.

Writings of Madison, Volume 1: 1769-1793, p.648

It has appeared from observations already made, that if the term "neutrality" was in the proclamation, it could not avail the writer in the present discussion; but the fact is, no such term is to be found in it, nor any other term of a meaning equivalent to that, in which the term neutrality is used by him.

Writings of Madison, Volume 1: 1769-1793, p.648

There is the less pretext in the present case for hunting after any latent or extraordinary object, because an obvious and legal one is at hand to satisfy the occasion on which the proclamation issued. The existence of war among several nations with which the United States have an extensive intercourse; the duty of the executive to preserve peace by enforcing its laws whilst those laws continued in force; the danger that indiscreet citizens might be tempted or surprised by the crisis into unlawful proceedings, tending to involve the United States in a war which the competent authority might decide them to be at liberty to avoid, and which, if they should be judged not at liberty to avoid, the other party to the eventual contract might be willing not to impose on them; these surely might have been sufficient grounds for the measure pursued by the executive; and being legal and rational grounds, it would be wrong, if there be no necessity to look beyond them.

Writings of Madison, Volume 1: 1769-1793, p.648

If there be anything in the proclamation of which the writer could have made a handle, it is the part which declares the disposition, the duty, and the interest of the United States, in relation to the war existing in Europe. As the legislature is the only competent and constitutional organ of the will of the nation, that is, of its disposition, its duty, and its interest, in relation to a commencement of war, in like manner as the president and senate jointly, not the president alone, are in relation to peace, after war has been commenced, I will not dissemble my wish that a language less exposed to criticism had been preferred; but taking the expressions, in the sense of the writer himself, as analogous to the language which might be proper on the reception of a public minister or any similar occasion, it is evident that his construction can derive no succour even from this source.

Writings of Madison, Volume 1: 1769-1793, p.649

If the proclamation, then, does not require the construction which this writer has taken the liberty of putting on it, I leave it to be decided whether the following considerations do not forbid us to suppose that the president could have intended, by that act, to embrace and prejudge the legislative question, whether there was, or was not, under the circumstances of the case, a cause of war in the article of guaranty.

Writings of Madison, Volume 1: 1769-1793, p.649

It has been shown that such an intention would have usurped a prerogative not vested in the executive, and even confessesley vested in another department.

Writings of Madison, Volume 1: 1769-1793, p.649

In exercising the constitutional power of deciding a question of war, the legislature ought to be as free to decide, according to its own sense of the public good, on one side as on the other side. Had the proclamation prejudged the question on either side and proclaimed its decision to the world, the legislature, instead of being as free as it ought, might be thrown under the dilemma of either sacrificing its judgment to that of the executive, or, by opposing the executive judgment, of producing a relation between the two departments extremely delicate among ourselves, and of the worst influence on the national character and interests abroad. A variance of this nature, it will readily be perceived, would be very different from a want of conformity to the mere recommendations of the executive in the measures adopted by the legislature.

Writings of Madison, Volume 1: 1769-1793, p.649

It does not appear that such a Proclamation could have even pleaded any call, from either of the parties at war with France, for an explanation of the light in which the guaranty was viewed. Whilst, indeed, no positive indication whatever was given of hostile purposes, it is not conceived that any power could have decently made such an application, or if it had, that a proclamation would have been either a satisfactory or an honorable answer. It could not have been satisfactory, if serious apprehensions were entertained, because it would not have proceeded from that authority which alone could definitively pronounce the will of the United States on the subject. It would not have been honorable, because a private diplomatic answer only is due to a private diplomatic application; and to have done so much more would have marked a pusillanimity and want of dignity in the executive magistrate.

Writings of Madison, Volume 1: 1769-1793, p.650

But whether the executive was or was not applied to, or whatever weight be allowed to that circumstance, it ought never to be presumed, that the executive would so abruptly, so publicly, and so solemnly, proceed to disclaim a sense of the contract, which the other party might consider and wish to support by discussion, as its true and reasonable import. It is asked, indeed, in a tone that sufficiently displays the spirit in which the writer construes both the Proclamation and the treaty, "Did the executive stand in need of the logic of a foreign agent to enlighten it as to the duties or the interests of the nation; or was it bound to ask his consent to a step which appeared to itself consistent with the former, and conducive to the latter? The sense of treaties was to be learnt from the treaties themselves." Had he consulted his Vattel, instead of his animosity to France, he would have discovered that however humiliating it might be to wait for a foreign logic, to assist the interpretation of an act depending on the national authority alone, yet in the case of a treaty, which is as much the treaty of a foreign nation, as it is ours; and in which foreign duties and rights are as much involved as ours, the sense of the treaty, though to be learnt from the treaty itself, is to be equally learned by both parties to it. Neither of them can have a right more than the other, to say what a particular article means; and where there is equality without a judge, consultation is as consistent with dignity as it is conducive to harmony and friendship; let Vattel, however, be heard on the subject.

Writings of Madison, Volume 1: 1769-1793, p.651

"The third general maxim, or principle, on the subject of interpretation [of Treaties] is: that neither the one nor the other of the interested or contracting powers has a right to interpret the act or treaty at its pleasure. For if you are at liberty to give my promise what sense you please, you will have the power of obliging me to do whatever you have a mind, contrary to my intention, and beyond my real engagement: and reciprocally, If I am allowed to explain my promises as I please, I may render them vain and illusive, by giving them a sense quite different from that in which they were presented to you, and in which you must have taken them in accepting them." Vat., B. II, c. vii, § 265.

Writings of Madison, Volume 1: 1769-1793, p.651

The writer ought to have been particularly sensible of the improbability that a precipitate and ex parte decision of the question arising under the guaranty, could have been intended by the proclamation. He had but just gone through his undertaking, to prove that the article of guaranty like the rest of the treaty is defensive, not offensive. He had examined his books and retailed his quotations, to shew that the criterion between the two kinds of war is the circumstance of priority in the attack. He could not therefore but know, that according to his own principles, the question whether the United States were under an obligation or not to take part in the war, was a question of fact whether the first attack was made by France or her enemies. And to decide a question of fact, as well as of principle, without waiting for such representations and proofs, as the absent and interested party might have to produce, would have been a proceeding contrary to the ordinary maxims of justice, and requiring circumstances of a very peculiar nature, to warrant it towards any nation. Towards a nation which could verify her claim to more than bare justice by our own reiterated and formal acknowledgments, and which must in her present singular and interesting situation have a peculiar sensibility to marks of our friendship or alienation, the impropriety of such a proceeding would be infinitely increased, and in the same proportion the improbability of its having taken place.

Writings of Madison, Volume 1: 1769-1793, p.652

There are reasons of another sort which would have been a bar to such a proceeding. It would have been as impolitic as it would have been unfair and unkind.

Writings of Madison, Volume 1: 1769-1793, p.652

If France meant not to insist on the guaranty, the measure, without giving any present advantage, would have deprived the United States of a future claim which may be of importance to their safety. It would have inspired France with jealousies of a secret bias in this country toward some of her enemies, which might have left in her breast a spirit of contempt and revenge of which the effects might be felt in various ways. It must in particular have tended to inspire her with a disinclination to feed our commerce with those important advantages which it already enjoys, and those more important ones, which it anxiously contemplates. The nation that consumes more of the fruits of our soil than any other nation in the world, and supplies the only foreign raw material of extensive use in the United States, would not be unnecessarily provoked by those who understand the public interest, and make it their study, as it is their interest to advance it.

Writings of Madison, Volume 1: 1769-1793, p.652

I am aware that the commonplace ,remark will be interposed, that, "commercial privileges are not worth having, when not secured by mutual interest; and never worth purchasing because they will grow of themselves out of a mutual interest." Prudent men, who do not suffer their reason to be misled by their prejudices, will view the subject in a juster light. They will reflect, that if commercial privileges are not worth purchasing, they are worth having without purchase; that in the commerce of a great nation, there are valuable privileges which may be granted or not granted, or granted either to this or that country, without any sensible influence on the interest of the nation itself; that the friendly or unfriendly disposition of a country, is always an article of moment in the calculations of a comprehensive interest; that some sacrifices of interest will be made to other motives, by nations as well as by individuals, though not with the same frequency, or in the same proportions; that more of a disinterested conduct or of a conduct founded on liberal views of interest, prevails in some nations than in others; that as far as can be seen of the influence of the revolution on the genius and the policy of France, particularly with regard to the United States, everything is to be hoped by the latter on this subject, which one country can reasonably hope from another. In this point of view a greater error could not have been committed than in a step, that might have turned the present disposition of France to open her commerce to us as far as a liberal calculation of her interest would permit, and her friendship towards us, and confidence in our friendship towards her, could prompt, into a disposition to shut it as closely against us as the united motives of interest, of distrust, and of ill-will, could urge her.

Writings of Madison, Volume 1: 1769-1793, p.653

On the supposition that France might intend to claim the guaranty, a hasty and harsh refusal before we were asked, on a ground that accused her of being the aggressor in the war against every power in the catalogue of her enemies, and in a crisis when all her sensibility must be alive towards the United States, would have given every possible irritation to a disappointment which every motive that one nation could feel towards another and towards itself, required to be alleviated by all the circumspection and delicacy that could be applied to the occasion.

Writings of Madison, Volume 1: 1769-1793, p.653-p.654

The silence of the Executive since the accession of Spain and Portugal to the war against France throws great light on the present discussion. Had the proclamation been issued in the sense, and for the purposes ascribed to it, that is to say, as a declaration of neutrality, another would have followed, on that event. If it was the right and duty of the Government, that is, the President, to manifest to Great Britain and Holland, and to the American merchants and citizens, his sense, his disposition, and his views on the question, whether the United States were under the circumstances of the case, bound or not, to execute the clause of guaranty, and not to leave it uncertain whether the Executive did or did not believe a state of neutrality, to be consistent with our treaties, the duty as well as the right prescribed a similar manifestation to all the parties concerned after\* Spain and Portugal had joined the other maritime enemies of France. The opinion of the Executive with respect to a consistency or inconsistency of neutrality with treaties in the latter case, could not be inferred from the proclamation in the former, because the circumstances might be different. Taking the proclamation in its proper sense, as reminding all concerned, that as the United States were at peace, (that state not being affected by foreign wars, and only to be changed by the legislative authority of the country,) the laws of peace were still obligatory and would be enforced, and the inference is so obvious and so applicable to all other cases whatever circumstances may distinguish them, that another proclamation would be unnecessary. Here is a new aspect of the whole subject, admonishing us in the most striking manner at once of the danger of the prerogative contended for, and the absurdity of the distinctions and arguments employed in its favour. It would be as impossible in practice, as it is in theory, to separate the power of judging and concluding that the obligations of a treaty do not impose war from that of judging and concluding that the obligations do impose war. In certain cases, silence would proclaim the latter conclusion, as intelligibly as words could do the former. The writer indeed has himself abandoned the distinction in his VIIth paper, by declaring expressly that the object of the proclamation would have been defeated "by leaving it uncertain whether the Executive did or did not believe a state of neutrality to be consistent with our treaties."

HELVIDIUS.

Writings of James Madison

Volume 2: 1794-1815

1794

LETTERS, ETC.

To George Washington.

Writings of Madison, Volume 2: 1794-1815, p.1

J. Madison presents his apologies to the President for not sending the pamphlets, &c., from Sir J. Sinclair sooner, for the use of Mr. Peters, as was intimated when he last had the honor of seeing the President. He had hopes of being able, prior to this, to have looked a little into them, and have complied with the desire of the President expressed when the papers were put into J. M.'s hands. It has been impossible for him to do this hitherto. To-day and to-morrow he had contemplated an effort for the purpose; but it will be even more convenient for him after Mr. Peters shall have had the requisite use of them.

FEB 8th, 1794.

To Thomas Jefferson.

PHILADELPHIA., March 2d, 1794.

Writings of Madison, Volume 2: 1794-1815, p.1

DEAR SIR,—Your favor of the 15th Ult. came to hand two days ago. It was not my intention that my first to you should have been procrastinated to the present date, but several causes have concurred in producing the effect. Among others, I was in hopes every week to be able to furnish you with the proceedings on the subject grounded on your commercial Report,\* and particularly with such of them as related to yourself. It has so happened that I never could find leisure to make out for the press the share I had in them till very lately. The earlier part of my observations were sent to the Printer several weeks ago, but never made their appearance till Thursday evening last. The latter part is following, as you will find, as fast as I can write it out, which, from the extreme length of it, the brevity of my notes, and the time that has run since the observations were delivered, is a task equally tedious and laborious. The sequel will be forwarded to you as soon as it gets into print. As you are so little supplied with the current information, it may be necessary to apprise you that after the general discussions on the measure proposed by me had been closed, and the first general resolution agreed to by a majority of 5 or 6, several of the Eastern members, friendly to the object, insisted on a postponement till the first Monday in March. It was necessary to gratify them, and the postponement was carried by a small majority against the efforts of the adverse party, who counted on the votes of the timid members, if forced, before they could learn the sense of their constituents. The interval has produced vast exertions by the British party to mislead the people of the Eastern States. No means have been spared. The most artful and wicked calumnies have been propagated with all the zeal which malice and interest could invent. The blackest of these calumnies, as you may imagine, have fallen to the lot of the mover of the Resolutions. The last Boston paper contains a string of charges, framed for the purpose of making the Eastern people believe that he has been the counsellor and abettor of Genet in all his extravagances, and a corrupt tool of France ever since the embassy of Gerard. It appears, however, that in spite of all these diabolical manoeuvres, the town of Boston has been so far awakened as to have a meeting in the town-house, and a pretty unanimous vote for a committee to consider the subject, and report proper instructions for their member in Congress. The Committee consists of men of weight, and, for the most part, of men of the right sort. There are some, however, who will endeavour to give a wrong turn to the business. I see by a paper of last evening that even in New York a meeting of the people has taken place, at the instance of the Republican party, and that a committee is appointed for the like purpose. As far as I know the names, the majority is on the right side. One motive for postponing the question so long was the chance of hearing from England, and the probability that the intelligence would strengthen the arguments for retaliation. Letters from Pinckney have accordingly arrived. As yet they are under the seal of confidence, but it is in universal conversation that they mark precisely, and more strongly than ever, the unjust and unfriendly features which have characterized the British policy towards the United States. Soon after the arrival of the Packet, Mr. Randolph wrote to Hammond, desiring to know whether an answer had been received to your letter of May, 1792. His reply was simply that it had not.

Writings of Madison, Volume 2: 1794-1815, p.3

The scheme of Frigates to block up the Mediterranean has been pushed slowly, but successfully, to the stage of resolutions, on which a Bill is to be reported. The majority has never exceeded two or three votes. Whether the scheme will finally take effect is not certain. It probably will, unless accounts from Europe furnish hopes that Spain or Portugal, particularly the latter, which is friendly and interested in our trade, may interfere.

Writings of Madison, Volume 2: 1794-1815, p.3

Genet has been superseded by Fauchét, the Secretary to the Executive Council. The latter has not been here long enough to develope his temper and character. He has the aspect of moderation. His account of things in France is very favorable on the whole. He takes particular pains to assure all who talk with him of the perseverance of France in her attachment to us, and her anxiety that nothing which may have taken place may lessen it on our side. In his interview with the President he held the same language; and I am told by E. Randolph, that the President not only declared explicitly his affectionate solicitude for the success of the Republic, but after he had done so, with great emphasis, desired, in order to be as pointed as possible, that his expressions might be repeated by E. Randolph, who acted as Interpreter. Fauchèt does not speak our language. La Forest comes over with the Minister as Consul General, and Pètry, formerly Consul of S. Carolina, as Consul for this place. The political characters of these gentlemen, as heretofore understood, give some uneasiness to the Republican party; and the uneasiness has been increased by the homage paid by the leaders of the other party to the new Minister. They may probably aim at practising on him by abusing the madness of Genet, and representing the Republicans as rather his partizans than the friends of the French cause. But if he is not an uncommon feel, or a traitor, it is impossible he can play into their hands, because the Anglicism stamped on the Aristocratic faction must warn him of its hostility to his objects. Genet has not taken any decided step in relation to his future movements. He is said to be poor, and, by some, to meditate a return to France, with a view to join the army; by others, a settlement in this Country as a farmer. If he is prudent, he will not venture to France in her present temper, with all the suspicions and follies with which he is loaded. You must have seen that Brissot and his party have been cut off by the Guillotine.

Writings of Madison, Volume 2: 1794-1815, p.4

I am informed, by an anonymous letter from N. York, that large purchases are making there, and in the Eastern States, for supplying the British armaments in the West Indies, and that American vessels are chartering for the conveyance of them. This is really horrible. Whilst we allow the British to stop our supplies to the French Dominions, we allow our citizens to carry supplies to hers, for the known purpose of aiding her in taking from France the Islands we have guarantied to her, and transferring these valuable markets from friendly to unfriendly hands. What can be done? The letter writer suggests an Embargo. Perhaps the best step would be to declare that so long as Great Britain will not allow the French to be supplied by us, we will not allow our supplies to go to her. It is not clear, however, that such a measure could stand the clamor of the Merchants, seconded by the interest of the farmers and Ship owners.

To Thomas Jefferson.

PHILADELPHIA, March 9th, 1794.

Writings of Madison, Volume 2: 1794-1815, p.5

DEAR SIR,—The commercial propositions were postponed for one week longer, on the arrival of the appointed day. To-morrow they will again come on, unless precluded by debates on other business, or again postponed. You will see by the in-closed in what manner the meeting at Boston issued, and the course the subject is taking at New York. There was a large mercantile meeting last night in this city, for obtaining a vote of remonstrance against the propositions. A paper was accordingly introduced by Fitzsimmons, Bingham, &c. It was warmly, and I am told ably, attacked by Swanwick, who explained and defended the propositions. He was clapped, and, on the question, there were three or four noes for one aye to the paper. The minority had the arrogance, notwithstanding, to sign the paper individually, and will recruit all the names they can today, among the Quakers and others not present at the meeting, in order to deliver in the paper with more effect to-morrow morning. What the fate of the propositions will be is more uncertain than ever. Some of the friends of them begin to say that more vigorous measures are rendered necessary by the progress of British outrages. The additional instruction of November 6, which you will find in the inclosed papers, is so severely felt by the Merchants, that some of them, also, without relinquishing their opposition to what is proposed, talk of measures more congenial with the crisis. An Embargo on American vessels, on those and British also, and even a seizure of British property, are in the mouths of some of them. The additional instruction is questioned by some as inauthentic, but it is infinitely probable that it is genuine. The doubt is rounded on the earliness of its date, compared with that of our last intelligence from Europe, which is silent as to that matter. But it may have been decreed in the Cabinet and not put in force, or given into the hands of officers clandestinely, that the American prey might not escape. Our situation is certainly ripening to a most serious crisis. It does not appear, however, that in any event the commercial retaliation can be improper; but, on the contrary, that in every event it will be advantageous.

Writings of Madison, Volume 2: 1794-1815, p.6

You will perceive that Fauchèt is going on in the conciliatory plan of reversing the errors of his predecessor.

Writings of Madison, Volume 2: 1794-1815, p.6

The project of a squadron of Frigates is pursued with unremitting ardor. In the course of the Bill, the two 20-gun ships have been turned into two of 36 guns, so that the force is to consist of 6 in the whole, 4 of which will be of 40 guns. As the danger of a war has appeared to increase, every consideration rendering them at first unwise now renders them absurd; yet the vague idea of protecting trade when it most needs it misleads the interested who are weak, and the weak who are not interested.

Writings of Madison, Volume 2: 1794-1815, p.6

I have this moment received a note informing me that there are letters from New York containing definitive intelligence concerning Toulon. The British burnt sixteen French sail of the Line in their escaping out of the Harbour. Many of the Toulonese were drowned in attempting to get on board the British Ships. All the remaining Inhabitants were drawn up in the public square, and underwent military execution. The information comes by a vessel from Carthagena.

Writings of Madison, Volume 2: 1794-1815, p.6

Adieu. Yours affectionately.

To Thomas Jefferson.

March 12th, 1794.

Writings of Madison, Volume 2: 1794-1815, p.6

DEAR Sir,—The Merchants, particularly of New England, have had a terrible slam in the West Indies. About a hundred vessels have been seized by the British for condemnation, on the pretext of enforcing the laws of the Monarchy with regard to the Colony trade. The partisans of England, considering a war as now probable, are endeavoring to take the lead in defensive preparations, and to acquire merit with the people by anticipating their wishes. This new symptom of insolence and enmity in Britain shews either that she meditates a formal war, as soon as she shall have crippled our marine resources, or that she calculates on the pusillanimity of this Country, and the influence of her party, in a degree that will lead her into aggressions which our love of peace can no longer bear. The commercial propositions are, in this state of things, not the precise remedy to be pressed as first in order; but they are in every view, and in any event, proper, to make part of our standing laws, till the principle of reciprocity be established by mutual arrangements.

To Thomas Jefferson.

PHILADELPHIA, March 14, 1794.

Writings of Madison, Volume 2: 1794-1815, p.7

DEAR Sir,—The paper of yesterday inclosed will give you a clue to the designs of the party which has used Sedgwick for its organ. His immediate prompter will be seen both in his speech and in his propositions. Whether more be seriously aimed at than to embarrass the others, which have been long depending, is by some doubted. Perhaps this may be one of the objects; but you understand the game behind the curtain too well not to perceive the old trick of turning every contingency into a resource for accumulating force in the Government. It would seem, however, that less subtlety has prevailed in this than in some other instances. The ostensible reason for the provisional army is not only absurd, but remote from the present sensations of the public; and at the same time disarms the projectors of the cavil and calumny used with most success against the commercial propositions, to wit, that they tended to provoke war by an unnecessary alarm and irritation to Great Britain. The commercial propositions were the subject of yesterday, and will probably be resumed to-day. We admit that the change of appearances may require something further, but we contend that they ought to make part of our Code until the end be obtained, and that they will be proper, whether we are to be at peace or war. In the former case, they will have their intended operation. In the latter, they will put our Executive on the right ground for negotiation.

To Thomas Jefferson.

March 24th, 1794.

Writings of Madison, Volume 2: 1794-1815, p.8

DEAR SIR,—The past week has been spent chiefly on the question of an Embargo. It was negatived on Friday by 48 against 46, the former composed chiefly of Eastern, the latter of Southern members. The former are now for giving the power to the Executive, even during the session of Congress. In France, everything is in a state of vigor beyond what has been seen there. Fauchèt proceeds with great circumspection and prudence here.

To Thomas Jefferson.

March 26th, 1794.

Writings of Madison, Volume 2: 1794-1815, p.8

DEAR SIR,—My last informed you that an embargo had been proposed and negatived. You will see by the inclosed that, on a renewal of the proposition yesterday, it went through the House of Representatives by a very large majority. The change took place among the Eastern members, whose constituents were growing so clamorous under their losses in the West Indies as to alarm the Representatives. The Senate will have the subject before them to-day, and will probably concur. It is said that some further measures are to be discussed in that House. The commercial propositions have not yet received a vote. The progress of the evils which they were to remedy having called for more active medicine, it has not been deemed prudent to force them on the attention of the House during more critical discussions. They will, however, notwithstanding a change of circumstances, co-operate with other measures as an alterative system, and will be pressed to a vote at the first favorable moment. Whether they can be carried into a law at the present session is doubtful, on account of the lateness of the day, and the superior urgency of other questions. The point immediately depending is the discrimination between Great Britain and other nations as to the proposed duties on manufactures. If this should succeed, the future parts will, I think, meet with little difficulty. The enquiry into the Treasury is going on, though not very rapidly. I understand that it begins to pinch where we most expected—the authority for drawing the money from Europe into the Bank. Hamilton endeavoured to parry the difficulty by contesting the right of the Committee to call for the authority. This failing, he talks of constructive written authority from the President, but relies on parol authority, which I think it impossible the President can support him in.\* The old question of referring the origination of Taxes comes on to-day, and will, in some degree, test the present character of the House. I have written an abundance of letters of late, but fear they are stopped by the small-pox at Richmond.

Writings of Madison, Volume 2: 1794-1815, p.9

The people of Charleston are taking a high tone. Their memorial, which is signed by Ramsay, the Gadsdens, Young, Rutledge, and a very great number of respectable Citizens, marks the deliberate sense of her people. The more violent has been expressed by hanging and burning the effigies of Smith, Ames, Arnold, Dumouriez, and the Devil, en groupe.

To Thomas Jefferson.

PHILADELPHIA, March 31, 1794.

Writings of Madison, Volume 2: 1794-1815, p.9

DEAR SIR,—I forgot to mention in my last that the question whether the ways and means should be referred to the Secretary of the Treasury, as heretofore, or to a Committee, lately came on, and decided the sense of the House to be regenerated on that point. The fiscal party, perceiving their danger, offered a sort of compromise, which took in Mercer, and, with him, sundry others in principle against them. Notwithstanding the success of the stratagem, the point was carried by 49 against 46. If the question had divided the House fairly, there would have been a majority of ten or a dozen, at least.

To Thomas Jefferson.

PHILADELPHIA, April 14, 1794.

Writings of Madison, Volume 2: 1794-1815, p.10

DEAR SIR,—Three propositions levelled at Great Britain have latterly occupied the House of Representatives: 1. To sequester British debts. 2. To establish a lien on British Merchandize, or the value of it, as it arrives. 3. To suspend imports from Great Britain and Ireland till the spoliations be redressed, and the Treaty of Peace be executed. The last has taken the pas in discussion. A majority are apparently in favor. Delay is consequently one of the arts of opposition. It is uncertain, therefore, when a vote will be obtained. It is probable, also, that much will depend on the state of foreign intelligence, which is hourly changing in some of its circumstances. The Executive is said to meditate an Envoy Extraordinary to Great Britain, preferring further negociation to any Legislative operation of a coercive nature. Hamilton is talked of, is much pressed by those attached to his politics, and will probably be appointed, unless overruled by an apprehension from the disgust to Republicanism and to France. His trial is not yet concluded. You will see the issue it will have in the inclosed papers. The letter from the President is inexpressibly mortifying to his friends, and marks his situation to be precisely what you always described it to be. The Committee on Ways and Means was unfortunately composed of a majority infected by the fiscal errors which threaten so ignominious and vexatious a system to our Country. A land tax will be reported, but along with it excises on articles imported and manufactured at home, a stamp tax pervading almost all the transactions of life, and a tax on carriages, as an indirect tax. The embargo will soon be a subject of deliberation again, as its continuance, if proper, ought to be decided some time before its expiration. Whether this will be the case cannot now be foretold.

Writings of Madison, Volume 2: 1794-1815, p.11

The French continue to triumph over their enemies on the Rhine. We learn nothing from the West Indies, except that Martinique had not surrendered on the 25th ult.

Writings of Madison, Volume 2: 1794-1815, p.11

I put into the hands of your cabinet workman here the edition of Milton sent you from France. He was packing up things for you, which afforded a commodious berth for it.

Writings of Madison, Volume 2: 1794-1815, p.11

Fauchet has informally intimated the distaste to Gouverneur Morris, whose recall will follow of course.

Writings of Madison, Volume 2: 1794-1815, p.11

Yours always and affectionately.

To Thomas Jefferson.

PHILADELPHIA, April 28th, 1794.

Writings of Madison, Volume 2: 1794-1815, p.11

DEAR SIR,—The non-importation bill has passed the House of Representatives by 59 against 34. It will probably miscarry in the Senate. It prohibits all articles of British or Irish production after the 1st November, till the claims of the United States be adjusted and satisfied. The appointment of Hamilton as Envoy Extraordinary was likely to produce such a sensation, that, to his great mortification, he was laid aside, and Jay named in his place. The appointment of the latter would have been difficult in the Senate, but for some adventitious causes. There were 10 votes against him in one form of the opposition, and 8 on the direct question. As a resignation of his Judiciary character might, for anything known to the Senate, have been intended to follow his acceptance of the Executive trust, the ground of incompatibility could not support the objections which, since it has appeared that such a resignation was no part of the arrangement, are beginning to be pressed in the Newspapers. If animadversions are undertaken by skilful hands, there is no measure of the Executive administration, perhaps, that will be found more severely vulnerable.

Writings of Madison, Volume 2: 1794-1815, p.12

The English prints breathe an unabated Zeal for the war against France. The Minister carries everything, as usual, in Parliament, notwithstanding the miscarriages at Toulon, &c.; and his force will be much increased by the taking of Martinique, and the colouring it will give to the West India prospects. Nothing further appears as to the views prevailing in relation to us. The latter accounts from the West Indies since the new Instruction of January 8 are rather favorable to the Merchants, and alleviate their resentments; so that Great Britain seems to have derived from the excess of her aggressions a title to commit them in a less degree with impunity. The French arms continue to prosper, though no very capital event is brought by the latest arrivals.

Writings of Madison, Volume 2: 1794-1815, p.12

JOSHUA BARNEY, FREDERICK FOLGER, AND WILLIAM McINTIRE,

Writings of Madison, Volume 2: 1794-1815, p.12

ESQRs.

PHILADELPHIA, May 1, 1794.

Writings of Madison, Volume 2: 1794-1815, p.12

GENLTEMEN,—I have been favored with your letter of March 13th, from Jamaica, with its enclosure, in which the American masters of vessels detained in that Island have been pleased to express their sentiments on the Resolutions proposed by me in the House of Representatives on the 3d of January last. Having long regarded the principles on which those Resolutions were rounded as the basis of a policy most friendly to the just interests of our country, and most honorable to its public councils, I cannot be insensible to the approbation they may obtain from my fellow-citizens, and particularly from those more immediately attached to the prosperity of our commerce and navigation. Under this impression, I have received the communication transmitted by you in such polite and friendly terms, and I hope it will be believed that I mingle with it all the sympathy which is due to the distresses of those who have been the victims of depredation. With the sincerest wishes that their unfortunate situation may speedily be exchanged for one which will correspond with their rights and their merits,

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I remain, Gentlemen, with great respect and regard.

To Mr. Jefferson.

May 9, 1794.

Writings of Madison, Volume 2: 1794-1815, p.13

DEAR SIR,—I have your letter on the subject of Mr. Howell, and have seen the old gentleman who interests himself in it. I think it probable you will find reason to be satisfied with the change you have made in your merchant. I have not yet been able to procure Bills on Amsterdam for Van Staphorst. They can be got, I am told, but not with so much ease or choice as on London. I shall not intermit my attention to that object.

Writings of Madison, Volume 2: 1794-1815, p.13

We have had a calm ever since the decision on the Treaty. Petitions, however, continue to arrive, chiefly in favor of the Treaty. The New England States have been ready to rise in mass against the House of Representatives. Such have been the exertions and influence of Aristocracy, Anglicism, and Mercantilism, in that quarter, that Republicanism is perfectly overwhelmed, even in the town of Boston. I hope it will prove but a transitory calamity, and that the discovery of the delusion will ultimately work a salutary effect. The people have been everywhere made to believe that the object of the House of Representatives in resisting the Treaty was war; and have thence listened to the summons "to follow where Washington leads." Nothing late from abroad. We expect to adjourn about the 20 or 25 inst.

Writings of Madison, Volume 2: 1794-1815, p.13

We have just had a most plentiful rain, after a drought nearly as severe as that with you.

Writings of Madison, Volume 2: 1794-1815, p.13

Adieu. Yours affectionately.

To Thomas Jefferson.

PHILADELPHIA May 11th, 1794.

Writings of Madison, Volume 2: 1794-1815, p.14

DEAR SIR,—Col. Monroe wrote you last week, and I refer to his letter for the state of things up to that date. The House of Representatives has been since employed chiefly on the new taxes. The Report of the Committee, which was the work of a sub-committee in understanding with the Fiscal Department, was filled with a variety of items, copied, as usual, from the British revenue laws. It particularly included, besides stamp duties, excises on Tobacco and sugar manufactured in the United States, and a tax on carriages, as an indirect tax. The aversion to direct taxes, which appeared by a vote of seventy odd for rejecting them, will saddle us with all those pernicious innovations, without ultimately avoiding direct taxes in addition to them. All opposition to the new excises, though enforced by memorials from the manufacturers, was vain. And the tax on carriages succeeded, in spite of the Constitution, by a majority of twenty, the advocates for the principle being reinforced by the adversaries to luxury. Six of the North Carolina members were in the majority. This is another proof of the facility with which usurpation triumphs where there is a standing corps always on the watch for favorable conjunctures, and directed by the policy of dividing their honest but undiscerning adversaries. It is very possible, however, that the authors of these precedents may not be the last to lament them. Some of the motives which they decoyed to their support ought to premonish them of the danger. By breaking down the barriers of the Constitution, and giving sanction to the idea of sumptuary regulations, wealth may find a precarious defence in the shield of justice. If luxury, as such, is to be taxed, the greatest of all luxuries, says Payne, is a great estate. Even on the present occasion, it has been found prudent to yield to a tax on transfers of stock in the funds, and in the Banks.

Writings of Madison, Volume 2: 1794-1815, p.14

The appointment of Jay continues to undergo the animadversions of the press. You will see that the Democratic Societies are beginning to open their batteries upon it. The measure, however, has had the effect of impeding all legislative measures for extorting redress from Great Britain. The non-importation bill, which passed the House of Representatives by a great majority, was so instantly and peremptorily rejected in the Senate, as an interference with the proposed mission, that no further efforts of the same type have been seriously contemplated. Clarke did, indeed, move to insert among the new ways and means an additional duty of 10 per cent. on British manufactures, but the symptoms of desertion soon induced him to withdraw it. A member from N. Carolina afterwards was incautious enough to try a discriminating duty on British tonnage, and, by pushing it to a question with the yeas and nays, placed us in a very feeble minority. Notwithstanding this effect of the Executive measure, there is little serious confidence in its efficacy; and, as involving the appointment of Jay, is the most powerful blow ever suffered by the popularity of the President.

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The embargo is still in force. A member from Connecticut moved a few days ago to abridge its term a few days, as a notification that it would not be continued. A large majority was against taking up the proposition; but how far with a view to adhere to the embargo, I know not. Yesterday, a motion was laid on the table by Smith (of S. Carolina) for continuing the embargo to June 25. The motion from that quarter excited surprise, and must be either a fetch at popularity, an insidious thing, or suggested by an idea that the balance of the effects of the embargo is in favor of Great Britain.

Writings of Madison, Volume 2: 1794-1815, p.15

There are no late accounts of moment from Europe. Those from the West Indies, as well with respect to the treatment of our vessels as the effects of the embargo, are so various and contradictory, that it is impossible to make anything of them.

To James Madison, Esq.

PHILADELPHIA, May 19, 1794.

Writings of Madison, Volume 2: 1794-1815, p.16

HONORED SIR,—Your favor of the 5th came to hand a few days ago. I hope you will have secured me the corn, and a plenty of it. I am at a loss to give directions concerning the laths and plank. If M. C. can conveniently spare the horses to bring it from my brother's, it will no doubt be best to get it from him, otherwise it will cost less in the end to take it of Mr. C. I will attend to the Forte-piano and the Dictionary for my sister. As I have not yet sold my land, and probably shall not at present, it will be convenient to receive a bill for about 200 dollars, or more if you can spare it. No time should be lost in remitting it. Mr. Dunbar will probably be able to accommodate you. I am offered 3,600 dollars for the land, but am advised by good judges not to listen to anything like that price.

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The discontent as to the excise has probably been stirred up for some electioneering purpose, and will subside, of course, unless fostered by other excises now in agitation here, to wit, on manufactured tobacco and refined sugar. I oppose these, and wish it were possible to get rid of the principle altogether, without a worse alternative. A land tax, though far preferable to excises in my judgment, and, as appears, in that also of my Constituents, is yet viewed in a very unfavorable light generally. It was lately proposed by a Committee of ways and means, and rejected in the House by a vast majority. You will have seen by the papers that the Embargo is not to be continued. The price of flour is, in consequence, at 50s., pa currency.

Writings of Madison, Volume 2: 1794-1815, p.16

There are no late accounts of importance from abroad. The adjournment of Congress will probably, though not certainly, take place in 15 or 20 days. I hope M. C. and Sawney will make ready for harvest without waiting for my presence, as I cannot be sure of being there in time.

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My dutiful regards to my Mother and yourself.

To Thomas Jefferson.

PHILADELPHIA, May 25, 1794.

Writings of Madison, Volume 2: 1794-1815, p.17

DEAR SIR,—The enclosed paper will give you the correspondence of Edmund Randolph and Hammond on an occurrence particularly interesting. You will be as able to judge as we are of the calculations to be rounded on it. The embargo expires to-day. A proposition some days ago for continuing it was negatived by a vast majority, all parties in the main concurring. The Republican was assured that the Embargo, if continued, would be considered by France as hostility. The other had, probably, an opposite motive. It now appears that throughout the Continent the people were anxious for its continuance, and it is probable that its expiration will save the West Indies from famine, without affording any sensible aid to France. A motion was put on the table yesterday for re-enacting it. Measures of this sort are not the fashion. To supplicate for peace, and, under the uncertainty of success, to prepare for war by taxes and troops, is the policy which now triumphs. Every attack on Great Britain through her commerce is at once discomfited, and all the taxes, that is to say, excises, stamps, &c., are carried by decided majorities. The plan for a large army has failed several times in the House of Representatives. It is now to be sent from the Senate, and being recommended by the Message of the President, accompanying the intelligence from the Miami, will probably succeed. The influence of the Executive on events, the use made of them, and the public confidence in the President, are an overmatch for all the efforts Republicanism can make. The party of that sentiment in the Senate is compleatly wrecked, and, in the House of Representatives, in a much worse condition than at an earlier period of the Session.

To Thomas Jefferson.

PHILADELPHIA, June 1, 1794.

Writings of Madison, Volume 2: 1794-1815, p.18

DEAR SIR,—The stamp act was poisoned by the ingredient of the tax on transfers. The sentinels of stock, uniting with the adversaries of the general plan, formed a large majority. The Carriage tax, which only struck at the Constitution, has passed the House of Representatives, and will be a delicious morsel to the Senate. The attempt of this Branch to give the President power to raise an army of 10,000, if he should please, was strangled more easily in the House of Representatives than I had expected. This is the 3d or 4th effort made in the course of the Session to get a powerful military establishment, under the pretext of public danger, and under the auspices of the President's popularity. The bill for punishing certain crimes, &c., including that of selling prizes, has been unexpectedly called up at the last moment of the session. It is pretended that our citizens will arm under French colors, if not restrained. You will be at no loss for the real motive, especially as explained by the circumstances of the present crisis. The bill for complying with Fauchèt's application for a million of dollars passed the House of Representatives by a large majority. The Senate will certainly reject it. Col. Monroe is busy in preparing for his embarkation. He is puzzled as to the mode of getting to France. He leans towards an American vessel, which is to sail from Baltimore for Amsterdam. A direct passage to France is scared to be had, and is incumbered with the risk of being and carried into England.

To Thomas Jefferson.

PHILADELPHIA, November 16, 1794.

Writings of Madison, Volume 2: 1794-1815, p.18

DEAR SIR,—The Senate having not yet a Quorum, I cannot send you the President's speech. You will have seen by the papers that the Western scene is closed. Hamilton is still the army. You will perceive his colouring to all the ments which have been published during his Mentorship to the Commander-in-Chief. When I first arrived here, the conversation ran high for a standing army to enforce the laws. It is said the Militia will all return with the same doctrine in their mouths. I have no doubt that such an innovation will be attempted in earnest during the session, if circumstances should be favorable. It is probable, however, that the President will not embark in the measure, and that the fear of alarming New England will be another obstacle.

Writings of Madison, Volume 2: 1794-1815, p.19

The elections for the next Congress are generally over, except in Virginia, and N. Carolina, and New York. In New Hampshire, the choice is much the same. In Massachusetts, there has been a violent contest in most of the Districts. All that will probably be gained is, a spirit of enquiry and competition in that quarter. Ames is re-elected, after the most unparalleled exertions and calumnies in his favor, and, according to report, by the additional aid of bad votes. Dexter is to run a second heat, but will probably succeed. Sedgwick's fate is not known. The chance is said to be in his favor, but it is agreed that he will be well sweated. As he has not yet appeared, he is probably nursing his declining popularity during the crisis. From New York, we are promised at least half of the new Representatives for the Republican scale. New Jersey has lost old Clarke, who will no doubt be replaced by a successor of other sentiments. In this State, the election, notwithstanding its inauspicious circumstances, is more republican than the last. Nine, at least, out of thirteen, are counted on the right side; among them Swanwick in the room of Fitzsimmons—a stunning change for the aristocracy. Maryland pretty much as heretofore. I should have first noted that in Delaware, Patton, the republican ex-member, is chosen by a large majority. The representation of Maryland will vary little from the present. In S.C., Smith as been carried by the British merchants in Charleston, and their debtors in the country, in spite of the Rutledges and Pinckney, who set up against him John Rutledge, Jr. Tucker was also a candidate. Smith had a majority of all the votes. In general, the changes also in that State will be for the worse. The death of Gillon has made way for Barnwell, if he chooses to step in. Hunter also is out; but it is said his successor (a Mr. Harper) will be a valuable acquisition, being sound, able, and eloquent. The prospects for the Senate are the re-election of Langdon for N. H.; the election of Paine, an incognitum, in place of Bradley, for Vermont, who appears to have been out of favor with both parties; the re-election of King in N.Y., owing to the death of two Repubn members of the State Legislature; the chance of a republican successor to R. Morris, said to be a good one; a like chance in Delaware. In Maryland, the chance is bad, but nothing more than the present Delegation is to be apprehended. Potts has resigned, and Henry, fit is supposed, will either withdraw or be rejected. The event in Virginia you will know. The information from N. C. is not decisive, but favorable; the same as to S.C. Izard has relinquished his pretensions. In Georgia, the question lies between Gunn and Telfair; the former, it is thought, will be re-chosen.

Writings of Madison, Volume 2: 1794-1815, p.20

I must refer to newspapers, which I suppose you occasionally see from Richmond, for the posture of things in Europe. In general, they are extremely favorable to France, and alarming to all the sovereigns of Europe. England seems still bent, notwithstanding, on the war. She is now to subsidize the Emperor, as well as the King of Prussia. According to the intelligence handed to the public, it would seem that the humiliating memorial of Jay inspires less contempt than the French victories do terror, and that the tone towards this Country will be much changed. It is even intimated that satisfactory arrangements will be made on most, if not all the points in question. Not a line, official or private, from Monroe. His enthusiastic reception you will have seen.

Writings of Madison, Volume 2: 1794-1815, p.20

Prices here are very different from those you mention. Wheat at 12s. Corn at 6s. 6d. Beef at 8d., and other things in proportion. House rent is 50 pr cent. higher than last winter.

Writings of Madison, Volume 2: 1794-1815, p.20

Mrs. M. offers her best returns to you.

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Always and affectionately yours.

To Thomas Jefferson.

PHILADELPHIA, NOVr 30, 1794.

Writings of Madison, Volume 2: 1794-1815, p.21

DEAR SIR,—The attack on the most sacred principle of our

Writings of Madison, Volume 2: 1794-1815, p.21

Constitution and of Republicanism, through the Democratic Societies, has given rise to much discussion in the Rouse of Representatives, and has left us in a critical situation. You will have seen the President's speech. The answer of the Senate was hurried through with the most full and emphatic echo of the denunciation of the Societies. In the mean time, the answer of the House of Representatives, though prepared and reported without any loss of time, was, contrary to usage, printed for consideration, and put off from Friday till Monday. On the intervening Saturday the Senate presented theirs, which, with the President's reply, was immediately out in the newspapers. I refer for both to the Richmond Newspapers, which you will probably have seen. The answer of the House of Representatives, both as reported and as agreed to, is inclosed. The Committee consisted of Sedgwick, Scott, and myself. The draught was made as strong as possible on all proper points, in order the better to get it through without the improper one. This succeeded in the Committee, Scott concurring in the expediency of silence on that; though, in the House, he changed his ground. When the report was taken up on Monday, Fitzsimmons moved "to reprobate the self-created societies, &c., which, though in strictness not illegal, contributed by their proceedings to mislead the weak and ignorant." This opened the debate, which you will no doubt have an opportunity of reading in the Virginia papers, if you choose. It so happens that I cannot send them by the mail. The arguments in favor of the motion fell with equal weight on the press and every mode of animadverting on public men and measures. After some time the proposition was new-modelled, and, in a less pointed shape, underwent discussion for several days. On the first question, which tried the sense of the House, the division was 47 against 45 for the usurped power. This was in a Committee of the whole. On a renewal of the same question in the House, the decision was reversed by 47 in the affirmative and 45 in the negative. A motion was then made to limit the censure to the Societies within the scene of insurrection, which was carried by the casting vote of the Speaker. In this form the whole proposition was abandoned. This was on Thursday; on Friday, it being foreseen that some evil accommodation would come from the other side and succeed, it was proposed by Mr. Nicholas to insert the sentence which distinguishes the first paragraph of the answer agreed to from the Report. An attempt was made to add "and self-created societies" after "combinations," but it had so little prospect of success that it was withdrawn. The answer was presented on Saturday, and received the reply in the inclosed paper, which you will be at no loss to understand. The Republicans were considered by their opponents as rather victorious by the result in the House. The reply of the President is claimed by the latter as a final triumph on their side; and it is probable that so it will prove. You will easily conceive my situation through this whole business. It was obvious that a most dangerous game was playing against Republicanism. The insurrection was universally and deservedly odious. The Democratic Societies were presented as in league with it. The Republican part of Congress were to be drawn into an ostensible patronage of those societies, and into an ostensible opposition to the President. And by this artifice the delusion of New England was to be confirmed, and a chance afforded of some new turn in Virginia before the elections in the Spring. What the success of this game will really be, time must decide. If the people of America are so far degenerated already as not to see, or to see with indifference, that the citadel of their liberties is menaced by the precedent before their eyes, they require abler advocates than they now have to save them from the consequences. Lengthy as the debate was, I took but little part in it; and that little is very erroneously, as well as defectively, stated in the newspapers. No private letters from Monroe. An official one of September 15th speaks of the utmost prosperty at home, of the irresistible discipline and enthusiasm of their armies, and of the most unalterable affection to this Country. All that is given out from Jay's negociation is in favor of some advantageous result.

To James Monroe.

PHILADELPHIA, Decr 4th, 1794.

Writings of Madison, Volume 2: 1794-1815, p.23

DEAR SIR,—I did not receive your favor of September 2d, the only one yet come to hand, till yesterday. The account of your arrival and reception had some time ago found its way to us through the English Gazettes. The language of your address to the Convention was certainly very grating to the ears of many here; and would no doubt have employed the tongues, and the pens too, of some of them, if external as well as internal circumstances had not checked them; but more particularly the appearance about the same time of the President's letter, and those of the Secretary of State. Malicious criticisms, if now made at all, are confined to the little circles which relish that kind of food. The sentiments of the President will be best communicated by Mr. Randolph. You are right in your conjecture, both as to the facility given to the Envoy Extraordinary by the triumphs of France, and the artifice of referring it to other causes. The prevailing idea here is that the Mission will be successful, though it is scarcely probable that it will prove so in any degree commensurate to our rights, or even to the expectations which have been raised. Whilst no industry is spared to prepare the public mind to echo the praises which will be rung to the address of the negociator, and the policy of defeating the commercial resolutions proposed at the last session. It will not be easy, however, to hide from the view of the judicious and well-disposed part of the community, that every thing that may be obtained from Great Britain will have been yielded by the fears inspired by those retaliating measures, and by the state of affairs in Europe.

Writings of Madison, Volume 2: 1794-1815, p.23

You will learn from the newspapers and official communications the unfortunate scene in the Western parts of Pennsylvania which unfolded itself during the recess. The history of its remote and immediate causes, the measures produced by it, and the manner in which it has been closed, does not fall within the compass of a letter. It is probable, also, that many explanatory circumstances are yet but imperfectly known. I can only refer to the printed accounts, which you will receive from the Department of State, and the comments which your memory will assist you in making on them. The event was, in several respects, a critical one for the cause of liberty, and the real authors of it, if not in the service, were, in the most effectual manner, doing the business of Despotism. You well know the general tendency of insurrections to increase the momentum of power. You will recollect the particular effect of what happened some years ago in Massachusetts. Precisely the same calamity was to be dreaded on a larger scale in this case. There were enough, as you may well suppose, ready to give the same turn to the crisis, and to propagate the same impressions from it. It happened most auspiciously, however, that, with a spirit truly Republican, the people every where, and of every description, condemned the resistance to the will of the majority, and obeyed with alacrity the call to vindicate the authority of the laws. You will see, in the answer of the House of Representatives to the President's speech, that the most was made of this circumstance, as an antidote to the poisonous influence to which Republicanism was exposed. If the insurrection had not been crushed in the manner it was, I have no doubt that a formidable attempt would have been made to establish the principle that a standing army was necessary for enforcing the laws. When I first came to this City, about the middle of October, this was the fashionable language. Nor am I sure that the attempt would not have been made, if the President could have been embarked in it, and particularly if the temper of New England had not been dreaded on this point. I hope we are over that danger for the present. You will readily understand the business detailed in the newspapers relating to the denunciation of the "self-created Societies." The introduction of it by the President was, perhaps, the greatest error of his political life. For his sake, as well as for a variety of obvious reasons, I wished it might be passed over in silence by the House of Representatives. The answer was penned with that view, and so reported. This moderate course would not satisfy those who hoped to draw a party advantage out of the President's popularity. The game was to connect the Democratic Societies with the odium of the insurrection; to connect the Republicans in Congress with those Societies; to put the President ostensibly at the head of the other party, in opposition to both, and by these means prolong the illusions in the North, and try a new experiment on the South. To favor the project, the answer of the Senate was accelerated, and so framed as to draw the President into the most pointed reply on the subject of the Societies. At the same time, the answer of the House of Representatives was procrastinated, till the example of the Senate and the commitment of the President could have their full operation. You will see how nicely the House was divided, and how the matter went off. As yet, the discussion has not been revived by the newspaper combatants. If it should, and equal talents be opposed, the result cannot fail to wound the President's popularity more than anything that has yet happened. It must be seen that no two principles can be either more indefensible in reason, or more dangerous in practice, than that—1. Arbitrary denunciations may punish what the law permits, and what the Legislature has no right by law to prohibit; and that, 2. The Government may stifle all censure whatever on its mis-doings; for if it be itself the Judge, it will never allow any censures to be just; and if it can suppress censures flowing from one lawful source, it may those flowing from any other—from rite press and from individuals, as well as from Societies, &c.

Writings of Madison, Volume 2: 1794-1815, p.25

The elections for the House of Representatives are over in New England and Pennsylvania. In Massachusetts, they have been contested so generally as to rouse the people compleatly from their lethargy, though not sufficiently to eradicate the errors which have prevailed there. The principal members have been all severely pushed; several changes have taken place, rather for the better, and not one for the worse. In Pennsylvania, Republicanism claims 9 out of 13, notwithstanding the very disadvantageous circumstances under which the election was made. In New York, it is expected the proportion of sound men will be increased. In Maryland, the choice has been much as heretofore. Virginia and North Carolina will probably make no changes for the worse. In the former, Mr. Griffin resigns his pretensions. Mr. Lee will probably either do so, or be dropped by his Constituents. In South Carolina, the death of Gillon will probably let in Mr. Barnwell. In Delaware, Patton is elected, in lieu of Lattimer. On the whole, the prospect is rather improved than otherwise. The election of Swanwick, as a Republican, by the Commercial and political Metropolis of the United States, in preference to Fitzsimmons, is, of itself, of material consequence, and is so felt by the party to which the latter belongs. For what relates to the Senate, I trust to the letters which you will receive from Brown and Langdon, whom I have apprized of this opportunity of answering yours. I shall observe, only, that Tazewell and S. T. Mason were elected by the most decided majorities to fill your vacancy and that of Col. Taylor, who gave in his resignation. Not a single Anti-republican was started. Mr. Dawson was a candidate, and got 40 votes against 122. Brooke is also Governor by a pretty decided vote. lie had 90 odd, against 60 odd given to Wood, his only competitor.

Writings of Madison, Volume 2: 1794-1815, p.26

I had a letter lately from Mr. Jefferson. He has been confined by the rheumatism since August, and is far from being entirely recovered. Mr. T. M. Randolph has also been in a ticklish situation; what it is at present, I cannot say. Mr. Jones was well a few days ago; he was then setting out to Loudoun, where he has made a great purchase of land from Col. Chs. Carter. I infer from his letters to me that you are included in it. He will no doubt write you fully on that subject, or more probably has written already.

Writings of Madison, Volume 2: 1794-1815, p.26

I have not received anything from Wilkinson, nor from Vermont; nor heard anything relating to your interests in New York. I have given notice to Mr. Yard and Doctor Stephens of this conveyance, and expect both will write. Mrs. Heilager is also here, on her way to St. Croix, and will no doubt write to Mrs. Monroe. She tells me all friends are well in New York. I hope her letter will give all the particulars, which may be interesting.

Writings of Madison, Volume 2: 1794-1815, p.27

When in Albemarle last fall, I visited your farm along with Mr. Jefferson, and viewed the sites out of which a choice is to be made for your house. The one preferred by us is that which we favored originally, on the east side of the road, near the field not long since opened. All that could be suggested by way of preparation was, that trees be planted promiscuously and pretty thickly in the field adjoining the wood. In general, your farm appeared to be as well as was to be expected. Your upper farm I did not see, being limited in my stay in that quarter.

Writings of Madison, Volume 2: 1794-1815, p.27

I have just seen Mr. Ross, who tells me he has received your letter. He would write by this opportunity, but wishes to be more full than the time will permit. We expect another will offer in a few weeks, when we shall all continue our communications. I should say more to you now, if I could say it in cypher.

Writings of Madison, Volume 2: 1794-1815, p.27

Present my best respects to Mrs. Monroe and Eliza, and tell them I shall be able on their return to present them with a new acquaintance, who is prepared, by my representations, to receive them with all the affection they merit, and who, I flatter myself, will be entitled to theirs. The event which put this in my power took place on the 15th of Septr. We are at present inhabitants of the house which you occupied last winter, and shall continue in it during the session.

Writings of Madison, Volume 2: 1794-1815, p.27

With my sincerest wishes for your happiness and that of your amiable family, I remain, affectionately.

Writings of Madison, Volume 2: 1794-1815, p.27

Hamilton has given notice that he means to resign. Knox means to do the same. It is conjectured that the former will contend for the Government of New York. Burr will be the competitor.

To Thomas Jefferson.

PHILADELPHIA, December 21, 1794.

Writings of Madison, Volume 2: 1794-1815, p.28

DEAR SIR,—Your favor of the 9th, by the Orange Post, arrived here on the 18th; that of the 12, by the Richmond Post, on the 20th; so that it appears the latter was one day less on the way. It is to be remarked, however, that as the Orange post leaves Charlottesville on Tuesday, he might easily be in Fredericksburg on Thursday, in time for the mail which passes through it on that day to Dumfries. If this despatch is not required of him, it ought to be. It would make a difference of two days in the journey. Or, at least, the post might wait a day in Charlottesville, and be in time for the Saturday's mail at Fredericksburg.

Writings of Madison, Volume 2: 1794-1815, p.28

Our weather here has been as fine as you describe yours. Yesterday there was a change. It was cold, cloudy, and inclined to snow. To-day we have a bright day, and not very cold.

Writings of Madison, Volume 2: 1794-1815, p.28

Prices here are very different from yours. Wheat is at 13s. or 14s., and flour in proportion. In general, things are 50 pr cent. beyond the prices of last winter.

Writings of Madison, Volume 2: 1794-1815, p.28

The phenomenon you wish to have explained is as little understood here as with you; but it would be here quite unfashionable to suppose it needed explanation. It is impossible to give you an idea of the force with which the tide has set in a particular direction. It has been too violent not to be soon followed by a change. In fact, I think a change has began already. The danger will then be of as violent a reflux to the opposite extreme.

Writings of Madison, Volume 2: 1794-1815, p.28

The attack made on the essential and constitutional right of the Citizen, in the blow levelled at the "self-created Societies," does not appear to have had the effect intended. It is and must be felt by every man who values liberty, whatever opinions hc may have of the use or abuse of it by those institutions. You will see that the appeal is begun to the public sentiment by the injured parties. The Republican society of Baltimore set the example. That of Newark has advertised a meeting of its members. It is said that if Edwd Livingston, as is generally believed, has outvoted Watts for the House of Representatives, he is indebted for it to the invigorated exertions of the Democratic society of that place, of which he is himself a member. In Boston, the subject is well understood, and handled in the newspapers, on the republican side with industry and address.

Writings of Madison, Volume 2: 1794-1815, p.29

The elections in Massachusetts have turned out rather better than was of late expected. The two republican members have stood their ground, in spite of the most unexampled operations against them. Ames is said to owe his success to the votes of Negroes and British sailors, smuggled under a very lax mode of conducting the election there. Sedgwick and Goodhue have bare majorities. Dexter is to run another heat, but will succeed; Gerry, his only considerable competitor, and who would outvote him, refusing to be elected. There are several changes in the remainder of the delegation, and some of them greatly for the better. In New York there will be at least half republicans, perhaps more. It has unluckily happened that in two Districts two republicans set up against one Anti. The consequence is, that a man is re-elected who would not otherwise have taken the field; and there is some danger of a similar consequence in the other district. In New Jersey, it is said that not more than one of the old members will be returned. The people all over the State are signing with avidity a remonstrance against the high salaries of the Government

Writings of Madison, Volume 2: 1794-1815, p.29

Hamilton is to resign, according to his own notification, the last of February. His object is not yet unfolded. Knox, as the shadow, follows the substance. Their successors are not yet designated by any circumstance that has escaped.

Writings of Madison, Volume 2: 1794-1815, p.29

What think you of a project to disfranchise the insurgent Counties by a bill of exclusion against their Representatives in the State Legislature ? The object is to pave the way for Bingham or Fitzsimmons as Senator, and to give an example for rejecting Gallatin in the House of Representatives at the next Congress, of which he is a member. The proposition has been laid on the table, and the event is uncertain. There is some probability the violence of the measure may defeat it; nor is it certain, I am told, that, if carried through, it would answer the purpose of its authors.

1795

To Edmund Pendleton.

PHILADELPHIA, January 8, 1795.

Writings of Madison, Volume 2: 1794-1815, p.30

MY DEAR SIR,—I have received your favor of the 30 ult., and am joined by my partner in the sincerest returns for your congratulations and friendly wishes. I hope this will find you in more confirmed health, and enjoying the commencement of a new year with every prospect that can make it a happy one.

Writings of Madison, Volume 2: 1794-1815, p.30

One of the papers inclosed gives you the latest news from Europe. It is to be hoped that the dawn of peace may not be overcast. We have nothing of late date either from Jay or Monroe. No communications whatever as to the negociations of the former have yet been laid before Congress. The accounts which circulate through private channels have flattered, in general, the wishes entertained by all for his success. In the other paper you will see the opinion of this gentleman, when an advocate for the Constitution, on the nature of the tax on carriages. If it remains the same when he is to decide as Chief Justice, we may yet hope to see this breach in the Constitution repaired. The House of Representatives have been engaged in revising the naturalization law, which has been found not duly guarded against intrusions and evasions. The new bill, as passed the House, requires of the candidate for Citizenship residence for five years, an oath of abjuration as well as of allegiance, satisfaction to the Court of good Character, attachment to the principles of the Constitution, and of being well disposed to the good order and happiness of the United States. On the motion of Mr. Giles, a clause was added requiring of all who may have belonged to the order of Nobility, or borne any hereditary title, to make an express renunciation on these points in court and upon record. You will think it strange, perhaps, that this should have met with opposition; and yet it became a question of some heat, tho' opposed rather as unimportant than improper. Several of the conditions have reference to the present State of Europe, and the danger of an influx to this country both of aristocracy and licentiousness. It seems not amiss that we should be on our guard against both extremes. There will be a serious effort made to begin an effectual operation for paying off the public debt. The increase of the impost presents a fund that will of itself, if not diverted, answer the purpose. The Legislature of this State has just passed an exclusion vote in each House against the Representatives and Senators from the Counties lately in insurrection. I am not able to say on what principle. I wish it may not have been too much a work of party. If they proceed to any business not urgent, before the vacant seats can be refilled, it will wear so much of that appearance as to threaten a revival of discontents, which ought to be buried as much as possible.

Writings of Madison, Volume 2: 1794-1815, p.31

How is Col. Taylor, and how employed ? Offer him, if you please, my best and sincerest wishes for his health and happiness.

Writings of Madison, Volume 2: 1794-1815, p.31

With the truest esteem and affection, I am, dear sir, yours.

Writings of Madison, Volume 2: 1794-1815, p.31

Tazewell has been here a short time only, and Mason has not been heard of.

To Mr. Jefferson.

PHILADELPHIA, January 11, 1795.

Writings of Madison, Volume 2: 1794-1815, p.31

DEAR SIR,—The last subject before the House of Representatives was a Bill revising the naturalization law, which, from its defects and the progress of things in Europe, was exposing us to very serious inconveniences. The Bill requires—1. A probationary residence of 5 instead of 2 years, with a formal declaration on oath of the intention 3 years, at least, prior to the admission. 2. An oath of abjuration, as well as of allegiance. 3. Proof of good character, attachment to the principles of our Government, and of being well disposed to the good order and happiness of the United States. 4. Where the candidate has borne any title, or been of any order of Nobility, he is to renounce both on record. This last raised some dust. The Eastern members were weak enough to oppose it; and Dexter, as a set off, moved a correspondent clog on emigrants attached to slaveholding. Whether they will be able to throw the dust they have raised into the eyes of their constituents, I know not. It will not be easy, I think, to repair the blunder they have committed, if it reaches the people. On the ayes and nays, there were 60 for and little more than 30 against the clause. The Bill is gone to the Senate.

Writings of Madison, Volume 2: 1794-1815, p.32

Our revenue from trade is so increased as to supply a fund for commencing the discharge of the public debt. The excises laid at the last session will probably be left as they stand. The Treasury bench have attempted to make them perpetual, and brought about a report of a Committee to prolong them till the year 1801. Another Committee, after conferring with the sugar-bakers and snuff-makers, have agreed on a counter Report, which will probably defeat the project. The French gain victories faster than we can relate them. In Spain, Sardinia, and Holland, they are equally sweeping everything before them. They were not in Amsterdam, but expected in a few days. The patriotic party was openly revived, and it was not doubted that the Stadtholder would move off to England for his personal safety. The Duke of York has been well drubbed again at Nimeguen. It was said to be agitated in the British Cabinet whether he should not, with all his troops, have withdrawn from the Continent. It is surmised that Prussia has actually treated with France, and that the Emperor is taking the same course. It is, indeed, agreed that France can dictate peace to all her enemies, except England, and that she will probably do so, in order to have a fair campaign with England alone. Nothing final yet from Jay. It is expected here that he will accomplish much, if not all he aims at. It will be scandalous if we do not, under present circumstances, get all that we have a right to demand.

Writings of Madison, Volume 2: 1794-1815, p.32

Not a word from Monroe.

To Thomas Jefferson.

PHILADELPHIA, January 26, 1795.

Writings of Madison, Volume 2: 1794-1815, p.33

DEAR SIR,—I have received your favor of December 28, but not till three weeks after the date of it. It was my purpose to have answered it particularly, but I have been robbed of the time reserved for the purpose. I must, of consequence, limit myself to a few lines, and to my promise given to the Fresco painter to forward you the enclosed letter.

Writings of Madison, Volume 2: 1794-1815, p.33

Nothing since my last from Jay or Monroe. The Newspapers, as usual, teem with French victories, and rumors of peace. There seem to be very probable indications of a progress made to this event, except in relation to Great Britain, with whom a Duet campaign is the cry of France. The naturalization has not yet got back from the Senate. I understand, however, it will suffer no material change. They have the prudence not to touch the nobility clause. The House of Representatives are on the Military establishment and the public debt. The difficulty and difference of opinion, as to the former, produced a motion to request the President to cause an estimate of the proper defence, &c. It was, in its real meaning, saying, we do not know how many troops ought to be provided by our Legislative duty, and ask your direction. It was opposed as opening the way for dragging in the weight of the Executive for one scale on all party questions; as extorting his opinion, which he should reserve for his negative; and as exposing his unpopular opinions to be extorted at any time by an unfriendly majority. The prerogative men chose to take the subject by the wrong handle, and being joined by the weak men, the resolution passed. I fancy the Cabinet are embarrassed on the subject. On the subject of the Debt, the Treasury faction is spouting on the policy of paying it off as a great evil, and laying hold of two or three little excises, past last session under the pretext of war, are claiming more merit for their zeal than they allow to the opponents of their puny resources. Hamilton has made a long valedictory Report on the subject. It is not yet printed, and I have not read it. It is said to contain a number of improper things. He got it in by informing the Speaker he had one ready, (on the actual revenues,) for the House, when they should please to receive it.

To Thomas Jefferson.

PHILADELPHIA, Feby 15, 1795.

Writings of Madison, Volume 2: 1794-1815, p.34

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 2: 1794-1815, p.34

Although nearly three months have passed since the signing of the Treaty by Jay, the official account of it has not been received, and the public have no other knowledge of its articles than are to be gleaned from the imperfect scraps of private letters. From these it is inferred that the bargain is much less in our favour than might be expected from the circumstances, which co-operated with the justice of our demands. It is even conjectured that on some points, particularly the Western posts, the arrangements will be inadmissible. I find that in New York there are accounts, which are credited, that the posts, after the surrender, are to be thoroughfares for the traders and merchandize of both parties. The operation of this will strike you at once, and the sacrifice is the greater, if it be true, as is stated, that the former regulation on the subject secured to the United States the monopoly of the fur trade, it being impossible for the Canadian traders to get to and from the markets without using our portages, and our parts of the lakes. It is wrong, however, to prejudge; \* \* \* but I suspect that Jay has been betrayed by his anxiety to couple us with England, and to avoid returning with his finger in his mouth. \* \* \* \* \* It is apparent that those most likely to be in the secret of the affair do not assume an air of triumph.

Writings of Madison, Volume 2: 1794-1815, p.34

The elections in New York give six republicans, instead of the former three. E. Livingston had in the city 205 votes more than Watts, the present member. In Massachusetts, the elections are, in several instances, still to be repeated. Dexter is to run a third heat. In the last his rival outvoted him, but was disappointed by a few scattering votes, which prevented his having a majority of the whole. It is said that if nothing new turns up, Varnum will be sure to succeed on the next trial. The choice of Senators continues to run on the wrong side. In Delaware, where we were promised of late a Republican, it was contrived, by a certain disposition of offices, as some tell us, or, according to others, occasioned by particular sicknesses, that Latimer, of the House of Representatives, lately dropped by the people, has been appointed by the Legislature. N. Carolina has appointed Bloodworth, whom you may recollect. His countrymen here do not augur favorably of his political course. Clinton has declined a re-election to the Government of New York. His party set up Yates and Floyd against Jay and Van Rennsselaer. Hamilton does not interfere with Jay. It is pompously announced in the newspapers that poverty drives him back to the Bar for a livelihood.

Writings of Madison, Volume 2: 1794-1815, p.35

The session has produced, as yet, but few acts of consequence. Several important ones are depending; on the subject of the Militia, of the Military Establishment, and the discharge of the public debt. On the first, little more will probably be done than to digest some regulations, which will be left for public consideration till the next session. On the second, the present Military Establishment will be continued and compleated; notwithstanding the late Treaty with the six Nations, the success of Wayne against the other tribes, and the disappearance of ominous symptoms in the aspect of Great Britain. I am extremely sorry to remark a growing apathy to the evil and danger of standing armies. And a vote passed two days ago, which is not only an evidence of that, but, if not, the effect of unpardonable inattention, indicates a temper still more alarming. In the Military acts now in force, there are words limiting the use of the army to the protection of the Frontiers. The Bill lately brought in revised the whole subject, and omitted this limitation. It was proposed to reinstate the words. This was rejected by a large majority. It was then proposed to substitute another phrase, free from the little criticisms urged against the first proposition. The debate brought out an avowal that the Executive ought to be free to use the regular troops, as well as the Militia, in support of the laws against our own citizens. Notwithstanding this, the amendment was lost by 8 votes. The House was very thin, and it is supposed that the majority would have been in favor of the amendment if all the members had been present. The mischief, however, is irremediable, as the Senate will greedily swallow the Bill in its present form. This proceeding is the more extraordinary when the President's Speech and the answer of the House of Representatives are recollected and compared with it. The third subject is the reduction of the public debt. Hamilton has, in an arrogant valedictory Report, presented a plan for the purpose. It will require about 30 years of uninterrupted operation. The fund is to consist of the surpluses of impost and excise, and the temporary taxes of the last session, which are to be prolonged till 1817. You will judge of the chance of our ever being out of debt, if no other means are to be used. It is to be lamented that the public are not yet better reconciled to direct taxes, which alone can work down the debt faster than new emergencies will probably add to it. Of this dislike the partizans of the Debt take advantage, not only to perpetuate it, but to make a merit of the application of inadequate means to the discharge of it. The plan of Hamilton contained a number of new irredeemabilities, among the remodifications proposed by him. All these have been struck out.

Writings of Madison, Volume 2: 1794-1815, p.36

Mr. Christie, of the House of Representatives, intends to visit England in the interval between the present and next session. He is ambitious of a line from you introducing him to Mr. Pinckney, and has made me his solicitor for it. He is a man of good sense, and second to none in a decided and systematic devotion to Republicanism. Will you oblige us both by inclosing me such a letter? You need not fear its [not?] reaching me, as I shall be detained here some time after the adjournment.

Writings of Madison, Volume 2: 1794-1815, p.36

Adieu.

To James Monroe.

PHILADELPHIA, March 11, 1795.

Writings of Madison, Volume 2: 1794-1815, p.37

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 2: 1794-1815, p.37

I have not yet received a single line from you except yours of September 2d, long since acknowledged. Your last letters of the official kind were duplicates of Octr 16, Novr 7, and 20. You will perceive in the newspapers that the parts of them relating to the Jacobin societies have been extracted and printed. In New York they have been republished, with your name pre-fixed. The question agitated in consequence of the President's denunciation of the Democratic societies will account for this use of your observations. In New York, where party contests are running high in the choice of a successor to Clinton, who declines, I perceive the use of them is extended, by adroit comments, to that subject also. It is proper you should be apprized of these circumstances, that your own judgment may be the better exercised as to the latitude or reserve of your communications.

Writings of Madison, Volume 2: 1794-1815, p.37

The Treaty concluded with Great Britain did not arrive before the adjournment and dispersion of Congress. The Senators received a summons to reassemble on the 8th of June, on the calculation that the Treaty could not fail to be received by that time. It arrived a few days after. It is a circumstance very singular that the first knowledge of its contents, as finally settled, should not have come to the Executive till more than three months after the date of it. What its contents are, the Executive alone as yet know, the most impenetrable secrecy being observed. You will easily guess the curiosity and disappointment of the public. Complaints, however, are repressed, by the confidence that some adequate reasons exist for the precaution. The arrival of this Treaty and the delicate relations in which we stand to France are beginning to turn the public attention to the prospect of meliorating the Treaty with her, and the arrangements that may have been taken on either side for the purpose. It is certainly much to be desired that the crisis should not be suffered to elapse without securing to this Country the previous advantages in commerce which we now enjoy from the indulgence or temporary embarrassments of that Nation; and still more, that the possibility should be precluded of any collisions that may endanger the general friendship already stipulated between them.

To Thomas Jefferson.

PHILADELPHIA, March 23, 1795.

Writings of Madison, Volume 2: 1794-1815, p.38

DEAR SIR,—Your two last favors contained, one of them, the letter for Mr. Christie, which has been sent to him; the other accompanied the letters to the President and Mr. Randolph. The two latter were duly delivered also. The President touched on the subject the other day in conversation with me, and has no doubt written to you on it. There are difficulties, I perceive, in the way of your suggestion, besides the general one arising from the composition of the Scientific body wholly out of foreign materials. Notwithstanding the advantages which might weigh in the present case against this objection, I own that I feel its importance. It was not sufficient, however, to induce me to withhold your remarks from the President, as your letter would have authorized me to do. Whilst I am acknowledging your favors, I am reminded of a passage in a former one,\* which I had proposed to have answered at some length. Perhaps it will be best, at least for the present, to say, in brief, that reasons of every kind, and some of them of the most insuperable as well as obvious kind, shut my mind against the admission of any idea such as you seem to glance at. I forbear to say more, because I can have no more to say with respect to myself; and because the great deal that may and ought to be said beyond that restriction will be best reserved for some other occasion; perhaps for the latitude of a free conversation. You ought to be preparing yourself, however, to hear truths which no inflexibility will be able to withstand.

Writings of Madison, Volume 2: 1794-1815, p.39

I have already told you of my failure to get from Edmund Randolph one of your books, which has slipped out of his memory as well as his hands. I have since, after repeated applications, got from Wilson Flandon, [?] Fleta, Bracton, &c. Mably, he says, he lent to Gallatin, with your permission. This was not mentioned, however, till very lately; and Gallatin is at present in New York. As soon as he returns I will renew my efforts.

Writings of Madison, Volume 2: 1794-1815, p.39

I have procured for you the "sketches on rotations," which I find to be truly a good thing. It was written by Mr. Boardly. The other publications referred to in page 43 are not to be had at the booksellers. I propose, if an opportunity offers, to get them through some friend, who can carry the enquiry to the author himself. I have also procured you the correspondences with Hammond, &c. All these, with some other things deemed worth your possessing, I shall pack up for a conveyance by water to Richmond, addressing them to the merchant there from Staunton, whose name I cannot at this moment recollect.

Writings of Madison, Volume 2: 1794-1815, p.39

The Treaty with England arrived soon after the adjournment. It is kept an impenetrable secret by the Executive. The Senate are summoned to meet it the 8th of June. I wish it may not be of a nature to bring us into some delicacies with France, without obtaining fully our objects from Great Britain. The French, it is said, are lately much less respectful than heretofore to our rights on the seas.

Writings of Madison, Volume 2: 1794-1815, p.39

We have no private letters from Monroe. His last public ones were no later than November. They contained a history of the Jacobin clubs, in the form of an apology for the Convention. Extracts on that subject were immediately put into the newspapers, and are applied to party purpose generally, particularly in New York, where the election of Governor is on the anvil. Yates and Jay are the candidates. The last accounts from Amsterdam foretell in the next the capture of that place by the French. The enclosed speeches of Pitt and Fox will give you the English politics, and a general view of the crisis in Europe.

Writings of Madison, Volume 2: 1794-1815, p.39

I have been detained here by a sick family, and am so at present by the state of the roads, which are kept bad by the rains and the frosts. I am extremely anxious to be on the journey, and shall set out as soon as I can prudently venture.

Writings of Madison, Volume 2: 1794-1815, p.40

Yours always, and most affectionately.

To James Monroe.

PHILADELPHIA, March 26, 1795.

Writings of Madison, Volume 2: 1794-1815, p.40

DEAR SIR,—My last was written about ten days ago, for a conveyance intimated to be in the view of the office of State. I have since that received yours committed to Mr. Swan, and two hours ago that of December 18, covering the private one for. Mr. Randolph. The other, referred to as sent by the way of Havre, is not yet come to hand.

Writings of Madison, Volume 2: 1794-1815, p.40

Mr. Swan is much embarrassed in his operations by the enormous price of Wheat and flour. The latter has been above ten dollars a barrel, and is now at that price. The former has been as high as 15s. 3d., and is now very little below that. Mr. Swan is apprehensive that he will be compelled to direct his attention to some other quarter of the world. It is a matter double regret that such a necessity should happen. The of this extraordinary rate of produce are differently

Writings of Madison, Volume 2: 1794-1815, p.40

The deficiency of the last harvest is certainly a material The influence of the Bank credits on mercantile enterprize competition may be another, though this cause cannot at moment operate, as the Banks are in another paroxysm of tress, and have for some time discontinued their discounts. idea of great demands from Europe, particularly from has no doubt contributed to the effect; though this particularly refer to the object of Mr. Swan, because the prices preceded his operation, and, in fact, are not peculiar the articles he wants, or limited to articles having any to them. In general, prices are exorbitantly high, and place incredibly so. The markets have been nearly 100 cent. advanced in some, and fifty in most instances, beyond state of them prior to your departure. House Rents have kept the same course. These circumstances denote some general and deeply-rooted cause.

Writings of Madison, Volume 2: 1794-1815, p.41

From as near a view as I have yet been able to take of your letter to Mr. R., I see no reason why I should hesitate to deliver it. I cannot forbear believing that the Report of stipulations, offensive and defensive, is quite without foundation; but your view of things, on the contrary supposition, involves a variety of interesting ideas; and your communications and reflections in general with regard to the Treaty, as proceeding from one in your position and of your sentiments, merit too much attention in the Executive Department to be withheld altogether from it. I mentioned in my last that the Treaty was come, but kept a profound secret. In that state it remains. Its contents have produced conjectural comments without number. As I am as much out of the secret as others, I can say nothing that goes beyond that character. I should hope it to be impossible that any stipulation, if any should be attempted, inconsistent with the Treaties with France, can ever be pursued into effect. I cannot even believe that any such stipulation would be hazarded.. The President, to say nothing of the people, would so certainly revolt at it, that more than wickedness would be requisite in the authors. At the same time, it is possible that articles may be included that will be ominous to the confidence and cordiality of France towards the United States, not to mention that any arrangements with Great Britain, (beyond the simple objects you mention,) made at the present juncture and extorted by the known causes, must naturally appear in the light you represent. How the instructions to Jay may square with what he may have done, or both or either with the language you were authorized to hold, must await future lights. As I do not know how far official communications may or may not put you in possession of the contents of the Treaty before this arrives, and as it appears you had no previous or contemporary knowledge of the particulars, I ought not to decline the task of giving you what appears to me to be the most probable account of them; pre-mising that I speak without the least clue or hint from the official quarter, and what is truly to be taken for conjecture, or, at most, for inferences from circumstances mostly of newspaper publicity: 1. It is generally agreed that the posts are to be surrendered, but not before June, 1796; and it is among the reports, that they are afterwards to be a sort of thoroughfare for both parties. This would be a very disagreeable and a very unpopular ingredient. 2. The Compensations for losses are supposed to be in a train primarily judicial, eventually diplomatic. The sufferers, I believe, are very little sanguine, but they are, in general, silent, from causes which you will readily imagine. 3. I should have mentioned the other stipulations in the treaty of peace, besides the delivery of the posts. On this, little is said, except, in general, that they are to be executed on both sides. Perhaps the question of interest during the war and complaints on the British side from State laws affecting their debts, may be referred, along with some of the American losses from privateers and Admiralty Courts, to Commissioners. This, however, is purely conjectural. 4. A footing of reciprocity with respect to the trade directly with Great Britain so far as to put British and American vessels on the same footing in American ports, and American and British on the same footing in British ports. As this would take from our vessels the advantage they now enjoy, particularly with respect to the difference of ten per cent. in the duties, it would be injurious, and, if not countervailed, unpopular. 5. An admission of American vessels to the British West Indies, if under 100, or, perhaps, 75 tons. Whether the right be renounced of reducing British vessels to the same size, is a question of some consequence in relation to this point. 6. The Treaty in relation to the commerce with Great Britain to continue for 12 years; to that with the West Indies, for 4 years. I should be led, from some particular circumstances, not to doubt the latter limitation, if the aspect and effect of it were not so strikingly revolting. Having had but a few moments' notice of this opportunity, I am obliged to conclude a very hasty letter with abrupt assurances of the affection with which I am, dear sir, your friend and servt.

To Thomas Jefferson.

August 6, 1795.

Writings of Madison, Volume 2: 1794-1815, p.43

DEAR SIR—I return the paper covered by your favor of the third, which was handed me by a gentleman who picked it up in Charlottesville. I find that the meeting in New York was not exactly as represented to you. The Republicans were never outnumbered, and the vote of a very full meeting was finally unanimous in remonstrating against the Treaty. The Chamber of Commerce has had a separate meeting, and has passed some counteracting Resolutions. In Portsmouth, Boston, and Philadelphia, unanimous Remonstrances have also issued from Town Meetings, and been sent by express to the President. The silence of the disaffected minorities is easily explained. I understand that Mr. Wythe presided at the Richmond meeting, a circumstance which will not be without its weight, especially as he presided at the former meeting in support of the Proclamation. A gentleman who was present says he was told two individuals only in the City openly espoused the Treaty. Even Andrews joins in the general denunciation of it. I have a letter from the Bishop, which is a philippic on the subject. In short, from all quarters, the public voice seems to proclaim the same detestation, except from Alexandria, and its neighbourhood, where there is some division. Doctor Stuart and the Lees take the side of the Treaty. I have a letter from Chancellor Livingston, which tells me he has taken the liberty of writing a free letter to the President, with a view to impress on him the public sentiment, and the consequences of ratifying an act so hostile to the opinions and interests of the people, and to the good understanding with France. The inclosed papers contain some remarks on the Treaty from a hand which will claim attention. They are borrowed, and you may, therefore, return them by Mr. Jones, or any other convenient opportunity.

To Robt. R. Livingston.

August 10, 1795.

Writings of Madison, Volume 2: 1794-1815, p.44

Dr SIR,—Your favour of July 6 having been addressed to Williamsburg, instead of Orange Court House, did not come to hand till two days ago. Your gloomy Picture of the Treaty does not exceed my ideas of it. After yielding terms which would have been scorned by this Country in the moment of its greatest embarrassments, and of Great Britain's full enjoyment of peace and confidence, it adds to the ruinous bargain with this Nation a disqualification to make a good one with any other. In all our other Treaties it has been carefully stipulated that the Nation to be treated as the most favored Nations, and to come in for all new privileges that may be granted by the United States, must pay for them the same, or an equivalent price, with the grantee. The proposed Treaty with Great Britain, disregarding this obvious rule of justice and equality, roundly agrees that no duty, restriction, or prohibition, with respect to Ships or Merchandize, shall be applied to Great Britain, which do not operate on all other nations. [See Art. XV.] Should any other Nation, therefore, be disposed to give us the most precious and peculiar advantages in their trade, in exchange for the slightest preferences in ours, this Article gives Great Britain a negative on the transaction, unless it be so modified as to let her in for the favour without paying the price of it. But what Nation would be willing to buy favours for another, especially when the inducement to buy and the value of the purchase might depend on the peculiarity of the favour ? It must be seen at once that this extraordinary feature would monopolize us to Great Britain, by precluding any material improvement of our existing Treaties, or the hope of any new ones that would be of much advantage to us. That so insidious an Article should have occurred to Lord Grenville's jealousy of the United States, and his policy of barring their connection with other Countries, and particularly with the French Republic, can surprise no one. The concurrence of the American Envoy may not be so easily explained; but it seems impossible to screen him from the most illiberal suspicions, without referring his conduct to the blind-est partiality to the British Nation and Government, and the most vindictive sensations towards the French Republic. Indeed, the Treaty, from one end to the other, must be regarded as a demonstration that the party to which the Envoy belongs, and of which he has been more the organ than of the United States, is a British party, systematically aiming at an exclusive connection with the British Government, and ready to sacrifice to that object, as well the dearest interests of our commerce, as the most sacred dictates of National honour. This is the true Key to this unparalleled proceeding, and can alone explain it to the impartial and discerning part of the public. The leaders of this party stand self-condemned in their efforts to palliate the Treaty, by magnifying the necessity of the British Commerce to the United States, and the insufficiency of the United States to influence the regulation of it. You will find, on turning to a pamphlet addressed to your people by Mr. Jay, when the Federal Constitution was before them, that he then could see our power under such a Constitution to extort what we justly claimed from Great Britain, and particularly to open the West India ports to us. As an Agent for the Constitution, he now voluntarily abandons the very object which, as an advocate for the Constitution, he urged as an argument for adopting it. Read, also, the paper N°. XI, in the publication entitled the Federalist, for the view of the subject then inculcated by another advocate. It is with much pleasure, I assure you, that the sentiments and voice of the people in this State, in relation to the attempt to prostrate us to a foreign and unfriendly Nation, are as decided and as loud as could be wished. Many, even of those who have hitherto rallied to the most exceptionable party measures, join in the general indignation against the Treaty. The few who hold out will soon be under the dilemma of following the example, or of falling under imputations which must disarm them of all injurious influence. You will see by the Newspapers that the City of Richmond has trodden in the steps of the other Cities by an unanimous address to the President. You will remark that our Chancellor, Mr. Wythe, presided in the Meeting; a circumstance which will draw the more attention to it, as he is not only distinguished for his moderation of character, but was President of the Meeting which addressed the President in support of his proclamation of neutrality. How far the other Towns and Counties will imitate Richmond is uncertain. If they should be silent, it will assuredly be the effect, in the former, of a supposed notoriety of their harmony in opposition; and in the latter, to the same cause, added to the dispersed sit-nation of the people. I think it certain that there is not a Town or County in this State, except, perhaps, Alexandria, where an appeal to the inhabitants would be attended with any show of opposition. You will readily conclude, therefore, that here, the public do not need the measure which you suggest. With respect to the President, his situation must be a most delicate one for himself as well as for his Country; and there never was, as you observe, a crisis where the friends of both ought to feel more solicitude, or less reserve. At the same time, I have reasons, which I think good, for doubting the propriety, and of course utility, of uninvited communications from myself. He cannot, I am persuaded, be a stranger to my opinion on the merits of the Treaty; and I am equally persuaded that the state of the public opinion within my sphere of information will sufficiently force itself on his attention.

Writings of Madison, Volume 2: 1794-1815, p.46

It is natural enough for the apologists of the Treaty to lay hold of the doctrine maintained by Mr. Jefferson; but whether that doctrine be right or wrong, they might be reminded that he expressly urges the policy of guarding against it, instead of establishing it by Treaty. The appeal to him, therefore, must add to their condemnation. See his letter to Mr. G. Morris, explaining the discussions with Mr. Genet.

To —————.

ORANGE, August 23d, 1795.

Writings of Madison, Volume 2: 1794-1815, p.46-p.49

DEAR SIR,—Your favor of the 3d instant did not come to hand till a few days ago, having been probably retarded by the difficulty the post met with in passing the water-courses, which have been much swelled of late by excessive rains. It gives me much pleasure to learn that your health has been so much improved, as well as that you are taking advantage of it to co-operate in elucidating the great subject before the public. We see here few of the publications relating to it, except those which issue from meetings of the people, and which are of course republished everywhere. The only Philadelphia paper that comes to me is the Aurora, which, besides frequent miscarriages, is not, I find, the vehicle used by the regular champions on either side. I have occasionally seen Dunlap's and in that some specimens of the display of the "Features, &c." I wish much to see the whole of it. Your obliging promise to forward it, along with any other things of the kind, will have a good opportunity by the return of Mr. Wilson Nicholas, who is on his way to Philadelphia, and will call on me on his way home. I requested the favour of him to apprize you of the opportunity. I am glad to find that the author of the "Features, &c." meditates a similar operation on "The defence of the Treaty, by Camillus," who, if I mistake not, will be betrayed by his Anglomany into arguments as vicious and as vulnerable as the Treaty itself. The Resolutions of the Chamber of Commerce in New York justify this anticipation. What can be more absurd than to talk of the advantage of securing the privileges of sending raw materials to a manufacturing nation, and of buying merchandizes which are hawked over the four quarters of the globe for customers? To say that we must take the Treaty or be punished with hostilities, is something still worse. By the way, it is curious to compare the language of the author and abettors of the Treaty with that held on the subject of our commercial importance, when the Constitution was depending. Jay himself could then view its adoption as the only thing necessary to extort the Posts, &c., and open the West India ports. (See his address to the people of New York in the Museum.) The Federalist [No. XI] will exhibit a still more striking contrast on this point in another quarter. You intimate a wish that I would suggest .any ideas in relation to the Treaty that may occur to my reflections. In my present sequestered situation, I am too little possessed of the particular turns of the controversy to be able to adapt remarks to them. In general, I think it of importance to avoid laying too much stress on minute or doubtful objections, which may give an occasion to the other party to divert the public attention from the palpable and decisive ones, and to involve the question in uncertainty, if not to claim an apparent victory. The characteristics of the Treaty which I have wished to see more fully laid open to the public view are: 1. Its ruinous tendency with respect to the carrying trade. The increase of our shipping under the new Government has; in most Legislative discussions, been chiefly ascribed to the advantage given to American vessels by the difference of 10 per cent. on the impost in their favor. This, in the valuable cargoes from Great Britain, has been sufficient to check the preference of British Merchants for British bottoms; and it has been not deemed safe hitherto by Great Britain to force on a contest with us in this particular by any countervailing regulations. In consequence of the Treaty, she will no doubt establish such regulations, and thereby leave the British capital free to prefer British vessels. This will not fail to banish our tonnage from the trade with that country. And there seems to have been no disposition in the negociator to do better for our navigation in the West India trade; especially if the exclusion of our vessels from the re-exportation of the enumerated articles, Sugar, Coffee, &c., be taken into the account. The nature of our exports and imports, compared with that of the British, is a sufficient, but at the same time our only defence against the superiority of her capital. The advantage they give us in fostering our navigation ought never to have been abandoned. If this view of the subject be just, and were presented to the public with mercantile skill, it could not fail to make a deep impression on New England. In fact, the whole Treaty appears to me to assasinate the interest of that part of the Union. 2. The insidious hostility of the Treaty to France, in general; but particularly the operation of the 15th article, which, as far as I have seen, has been but faintly touched on, though it be, in fact, pregnant with more mischief than any of them. According to all our other Treaties, as well as those of all other nations, the footing of the most favored nations is so qualified that those entitled to it must pay the price of any particular privilege that may be granted in a new Treaty. The Treaty of Jay makes every new privilege result to Great Britain, without her paying any price at all. Should France, Spain, Portugal, or any other nation, offer the most precious privileges in their trade, as the price of some particular favour in ours, no bargain could be made unless they would agree not only to let the same favor be extended to Great Britain, but extended gratuitously. They could not purchase for themselves without at the same time purchasing for their rival. In this point of view, the 15th article may be considered as a direct bar to our treating with other nations, and particularly with the French Republic. Much has been said of a suspected backwardness to improve our commercial arrangements with France, and a predilection for arrangements with Great Britain, who had less to give, as well as less inclination to give what she had. It was hardly imagined that we were so soon to grant every thing to Great Britain for nothing in return; and to make it a part of this bad bargain with her, that we should not be able to make a good one with any other nation. 3. The spirit in which every point of the law of nations is regulated. It is the interest of the United States to enlarge the rights of neutral nations. It is the general interest of humanity that this should be done. In all our other Treaties this policy has prevailed. The same policy has pervaded most of the modern Treaties of other nations. Great Britain herself has been forced into it in several of her Treaties. In the Treaty of Jay, every principle of liberality, every consideration of interest, has been sacrificed to the arbitrary maxims which govern the policy of Great Britain. Nay, a new principle has been created, in the face of former complaints of our Executive, as well as against the fundamental rights of nations and duties of humanity, for the purpose of siding the horrible scheme of starving a whole people out of their liberties.

Writings of Madison, Volume 2: 1794-1815, p.49

I. Even waiving the merits of the respective complaints and pretensions of the two parties, as to the inexecution of the Treaty of peace, the waiver implies that the two parties were to be viewed either as equally culpable or equally blameless; and that the execution of the Treaty of peace equally by both ought now to be provided for. Yet, whilst the United States are to comply in the most ample manner with the article unfulfilled by them, and to make compensation for whatever losses may have accrued from the delay, Great Britain is released altogether from one of the articles unfulfilled by her, and is not to make the smallest compensation for the damages which have accrued from her delay to execute the other.

Writings of Madison, Volume 2: 1794-1815, p.50

The inequality of these terms is still further increased by concessions on the part of the United States, which, besides adding to the Constitutional difficulties unnecessarily scattered through the Treaty, may, in a great measure, defeat the good consequences of a surrender of the Western posts.

Writings of Madison, Volume 2: 1794-1815, p.50

The British settlers and traders, within an undefined Tract of Country, are allowed to retain both their lands and their allegiance at the same time; and, consequently, to keep up a foreign and unfriendly influence over the Indians within the limits of the United States.

Writings of Madison, Volume 2: 1794-1815, p.50

The Indians within those limits are encouraged to continue their trade with the British by the permission to bring their goods duty free from Canada, where the goods, being charged with no such impost as is payable on the goods of the United States, will be offered for sale with that tempting preference; a regulation but too likely, also, to cloak the frauds of smuggling traders in a country favorable to them. The reciprocity in this case is ostensible only, and fallacious.

Writings of Madison, Volume 2: 1794-1815, p.50

Under another ostensible and fallacious reciprocity, the advantage secured to the United States, in the fur trade, by their possession of the carrying places, is abandoned to the superiority of British capital, and the inferiority of the Canada duties on imports.

Writings of Madison, Volume 2: 1794-1815, p.50

A part only of the Ports, harbours, and bays, of a single British Province, is made free to the United States, in consideration of a freedom of all the ports, harbors, and bays, of the whole United States. The goods and merchandize of the United States, not entirely prohibited by Canada, (but which, in . fact, are always entirely prohibited, when partial and temporary admissions are not dictated by necessity,) may be carried there, in consideration of a free admission of all goods and merchandize from Canada, not entirely prohibited by the U. States, (where, in fact, there never is this entire prohibition.) A like stipulation, liable to the like observations, is extended to the exports of the United States and the Province of Canada. These are further instances of a nominal and delusive reciprocity.

Writings of Madison, Volume 2: 1794-1815, p.51

In the case of the Mississippi, there is not even an ostensible or nominal reciprocity. The ports and places on its Eastern side are to be equally free to both the parties; although the Treaty itself supposes that the course of the Northern Boundary of the United States will throw the British beyond the very source of that river. This item of the Treaty is the more to be noticed, as a repetition and extension of the stipulated privileges of Great Britain on the Mississippi will probably be construed into a partiality in the United States to the interests and views of that nation on the American Continent, not likely to conciliate those from whom an amicable adjustment of the navigation of the Mississippi is to be expected; and were no doubt intended by Great Britain as a snare to our good understanding with the nations most jealous of her encroachments and her aggrandizement.

Writings of Madison, Volume 2: 1794-1815, p.51

II. Without remarking on the explicit provision for redressing past spoliations and vexations, no sufficient precautions are taken against them in future; on the contrary,

Writings of Madison, Volume 2: 1794-1815, p.51

By omitting to provide for the respect due to sea letters, passports, and certificates, and for other customary safeguards to neutral vessels, "a general search-warrant, (in the strong but just language of our fellow-citizens of Charlestown,) is granted against the American navigation." Examples of such provisions were to be found in our other Treaties, as well as in the Treaties of other nations. And it is matter of just surprise that they should have no place in a Treaty with Great Britain, whose conduct on the seas so particularly suggested and enforced every guard to our rights that could reasonably be insisted on.

Writings of Madison, Volume 2: 1794-1815, p.52

By omitting to provide against the arbitrary seizure and im-pressment of American seamen, that valuable class of Citizens remains exposed to all the outrages, and our commerce to all the interruptions, hitherto suffered from that cause.

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By expressly admitting that provisions are to be held contraband in cases other than when bound to an invested place, and impliedly admitting that such cases exist at present, not only a retrospective sanction may be given to proceedings against which indemnification is claimed, but an apparent license is granted to fresh and more rapacious depredations on our lawful commerce. And facts seem to shew that such is to be the fruit of the impolitic concession. It is conceived that the pretext set up by Great Britain, of besieging and starving whole nations, and the doctrine grounded thereon, of a right to intercept the customary trade of neutral nations in articles not contraband, ought never to have been admitted into a Treaty of the United States; because—1. It is a general outrage on humanity, and an attack on the useful intercourse of nations. 2. It appears that the doctrine was denied by the Executive in the discussions with Mr. Hammond, the British Minister, and demands of compensation founded on that denial are now depending. 3. As provisions constitute not less than of our exports, and as Great Britain is nearly half her time at war, an admission of the doctrine sacrifices a correspondent proportion of the value of our commerce. 4. After a public denial of the doctrine, to admit it, in the midst of the present war, by a formal Treaty, would have but too much of the effect, as well as the appearance, of voluntarily concurring in the scheme of distressing a nation in friendship with this Country, and whose relations to it, as well as the struggles for freedom in which they are engaged, give them a title to every good office not strictly forbidden by the duties of neutrality. 5. It is no plea for the measure to hold it up as an alternative to the disgrace of being involuntarily treated in the same manner, without a faculty to redress ourselves; the disgrace of being plundered with impunity against our consent being, under no circumstances, greater then the disgrace of consenting to be plundered with impunity; more especially as the calamity in the former case might not happen in another war; whereas, in the latter case, it is bound upon us for as much of twelve years as there may be of war within that period.

Writings of Madison, Volume 2: 1794-1815, p.53

By annexing to the implements of war, enumerated as contraband, the articles of ship-timber, tar, or rosin, copper in sheets, sails, hemp, and cordage, our neutral rights and national interests are still further narrowed. These articles were excluded by the United States from the contraband list when they were themselves in a state of war.\* Their other Treaties expressly declare them not to be contraband. British Treaties have done the same. Nor, as is believed, do the Treaties of any nation in Europe, producing these articles for exportation, allow them to be subjects of confiscation. The stipulation was the less to be admitted, as the reciprocity assumed by it is a mere cover for the violation of that principle; most of the articles in question being among the exports of the United States, whilst all of them are among the imports of G. Britain.

Writings of Madison, Volume 2: 1794-1815, p.53

By expressly stipulating with Great Britain against the freedom of enemy's property in neutral bottoms, the progress towards a compleat and formal establishment of a principle in the law of nations so favorable to the general interest and security of commerce receives all the check the United States could give to it. Reason and experience have long taught the propriety of considering free ships as giving freedom to their cargoes. The several great maritime nations of Europe have not only established it at different times by their Treaties with each other, but on a solemn occasion [the armed neutrality] jointly declared it to be the law of nations by a specific compact, of which the United States entered their entire approbation. Great Britain alone dissented. But she herself, in a variety of prior Treaties, and in a Treaty with France since, [1786,] has acceded to the principle. Under these circumstances, the United States, of all nations, ought to be the last to unite in a retrograde effort on this subject, as being more than any other interested in extending and establishing the commercial rights of neutral nations. Their situation particularly fits them to be carriers for the great nations of Europe during their wars. And both their situation and the genius of their Government and people promise them a greater share of peace and neutrality than can be expected by any other nation. The relation of the United States by Treaty on this point to the enemies of Great Britain was another reason for avoiding the stipulation. Whilst British goods in American vessels are protected against French and Dutch capture, it was enough to leave French and Dutch goods in American vessels to the ordinary course of Judicial determinations, without a voluntary, a positive, and an invidious provision for condemning them. It has not been overlooked, that a clause in the Treaty proposes to renew, at some future period, the discussion of the principle it now settles; but the question is then to be, not only in what, but whether in any cases, neutral vessels shall protect enemy's property; and it is to be discussed at the same time, not whether in any, but in what cases, provisions and other articles, not bound to invested places, may be treated as contraband. So that when the principle is in favor of the United States, the principle itself is to be the subject of discussion; when the principle is in favor of Great Britain, the application of it only is to be the subject of discussion.

Writings of Madison, Volume 2: 1794-1815, p.54

III. Whenever the law of nations comes into question, the result of the Treaty accommodates Great Britain in relation to one or both of the Republics at war with her, as well as in diminution of the rights and interests of the United States.

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Thus, American vessels bound to Great Britain are protected by sea papers against French or Dutch searches; bound to France or Holland, are left exposed to British searches, without regard to such papers.

Writings of Madison, Volume 2: 1794-1815, p.54

British property in American vessels is not subject to French or Dutch confiscation. French or Dutch property in American vessels is subjected to British confiscation.

Writings of Madison, Volume 2: 1794-1815, p.55

American provisions in American vessels, bound to the enemies of Great Britain, are left by Treaty to the seizure and use of Great Britain; provisions, whether American or not, in American vessels, cannot be touched by the enemies of Great Britain.

Writings of Madison, Volume 2: 1794-1815, p.55

Timber for ship-building, tar, or rosin, copper in sheets, sails, hemp, and cordage, bound to the enemies of Great Britain, for the equipment of vessels of trade only, are contraband; bound to Great Britain for the equipment of vessels of war, are not contraband.

Writings of Madison, Volume 2: 1794-1815, p.55

American citizens, entering, as volunteers, the service of France or Holland against Great Britain, are to be punished. American volunteers joining the arms of Great Britain against France or Holland are not punishable.

Writings of Madison, Volume 2: 1794-1815, p.55

British ships of war and privateers, with their prizes made on citizens of Holland, may freely enter and depart the ports of the United States. Dutch ships of war and privateers, with their prizes made on subjects of Great Britain, are to receive no shelter or refuge in the ports of the United States. And this advantage in war is given to Great Britain, not by a Treaty prior, and having no relation, to an existing war, but by a Treaty made in the midst of war, and prohibiting a like article of Treaty with Holland for equalizing the advantage.

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The article prohibiting confiscations and sequestrations is unequal between the United States and Great Britain. American Citizens have little, if any, interest in public or Bank stock, or in private debts within G. Britain. British subjects have a great interest in all within the United States. Vessels and merchandize belonging to individuals, governed by the same "confidence in each other, and in regard to their respective Governments for their municipal laws, and for the laws of nations allowed to be part thereof as consecrates private debts," are not exempted from such proceedings. So that, where much would be in the power of the United States, and little in the power of Great Britain, the power is interdicted. Where more is in the power of Great Britain than of the United States, the power is left unconfined. Another remark is applicable. When the modern usage of nations is in favor of Great Britain, the modern usage is the rule of the Treaty. When the modern usage was in favor of the United States, the modern usage was rejected as a rule for the Treaty.

Writings of Madison, Volume 2: 1794-1815, p.56

IV. The footing on which the Treaty places the subject of Commerce is liable to insuperable objections.

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1. The nature of our exports and imports, compared with those of other Countries, and particularly of Great Britain, has been thought by the Legislature of the United States to justify certain differences in the tonnage and other duties in favor of American bottoms; and the advantage possessed by Great Britain in her superior capital was thought at the same time to require such countervailing encouragements. Experience has shewn the solidity of both these considerations. The American navigation has, in a degree, been protected against the advantage on the side of British capital, and has increased in proportion; whilst the nature of our exports, being generally necessaries or raw materials, and of our imports, consisting mostly of British manufactures, has restrained Great Britain from any attempt to counteract the protecting duties afforded to our navigation. Should the Treaty go into effect, this protection is relinquished; Congress are prohibited from substituting any other; and the British capital, having no longer the present inducement to make use of American bottoms, may be expected, through whatever hands operating, to give the preference to British bottoms:

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2. The provisions of the Treaty which relate to the West Indies, where the nature of our exports and imports gives a commanding energy to our just pretensions, instead of alleviating the general evil, are a detail of peculiar humiliations and sacrifices. Nor is a remedy by any means to be found in the proposed suspension of that part of the Treaty. On the contrary,

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If Great Britain should accede to the proposition, and the Treaty be finally established without the twelfth article, she will, in that event, be able to exclude American bottoms altogether from that channel of intercourse, and to regulate the whole trade with the West Indies in the manner hitherto complained of; whilst, by another article of the Treaty, the United States are compleatly dispossessed of the right and the means hitherto enjoyed of counteracting the monopoly, unless they submit to a universal infraction of their trade, not excepting [that?] with nations whose regulations may be reciprocal and satisfactory.

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3. The Treaty, not content with these injuries to the United States in their commerce with Great Britain, provides, in the XV article, against the improvement or preservation of their commerce with other nations, by any beneficial Treaties that may be attainable. The general rule of the United States in their Treaties, founded on the example of other nations, has been, that where a nation is to have the privileges that may be granted to the most favored nations, it should be admitted gratuitously to such privileges only as are gratuitously granted; but should pay for privileges not gratuitously granted the compensations paid for them. This prudent and equitable qualification of the footing of the most favored nation was particularly requisite in a Treaty with Great Britain, whose commercial system, being matured and settled, is not likely to be materially varied by grants of new privileges that might result to the United States. It was particularly requisite at the present juncture, also, when an advantageous revision of the Treaty with France is said to be favored by that Republic, when a Treaty with Spain is actually in negociation, and Treaties with other nations whose commerce is important to the United States cannot be out of contemplation. The proposed Treaty, nevertheless, puts Great Britain in all respects, gratuitously, on the footing of the most favored nation; even as to future privileges, for which the most valuable considerations may be given. So that it is not only out of the power of the United States to grant any peculiar privilege to any other nation, as an equivalent for peculiar advantages in commerce or navigation to be granted to the United States; but every nation desiring to treat on this subject with the' United States is reduced to the alternative, either of declining the Treaty altogether, or of including Great Britain, gratuitously, in all the privileges it purchases for itself. An article of this import is the greatest obstacle, next to an absolute prohibition, that could have been thrown in the way of other Treaties; and that it was insidiously meant by Great Britain to be such is rendered the less doubtful by the other kindred features visible in the Treaty.

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It can be no apology for these commercial disadvantages that better terms could not be obtained at the crisis when the Treaty was settled. If proper terms could not be obtained at that time, commercial stipulations, which were no wise essentially connected with the objects of the Envoyship, ought to have waited for a more favorable season. Nor is a better apology to be drawn from our other Treaties. The chief of them were the auxiliaries or the guaranties of our independence, and would have been an equivalent for greater commercial concessions than were insisted on. [Under other circumstances, there is no ground to suppose that the same treaties, the more favorable in several material articles than the Treaty in question, would have been embraced by the United States.]

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V. A Treaty thus unequal in its conditions, thus derogatory to our national rights, thus insidious in some of its objects, and thus alarming in its operation to the dearest interests of the United States in their commerce and navigation, is, in its present form, unworthy the voluntary acceptance of an Independent people, and is not dictated to them by the circumstances in which Providence has kindly placed them. It is sincerely be lieved that such a Treaty would not have been listened to at any former period when Great Britain was most at her ease, and the United States without the respectability they now enjoy. To pretend that, however injurious the Treaty may be, it ought to be submitted to in order to avoid the hostile resentment of Great Britain, which would evidently be as impolitic as it would be unjust on her part, is an artifice too contemptible to answer its purpose. It will not easily be supposed that a refusal to part with our rights without an equivalent will be made the pretext of a war on us; much less that such a pretext will be rounded on our refusal to mingle a sacrifice of our commerce and navigation with an adjustment of political differences. Nor is any evidence to be found, either in History or Human nature, that nations are to be bribed out of a spirit of encroachment and aggressions by humiliations which nourish their pride, or by concessions which extend their resources and power.

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To do justice to all nations; to seek it from them by peaceable means in preference to war; and to confide in this policy for avoiding that extremity, or securing the blessing of Heaven when forced upon us, is the only course of which the United States can never have reason to repent.

To Thomas Jefferson.

August 24, 1795.

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DEAR SIR,—I hear nothing of Monroe but through the Newspapers containing his correspondence with Pickering. As that appears to have been closed on the 31st of last month, I am in hourly expectation of seeing him. I am also without any late information with respect to the progress of the Committee on Blount's and Liston's conspiracy. Dawson wrote me some time ago, "that they were going on well, and that he had well-grounded reasons, which he could not communicate by letter, to say that they should bring in some large fish." It is much to be wished none of this description may escape, though to be feared that they will be most likely to do so.

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Mrs. Madison offers her respects to the ladies, and joins in my inclination to visit Monticello; but I am so completely plunged into necessary occupations of several kinds, that I cannot positively decide that we shall have the pleasure.

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Yours affectionately.

To Thomas Jefferson.

ORANGE, October 18, 1795.

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DEAR SIR,—On opening the letter forwarded, by Pickering, which I omitted at Monticello, because I took for granted that it merely covered, like yours, a copy of the French Constitution; I found a letter from Monroe, of the 30 June, from which the following is an extract: "You will be surprised to hear that the only Americans whom I found here were a set of New England men connected with Britain, and who, upon British capital, were trading to this country; that they are hostile to the French revolution is what you well know; but that they should be thriving upon the credit which the efforts of others in other quarters gain the American name here, you could not expect; that, as such, they should be in possession of the little confidence we had, and give a tone to characters on our side of the Atlantic, was still less to be expected. But such was the fact. With a few exceptions, the other merchants are new-made Citizens, from Scotland. Swan, \* \* \* \* \* by virtue of being the agent of France, and as we had no Minister, and he being (though of the latter description) the only or most creditable resident American here, had a monopoly of the trade of both Countries. Indeed, it is believed that he was connected with the agents on one side, and the Minister on the other. I mention this as a trait worthy your attention. You will confide this view to Mr. Jefferson only. But good may come from it, and especially if the allurement here will draw them off from the other side of the channel." The remainder of the letter is little more than you have probably seen from him.

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I have seen Philadelphia papers down to the 12th instant. One of them contains another letter from Edmund Randolph to the President, dated the 8th, and sent to the press on the 10th, applying for a paper refused him by Pickering, intimating that the want of this alone delayed his final statement, and notifying the President that his consent would be expected to a publication of it. It appears that the State elections in Pennsylvania will be very warm, and are hinged on the distinction of Treaty and anti-Treaty candidates. In Delaware, they are over, and have given a triumph to the Anti-Treaty party. The French Constitution has been unanimously concluded by the Convention. It is not yet authenticated that war has taken place between England and Spain, but reports and circumstances continue to point at it.

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Yours affectionately.

To Thomas Jefferson.

FREDERICKSBURG, Novr, 8th, 1795.

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DEAR SIR,—I am thus far on my way to Philadelphia, and shall proceed on the journey this morning. I left with my Father, subject to your order, the packet of papers promised you. In case of his absence, the overseer will be charged with them. Should you send a special messenger, it will be well to provide against much roughness in the carriage, as the papers are in a state not unsusceptible of being injured by it.

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I hear nothing new at this place, except that Wheat is falling in Philadelphia, and consequently so here. Two reasons are assigned: the bad quality of the crop, and the English harvest turning out better than was expected. The last cause is no doubt exaggerated, if not forged, but rather in England than here, for the papers are full of such paragraphs copied from English papers or English letters.

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Mr. Randolph's publication is said to be in the press, but has not yet made its appearance. In the mean time, Reports continue to circulate to his disadvantage; and I find that malice is busy in attempts to implicate others with his affair. I hope you will not forget to draw on our friend in N. Carolina for his political anecdotes, &c. He will, at least, in answer to your queries, give you a history of the particular points comprehended in your review. What passed in relation to the seat of Government, I know has been entered in his Diary.

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Yours truly,

To Thomas Jefferson.

PHILADELPHIA, Decr 6, 1795.

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DEAR SIR,—The inclosed letter, with a pamphlet under the same cover, came to me a few days ago from the post office, with a charge of a dollar postage. I have delayed to forward it till further expence could be avoided. The pamphlet I will send by the first good opportunity. I have your favor of the 26th ult., corroborating the view I had before received of matters at Richmond. There is likely to be a quorum of both Houses of Congress to-morrow. Muhlenberg and Dayton will probably be the candidates for the Chair in the House of Representatives. I can say nothing yet of the complexion of the body, more than has been known from general accounts long ago. With respect to the Cabinet, I am without the least information. It does not appear that any final step has been taken for filling the vacant Departments. The offer of the Secretaryship of State to P. Henry is a circumstance which I should not have believed, without the most unquestionable testimony. Col. Coles tells me Mr. Henry read the letter to him on that subject. It appears that there have been some agitations in Paris, produced by the decree of two-thirds tacked to the Constitution; but as the Jacobins united with the Convention in crushing them, the crisis was probably the expiring struggle of the counter-revolutionists. From the nature of the Decree, it is not wonderful that it should not have been swallowed without some resistence. Randolph's pamphlet is not yet out. I am told it will appear in a few days. As soon as I can send you a copy you shall have one.

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Yours affectionately.

To Thomas Jefferson.

PHILADELPHIA, Decr 13, 1795.

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DEAR SIR,—I received yesterday your favor, covering a letter to Monsr Liancourt, which I have put into the hands of Noailles, who will. attend to the delivery of it. I inclose a copy of the President's Speech. The Senate have answered it, as was to be expected. You will see the first fruits of their open doors in the debates it produced. The answer of the House of Representatives will be reported to-morrow. It has been delayed by a disagreement of ideas in the Committee, which consisted of Sedgwick, Sitgreaves, and myself. The two former are strongly for the Treaty, and wish to favor it, at the same time that they are afraid to hazard direct expressions to that effect. The policy of that party is to obtain it a quiet passage through the present session, pretending that it is too soon now to meddle with it, as they will hereafter pretend that it is then too late. The means employed are to blazon the public prosperity, to confound the Treaty with the President, and to mouth over the stale topics of war and confusion. The answer, as it stands to be reported, contains a clause which will put the House of Representatives in a dilemma similar to that forced on the House of Delegates, and I believe will never be swallowed, because it is in part notoriously untrue. It affirms the confidence of his fellow-citizens to be undiminished, which will be denied by many who sincerely wish it to be the case. It cannot yet be determined what course the business will take. It seems most probable at present that the answer will be neutralized, and the subject immediately after taken up in a committee of the whole on the state of the Union; which will have the advantage of disentangling it from the President, and of accommodating the wishes of some individuals who will be much influenced by the mode. There is pretty certainly a great majority against the Treaty on its merits; but besides the ordinary difficulty of preventing schisms, there is a real obscurity in the constitutional part of the question, and a diversity of sincere opinions about it, which the other side will make the most of. Nothing very late from abroad. The provision order has been repealed, but the spoliations go on. The publication of E. R. is not yet out. It is said it will appear the latter end of this week.

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Flour 14 dollars, and it is thought will rise to 16. The purchases of British agents for the W. India armaments are, no doubt, one of the causes of this extraordinary rise.

To James Monroe.

PHILADELPHIA, Decr 20, 1795.

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DEAR SIR,—The last of your favors come to hand bears date Septr 8, 1795, of which a duplicate has also been received. The others which it may be proper to acknowledge or reacknowledge are of Novr 30th, 1794, which was opened at Halifax, and forwarded to me in that state; Decr 18, 1794, covering a copy of one of the same date to Mr. Randolph; Feby 18, 1795, covering a copy of one of Feby 12 to the same; Feby 25, covering a duplicate of Ditto; June 13, inclosing a copy of a letter of May 4, from Mr. Short; June 8, 28, 30, July 26, covering the correspondence with Jay; and Augt 15. As I cannot now give minute answers to each of these letters, and the necessity of them as to most has been superseded, I shall proceed to the object most immediately interesting to you, to wit, the posture of things here resulting from the embassy of Mr. Jay. The Treaty concluded by him did not arrive fill a few days after the 3d of March, which put an end to the last session of Congress. According to previous notification to the Senators, that branch assembled on the 28th of June, the contents of the Treaty being in the mean time impenetrably concealed. I understood it was even withheld from the Secretaries at War and the Treasury, that is, Picketing and Wolcott. The Senate, after a few weeks consultation, ratified the Treaty, as you have seen. The injunction of secrecy was then dissolved by a full House, and quickly after restored, sub modo, in a thin one. Mr. Mason, disregarding the latter vote, sent the Treaty to the press, from whence it flew with an electric velocity to every part of the Union. The first impression was universally and simultaneously against it. Even the mercantile body, with the exception of Foreigners and demi-Americans, joined in the general condemnation. Addresses to the President against his ratification swarmed from all quarters, and without a possibility of preconcert, or party influence. In short, it appeared for a while that the latent party in favor of the Treaty were struck dumb by the voice of the Nation. At length, however, doubts began to be thrown out in New York whether the Treaty was as bad as was represented. The Chamber of Commerce proceeded to an address to the President, in which they hinted at war as the tendency of rejecting the Treaty, but rested the decision with the constituted authorities. The Boston Chamber of Commerce followed the example, as did a few inland villages. For all the details on this subject I refer to the Gazettes, which I presume you continue to receive from the Department of State. It appears that the struggle in the public mind was anxiously contemplated by the President, who had bound himself, first, not to disclose the Treaty till it should be submitted to the Senate, and, in the next place, not to refuse his sanction if it should receive that of the Senate. On the receipt here, however, of the predatory orders renewed by Great Britain, the President, as we gather from Mr. Randolph's pamphlet, was advised not to ratify the Treaty unless they should be revoked, and adhered to this resolution, from the adjournment of the Senate, about the last of June, till the middle of August. At the latter epoch Mr. Fauchèt's intercepted letter became known to him, and as no other circumstance on which a conjecture can be rounded has been hinted to the public, his change of opinion has been referred to some impression made by that letter, or by comments upon it; although it cannot easily be explained how the merits of the Treaty, or the demerits of the provision order, could be affected by the one or the other. As soon as it was known that the President had yielded his ratification, the British party were reinforced by those who bowed to the name of constituted authority, and those who are implicitly devoted to the President. The principal Merchants. of Philadelphia, with others, amounting to about four hundred, took the lead in an address of approbation. There is good reason to believe that many subscriptions were obtained by the Banks, whose directors solicited them, and by the influence of British capitalists. In Baltimore, Charleston, and the other commercial towns, (except Philadelphia, New York, and Boston,) no similar proceeding has been attainable. Acquiescence has been inculcated with the more success by exaggerated pictures of the public prosperity, an appeal to the popular feeling for the President, and the bugbear of war; still, however, there is little doubt that the real sentiment of the mass of the community is hostile to the Treaty. How far it may prove impregnable, must be left to events. A good deal will depend on the result of the session, and, more than ought, on external contingencies. You will see how the session opened in the President's Speech, and the answer to it. That you may judge the better on the subject, I add in the margin of the latter the clause expunged, as not true in itself, and as squinting too favorably at the Treaty. This is the only form in which the pulse of the House has been felt. It is pretty certain that a majority disapproves the Treaty, but it is not yet possible to ascertain their ultimate object, as matters now lie. The Speech of the President was well adapted to his view. The answer was from a Committee, consisting of myself, Sedgwick, and Sit-greaves, in the first instance, with the addition of two other members on the recommitment. In the first committee, my two colleagues were of the Treaty party; and, in the second, there was a willingness to say all that truth would permit. This explanation will assist you in comprehending the transaction. Since the answer, as passed, and was presented, nothing has been said or done in relation to the Treaty. It is much to be feared that the majority against the Treaty will be broken to pieces by lesser and collateral differences. Some will say it is too soon to take up the subject before it is officially presented in its finished form; others will then say it is too late. The opportunity of declaring the sense of the House in the answer to the speech was sacrificed to the opinion of some, from whom more decision was expected than will be experienced towards an immediate consideration of the subject by itself. The truest policy seems to be, to take up the business as soon as a majority can be ascertained; but not to risk that event on a preliminary question. What the real state of opinions may be, is now under enquiry. I am not sanguine as to the result. There is a clear majority who disapprove the Treaty, but it will dwindle under the influence of causes well known to you; more especially as the States, instead of backing the wavering, are themselves rather giving way. Virginia has, indeed, set a firm example; but Maryland, North Carolina, and New Hampshire, have counteracted it, and New York will soon follow with some strong proceedings on the same side.

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I am glad to find by your letters that France, notwithstanding the late Treaty, continues to be friendly. A magnanimous conduct will conduce to her interest as well as ours. It must ultimately baffle the insidious projects for bartering our honour and our Trade to British pride and British monopoly. The fifteenth article of the Treaty is evidently meant to put Britain on a better footing than France, and prevent a further Treaty with the latter; since it secures to Britain, gratuitously, all privileges that may be granted to others for an equivalent, and of course obliges France, at her sole expense, to include the interest of Britain in her future treaties with us. But if the Treaty should take effect, this abominable part will be of short duration, and, in the mean time, something, perhaps, may be done, disconcerting the mischief in some degree. You will observe a navigation act is always in our power. The article relating to the Mississippi, being permanent, may be more embarrassing, yet possibly not without some antidote for its poison. I intended to go on in cypher, but the tediousness obliges me to conclude the present letter, in order to seize a conveyance just known to me. Mr. Randolph's pamphlet is just out. Mr. Tazewell will send that and several other things collected for you by this conveyance. Pickering is Secretary of State; Charles Lee, Attorney General; no Secretary at war. The Senate have negatived Rutledge as Chief Justice. Mr. Jones keeps you informed of your private affairs. He and Mr. Jefferson are well. I have just received your two favors of October 23 and 24, with the accompaniments, by Mr. Murray. The articles have probably not arrived in the same Ship, as Mr. Yard has no information from N. York thereon.

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Accept from Mrs. Madison and myself ten thousand thanks for your and Mrs. Monroe's goodness, which will, as generally happens, probably draw more trouble upon you. Mr. and Mrs. Y. well. Your friends at New York so, too.

To Robert Simms, (of S.C.)

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PHILADELPHIA, December, 1795. Your letter, under the same cover with a memorial to the House of Representatives, came duly to my hands through those of Major Butler, and the memorial was, according to your request, put into the hands of the Speaker. As it has not been, and is not meant to be, laid before the House, it may be proper for me to give you this information, and to add that the part relating to an impeachment of the Senate, which is beyond the Constitutional authorities of the House of Representatives, was thought to render it so palpably improper to be read by them, as to supersede the consideration of other parts of the memorial. I cannot avoid expressing my hope that your recollection of the services of the President, and your attachment to Republican Government, in which mildness to the involuntary errors, not less than gratitude for the successful exertions of public servants, is among its truest merits, will overbalance the regret which might. otherwise attend your disappointment in this case.

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With my acknowledgments for the favorable sentiments you have thought fit to express toward me, I remain, your obt, hble serv.

To Thomas Jefferson.

PHILADELPHIA, Decr 27, 1795.

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DEAR SIR,—Mr. Randolph's pamphlet is out, and will be forwarded by the first opportunity. Although I have kept up an enquiry, I have not been able to collect the impression it makes. As it relates to the President, nothing seems to be said; and as it relates to parties in general, very little. By Fenno's and Webster's papers, it appears that an effort will be used to run down Mr. R., and, if necessary for the purpose, to call in the incidents to which his pecuniary embarrassments have exposed him. The Speech of the President will have shown you the guarded and perplexing shape in which the Treaty was brought into view. The answer was the result of circumstances, which my communications to you explain in part. The silence of it as to the Treaty was an accommodation to the wishes of a few, who preferred taking it up by itself afterwards. These individuals have not shown as much forwardness as was expected, and owing to that cause, and to the account of an exchange of ratifications and the momentary expectation of the Treaty, nothing is yet done on the subject. The situation is truly perplexing. It is clear that a majority, if brought to the merits of the Treaty, are against it. But as the Treaty is not regularly before the House, and an application to the President brings him personally into the question, with some plausible objections to the measure, there is great danger that enough will fly off to leave the opponents of the Treaty in a minority. Enquiries are on foot to ascertain the true state of opinions and the probable turn of votes; and if there be found a firm majority on the right side, an attempt will be made to get at the subject. There are accounts from Paris to the 5th of Novr. The new Constitution was taking an auspicious commencement. Monroe's letters to me of Oct. 23 and 24 give a favorable prospect on that side, as well as with regard to French affairs in general. He confirms the late naval advantages, and speaks of the check on the Rhine as a bagatelle. He knew only from Report the ratification of the Treaty by the President. His language breathes equal mortification and apprehension from the event. He says that England would have refused us nothing, and we have yielded everything; and he cannot but speak as reason dictates. A nation threatened with famine at home, and depending on the forlorn hope of West India armaments, which our market only can feed, was a nation to make rather than receive concessions.. I am just told that 97 out of 98 of the Bermuda Judge's decrees against our vessels are announced to be reversed in England. This is another proof of Monroe's opinion. The reversal in such a lump must have resulted not from principle, but from policy, as the lumping condemnation proceeded from cupidity. Flour at 14 dollars at present. We have had no winter as yet. The weather is now as mild as October. I hope it will assist you against your rheumatism.

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Adieu.

1796

To Thomas Jefferson.

PHILADELPHIA, January 10, 1796.

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DEAR SIR,—The House of Representatives have been latterly occupied with a pretty curious affair. Certain Traders and others, of Detroit, entered into a contract with certain individuals of the United States, for obtaining the peninsula formed by Lakes Huron and Michigan, and containing 20 or 30 millions of acres of valuable land. The traders, by means of their influence over the Indians, were to extinguish the Indian Title; and the other party, by means of their influence, and that of their connexions, with Congress, to extinguish the title of the United States. The Country was to be divided into shares, of which the greater part was to be disposed of by the party who had to deal with Congress. The reason of this, obvious. enough in itself, has been sufficiently established by proof. Ever since the session commenced, two of the partners deputed to work the project through Congress have been employed with great industry, opening themselves in different degrees and forms, to different members, according to circumstances. Some of the members, who scented the criminality of the object, waited for a full disclosure. Others, through an eagerness of some sort or other, ran with the tale first to the President, and then into the House of Representatives, without concerting or considering a single step that ought to follow. In consequence of the information to the President, and a representation to the District Judge of United States, a warrant issued, and the offenders were taken into custody by the Marshal. The House could not be prevailed on to take a single day to consider the subject, and a warrant issued from the Speaker, also, by virtue of which the Prisoners were transferred to the Sergeant-at-arms. For the proceedings which have ensued, I must refer you to the newspapers. They ended in the discharge of one of the men, and in the reprimand of the other at the bar, and remanding him to Gaol, where he now lies. In the arguments of the Counsel, and in the debates in the House, the want of jurisdiction in such a case over persons not members of the body was insisted on, but was overruled by a very great majority. There cannot be the least doubt, either of the turpitude of the charge, or the guilt of the accused; but it will be difficult, I believe, to deduce the privilege from the Constitution, or to limit it in practice, or even to find a precedent for it in the arbitrary claims of the British House of Commons. What an engine may such a privilege become, in the hands of a body once corrupted, for protecting its corruptions against public animadversion, under the pretext of maintaining its dignity and preserving the necessary confidence of the public! You will observe that a part of the charge consisted of the slanderous assertion that a majority of the Senate, and nearly a majority of the other House, had embarked in the job for turning a public measure to their private emolument. Apply the principle to other transactions, and the strictures which the press has made on them, and the extent of its mischief will be seen at once. There is much room to suspect that more important characters, both on the British and American sides of this affair, were behind the ostensible parties to it.

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The Treaty has not yet been touched. I understand from Mr. Giles that the delay has been explained by him to you. A copy of the British ratification arrived lately, and it was hoped a communication of it would have followed. The Executive decided otherwise; and to appease the restlessness of the House of Representatives, Picketing laid the papers before the Speaker, to satisfy him, and enable him to explain the matter to others individually. This mode of proceeding does not augment the respect which a more direct and less reserved stile of conduct would inspire, especially as the papers were sufficiently authentic for any use the House of Representatives would be likely to make of them. It is now said that the original is arrived by a British Packet just announced from New York. Having been kept within doors by the badness of the day, I have not ascertained the truth of the account.

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I have letters from Col. Monroe of the 23 and 24 of Octr. His picture of the affairs of France, particularly of the prospect exhibited in the approaching establishment of the Constitution, is very favorable. This, as far as we know, has had an easy . birth, and wears a promising countenance. He had not learnt with certainty the ratification of the Treaty by the President, but wrote under the belief of it. His regrets, and his apprehensions, were as strong as might be expected. I have a letter from T. Paine, which breathes the same sentiments, and contains some keen observations on the administration of the Government here. It appears that the neglect to claim him as an American Citizen when confined by Robespierre, or even to interfere in any way whatever in his favor, has filled him with an indelible rancour against the President, to whom it appears he has written on the subject. His letter to me is in the stile of a dying one, and we hear that he is since dead, of the abscess in his side, brought on by his. imprisonment. His letter desires that he may be remembered to you.

Writings of Madison, Volume 2: 1794-1815, p.72

I inclose a copy of the proceedings relating to the presentation of the French flag. What think you of the President's Jacobinical speech to Adèt?

Writings of Madison, Volume 2: 1794-1815, p.72

Randolph's vindication has just undergone the lash of the Author of the "Bone gnaw." It is handled with much satirical scurrility, not without strictures of sufficient ingenuity and plausibility to aid the plan of running him down. By Mr. Carr, who is now here, we will endeavor to contrive you a copy.

To James Monroe.

PHILADELPHIA, Jany 26, 1796.

Writings of Madison, Volume 2: 1794-1815, p.73

DEAR SIR,—Since my last I have had the pleasure of your two favors of October 23 and 24. The business of the Treaty with Great Britain remains as it stood. A copy of the British ratification has arrived, but the Executive wait, it seems, for the original, as alone proper for communication. In the mean time, although it is probable that the House, if brought to say yea or nay directly on the merits of the Treaty, will vote against it, yet a majority cannot be trusted on a question applying to the President for the Treaty. In the mean time, also, information has arrived of the conclusion of a Treaty with Spain, with which the other will of course be combined. No hint of the terms is yet given to the public, nor are they probably otherwise known to the Executive than by the instructions. That provision is made for the Mississippi is to be presumed. Its aspect on the Mississippi article in the British Treaty will be particularly interesting. Among other attitudes given by this event to our situation, it is highly probable that the Spanish Treaty will comprise stipulations at once popular, and similar in principle to some attacked in the British Treaty.

Writings of Madison, Volume 2: 1794-1815, p.73

General Smith, of Baltimore, has offered to the House a resolution, that after the day of no vessel shall land in the United States any article not produced by the country to which the vessel belongs. It will embarrass the Eastern members, but they will venture to oppose it as tending to perplex the treaty question; and probably with success, if joined by the Southern members, as hitherto, from other motives.

Writings of Madison, Volume 2: 1794-1815, p.73

You will be pleased, and perhaps surprised, at the scene produced by the French flag. The harangue of the President must grate the British party, but they are cunning enough to be silent. It seems that Adèt, notwithstanding the complimentary and cordial language of the President and Representatives, is much disgusted at the deposit of the Flag elsewhere than in the Hall of Congress. You can, perhaps, better appreciate the case than we can. Such a result, where other circumstances are so propitious, is unfortunate. I send a copy of the proceeding. I also send a copy of the proceedings in the case of Randal and Whitney, which need no comment beyond your own reflections.

Writings of Madison, Volume 2: 1794-1815, p.74

I send, also, E. Randolph's vindication, with a malignant attack on it, by a satirical, but scurrilous writer. The latter has published several other pamphlets, exhibiting him in the same character. Bond is among the putative authors. But the real author is, probably, some hireling, to whom materials may be supplied. Randolph is resettled at Richmond, and resumes the practice of the law with flattering prospects, as is said. The effect of his pamphlet is not yet fully known. His greatest enemies will not easily persuade themselves that he was under a corrupt influence of France, and his best friends cannot save him from the self-condemnation of his political career, as explained by himself. The "Political observations" is a fugitive thing of my own writing, at the heel of the last session, in pure compliance with the urgency of certain friends. It is full of press blunders, you will perceive.

Writings of Madison, Volume 2: 1794-1815, p.74

We have accounts here that Mr. Paine is dead. I spoke to Mr. Bache on the subject of the advance by you, to be repaid for Mr. Paine through my hands. He said only that he would call on me and show me the papers, which he has not done. I inferred from his manner that there was a deficit of funds in his hands, to be explained by him. I heard nothing from Mr. Picketing on the other pecuniary subject. Just as I am making up this packet, I have the pleasure of a letter for you from Mr. Jones, which will no doubt give you all the requisite information for which you rely on him.

Writings of Madison, Volume 2: 1794-1815, p.74

Mrs. M. seconds all the acknowledgments due to you and Mrs. Monroe, as well as the affectionate esteem with which I ever remain, yours.

Writings of Madison, Volume 2: 1794-1815, p.75

P. S. Chs. Lee has entered on the duties of Attorney General. No Secretary at war yet nominated, nor any Judge in the place of J. Rutledge, and Mr. Blair, who has resigned. Mr. Rutledge also sent his resignation, but the Senate had previously rejected him.

To Thomas Jefferson.

PHILADELPHIA, Jany 31, 1796.

Writings of Madison, Volume 2: 1794-1815, p.75

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 2: 1794-1815, p.75

The original of the British ratification of the Treaty is still to arrive, and we are not likely to be furnished with a copy. Some members are anxious to apply to the President for the communication, and some would take up the subject on its mere notoriety. It is pretty evident, however, that either attempt would be defeated by the advantage which the rub against the President in one case, and the informality in the other, would give to the friends of the Treaty, in the discussion, and the pretext they would afford to the insincere and cautious opponents. The Treaty with Spain, also, is not yet arrived, though there is reason for hourly expecting it. The same as to the Treaty with Algiers. You will see in the Gazette inclosed a sketch of the debate on the proposition to employ Roberton, of Petersburg, as Stenographer to the House of Representatives. The more the subject is opened, the more the objections are found to be insuperable. There is little doubt that the project will be rejected.

Writings of Madison, Volume 2: 1794-1815, p.75

A committee of ways and means are employed in investigating our revenues and our wants. It is found that there are between six and seven millions of anticipations due to the Banks, that our ordinary income is barely at par with our ordinary expenditures, and that new taxes must be ready to meet near one and a half millions, which will accrue in 1801. The proposition of the Treasury is to fund the anticipation, and the foreign debt due in instalments, with an absolute irredeemability for such a period, say 20 or 30 years, as will sell the new stock at par. This is treading as fast on the heels of G. Britain as circumstances will permit. It is probable the House will not consent such an abandonment of the sound principle it has been latterly favouring; but loans, at least, in some form or other, will be indispensable, in order to face the demands on the public, until new taxes can be brought into action. With respect to this, the Committee are now in deliberation and embarrassment. The excise system is unproductive, and new excises that will be popular, even in the Eastern States, do not occur. On the other hand, direct taxes have been so blackened in order to recommend the fiscal policy of indirect ones, and to inspire hatred and jealousies in the Eastern against the Southern States, and particularly Virginia, that it is doubtful whether the measure, now that it is become necessary, will be borne. Gallatin is a real treasure in this department of Legislation. He is sound in his principles, accurate in his calculations, and indefatigable in his researches. Who could have supposed that Hamilton could have gone off in the triumph he assumed, with such a condition of the finances behind him?

Writings of Madison, Volume 2: 1794-1815, p.76

You will see that Govr Adams has launched a pretty bold attack against the Treaty. The Legislature have not yet answered his speech. Their unhandsome treatment of the Virginia amendments portends a counter tone. Nothing could, more than this treatment, demonstrate the success with which party calumny has sown animosity and malignity in the State of Massachusetts against a State which feels no return of ill-will, and towards which there were formerly in that quarter the strongest habits of cordiality and co-operation.

The navigation project of Genl Smith waits for a favorable moment of discussion. The Treaty party will make war on it, as secretly levelled at that transaction, and thus endeavour to escape the consequences of sacrificing the obvious interests of the Eastern States.

To Edmund Pendleton.

PHILADELPHIA, Feby 7, 1796.

Writings of Madison, Volume 2: 1794-1815, p.77

MY DEAR SIR,—Your favor of January 6th, owing to failures of the mail South of Baltimore, did not come to hand within the usual time; and subsequent delays in the communication, consultation, and decision of Mr. Giles and myself, on the manner of publishing and applying your observations on the Carriage tax, have brought down the return of my thanks for your favor to the present date. I read with real pleasure the paper you put into the hands of Mr. Giles; which is unquestionably a most simple and lucid view of the subject, and well deserving the attention of the Court which is to determine on it. The paper will be printed in the Newspapers, in time for the Judges to have the benefit of it. I did not find that it needed any of those corrections which you so liberally committed to my hanoi. It has been thought unnecessary to prefix you name; but Mr. Giles will let an intimation appear, along with the remarks, that they proceed from a quarter that claims attention to them. It is said that both the Judges and the Attorney General have expressed a wish that the question should be argued on both sides at the Bar; but as the ordinary motive does not operate on the side of the Defendant, it is not certain that any professional appearance for him will take place. It is, perhaps, better that the cause should rest on the printed arguments, and on the discernment of the Bench, than that it should be espoused by junior and unskilful volunteers. There never was a question on which my mind was more satisfied, and yet I have very little expectation that it will be viewed by the Court in the same light it is by me.\*

Writings of Madison, Volume 2: 1794-1815, p.77

The British Treaty in its final form, as ratified by both parties, has not yet been laid before the House of Representatives. The delay is accounted for by the copy only, and not the original, of the British ratification having been received. I am sorry that so much weight is allowed to forms. My advice to the President would have been, to have opened the actual state of the business in his speech, and to have communicated all the documents relating to it to the Legislature. A different opinion has prevailed, and nothing is more uncertain than the moment when the Treaty will be laid on the Table for our consideration. In the mean time, there is no apparent disposition in the majority either to apply for it, or to take it up informally, on its general notoriety; and the name of the President is everywhere used with the most wonderful success, by the Treaty partizans, in subduing the popular objections to that instrument. No where has this policy been exerted with so much effect as in New England, as is shown by the proceedings of the Legislatures of New Hampshire and Massachusetts. The manner in which the latter has treated the proposed amendments of Virginia, is as unworthy on the part of Massachusetts as it is unmerited on that of her sister. It speaks an influence which cannot be friendly to either.

Writings of Madison, Volume 2: 1794-1815, p.78

The Treaty with Spain is not yet arrived, nor is that with Algiers. The contents of both are unknown. There can be little doubt that the former contains some beneficial arrangements on the subject of the Mississippi. The countenance of English affairs grows more and more lowering. Among other signs truly alarming to that Country, the Parliament are allowing a bounty, amounting to 2s. 6d. Sterling a bushel, on the importation of foreign wheat. The accounts from France, subsequent to the establishment of the Constitution, are favorable to internal order and tranquillity, and, of course, to her prospects on every side.

Writings of Madison, Volume 2: 1794-1815, p.78

Since the knowledge of the English Bounty, Flour has taken a fresh start. It is now at about 14 dollars, and a further rise is expected. For other domestic intelligence I must refer to the newspapers, which I presume you occasionally see, and one of which is inclosed.

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I beg you to offer my best respects to Colonel Taylor, and to accept the same yourself. With the truest esteem and attachment, I am, dear sir, your obt friend and servt.

To Thomas Jefferson.

PHILADELPHIA, Feby 7, 1796.

Writings of Madison, Volume 2: 1794-1815, p.79

DEAR SIR,—Several mails preceding that of yesterday brought nothing more Southern than Baltimore. This will account for my not receiving your favor of the 24th ult. till yesterday. I will make the enquiries and execute the commissions in it with pleasure, and without delay. I am afraid to make the same promise as to the weekly history of what passes in the Government behind the curtain; especially as the cypher might be required for some parts of it. What I can, I will do on the subject. I have already made a partial collection of the Tracts you wish. I know not what is meant by the correspondence of Jay and Jefferson; probably it is the correspondence not between them, but between each and others.

Writings of Madison, Volume 2: 1794-1815, p.79

I thank you for the copy of your statement and letter to Mr. Wythe. I value it not only as a gratification to myself, but as another security for the preservation of the document.

Writings of Madison, Volume 2: 1794-1815, p.79

Dohrman maintains a silence that justifies strong suspicions of aversion or inability to pay his debts. I feel no longer any other restraints from resorting to his deed of trust but that which Mazzei's interest dictates. As yet, the land would sell for considerably less than the sum due. The general rise of price which is going on will probably soon remove this difficulty, especially if the Treaty with Spain should have done what is hoped as to the navigation of the Mississippi.

Writings of Madison, Volume 2: 1794-1815, p.79

You will see that the aspect of English affairs grows more and more lowering. The alarm of the Seditious Bills, the bounty on foreign wheat and flour, the detention of the armament fitted up for the forlorn experiment in the West Indies, are more portentous than any thing previous to these signs of a ripening crisis. The accounts from France are not of very late date, but continue to be auspicious. The Treaties with Algiers and Spain loiter, as that with England did. It is to be hoped this is the only instance in which the parallel holds.

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An idea begins to shew itself that an unrestrained exportation of the Bread articles threatens a scarcity in our own country. The large towns will of course be the first seat of such an apprehension. It is certain that the crops of grain in North Carolina failed to such a degree as to start the price of corn at a dollar a bushel, where it used to be at 1/3 of a dollar. In Virginia, if the present price be the measure of the quantity, there will be little corn to spare, and probably not a great deal more of wheat. In this State, it is turning out more and more in evidence that the crop of wheat has been very scanty. The Eastern States always require large importations from the others. In New Jersey and New York alone the crops of wheat appear to have been good; and that is probably exaggeration on the favorable side. Flour at present, in this place, is rising under the information of the English bounty. All in the market is said to be bought up, probably by English agents. It sold a day or two ago, or rather there was offered for it, 14 dollars a barrel, and the best informed speak with confidence of successive rises. In this attitude of things, what a noble stroke would be an embargo! It would probably do as much good as harm at home, and would force peace on the rest of the World, and, perhaps, liberty along with it. But you know the spell within the Government, as well as the obstacles to such a measure, in the clamours that would be raised among the Merchants, the Millers, and Farmers, to say nothing of the Tories, &c., who would make more noise than any of them.

Writings of Madison, Volume 2: 1794-1815, p.80

I intreat you not to procrastinate, much less abandon, your historical task. You owe it to yourself, to truth, to the world.

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There is some reason to think that John Rutledge is not right in his mind. Cushing has been put at the head of the Bench, but, it is said, will decline the pre-eminence. Chase in the place of Blair!! A vacancy remains to be filled. McHenry, Secretary at War. Through what official interstice can a ray of republican truths now penetrate to the President?

To Thomas Jefferson.

PHILADELPHIA, Feb, 21, 1796.

Writings of Madison, Volume 2: 1794-1815, p.81

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 2: 1794-1815, p.81

I find, as I conjectured, that the provision made for the daughters of De Grasse was not in the way of loan, but of gift. It would be difficult, perhaps, to justify the act in either way, by the text of the Constitution. The precedent, nevertheless, is in favour of Made de Chastellux's son. Whether his claim will be viewed with the same indulgence, on the score of his father's merits, is more than I can venture to decide. The services of De Grasse were critical. Chastellux, you recollect, was not a favorite here, tho' the cause may have been erroneous. Congress also were afraid of the precedent at the time, and endeavoured to interweave ingredients of peculiarity. I am really apprehensive that a compliance with the wishes of Made de Chastellux would entail on us a provision for the families of the whole French army that served in this Country. Congress are occupied with a Bill for selling the Western lands. Opinions are various, and the result doubtful. The British Treaty not yet before us; nor the Spanish before the Senate, or even arrived, as far as I know. The Algerine is come to hand, and under the deliberation of the Senate. The history of it contains some envious features, which it is not possible for me to explain in time. In general, it cost an immense sum, and the annual tribute is to be paid in naval stores, infinitely underrated in the Tariff. The friendly interference of France, tho' applied for, and in train, was precluded by the agent's precipitancy in closing the Treaty, for the hardness of which the apology is, that it was the best that could be got. The letter from Paris in the inclosed paper is Monroe's, and the latest in date that has been received from him. The Federal Court has not yet given judgment in the case of payments into the Virginia Treasury. Marshall and Campbell were the counsel on one side, and Lewis and Tilghman on the other. Marshall's argument is briefly [?] spoken of. Campbell and Ingersoll will appear vs. the Carriage tax. Hamilton is here, and to join Lee on the other side.

To James Monroe.

PHILADELPHIA, Feb. 26, 1796.

Writings of Madison, Volume 2: 1794-1815, p.82

DEAR SIR,—I have written you several particular letters latterly, and now add this for a conveyance of which I am just apprised.

Writings of Madison, Volume 2: 1794-1815, p.82

The British Treaty is still in the situation explained in my last. Several circumstances have indicated an intention in the Executive to lay it before the House of Representatives, but it has not yet taken place. There is reason to believe that some egregious misconception of has disappointed the Executive of the original ratification. Still, however, the Executive is not to be excused for sacrificing substance to form by withholding the subject; and as this idea must gain strength with the delay, a call for the Treaty will become daily more and more practicable and probable.

Writings of Madison, Volume 2: 1794-1815, p.82

The Algerine and Spanish Treaties are both before the Senate. Mr. Tazewell is to make them the subject of a letter to you by the present opportunity, he being fully acquainted with them. The former is stamped with folly, and the most culpable irregularities. The latter gives general joy. I have not yet ascertained whether it clashes with the British Treaty as to the Mississippi, or is in any point chargeable with the unconstitutionality alleged against the British.

Writings of Madison, Volume 2: 1794-1815, p.82

You already know that Picketing is Secretary of State, and that Charles Lee is Attorney General. The vacancy in the Secretaryship of War has been filled with Doctor McHenry. On the exclusion of John Rutledge, Cushing was made Chief Justice, but has declined it, and no successor is yet nominated. Chase is appointed to the vacancy produced by Mr. Blair's resignation. There is still a vacancy, resulting from Jay's translation to the Government of New York, to be filled. On these several appointments you will make your own comments. They are, to a man, of the Treaty party.

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The amendments proposed by Virginia for requiring the consent of the House of Representatives to Treaties, limiting the terms of Senators to three years, &c., have excited the most active party venom against that State, and the success of the hue and cry has been greater than could have been imagined. The Legislatures of N. Hampshire, Massachusetts, Rhode Island, N. Jersey, Pennsylvania, and Delaware, have all rejected, and several of them insulted [?] the example.

Writings of Madison, Volume 2: 1794-1815, p.83

It is now pretty certain that the President will not serve beyond his present term. The British party had Jay first in view, as is believed. It is now said Adams is the object. Their second man is not fixed on or discovered. It will probably be a man who will cause a diversion of Southern blows. H. Lee has been conjectured, but they will hardly think him the fittest for the purpose. The Republicans, knowing that Jefferson alone can be started with hope of success, mean to push him. I fear much that he will mar the project and ensure the adverse election by a peremptory and public protest. The candidate for the Vice-President is not yet designated.

Writings of Madison, Volume 2: 1794-1815, p.83

The immediate subjects before the House of Representatives are: a bill for guarantying a loan on a mortgage of the public lots in the federal City, for compleating the preparations there in time, without selling the lots below their value. The bill has been delayed by objections of various sorts, urged from various motives. As the President has recommended the measure, it is probable, though not certain, that it will be allowed to pass. 2. A bill for selling the lands North West of the Ohio. On this, also, opinions are multifarious, and the issue not certain. 3. New taxes. Notwithstanding the parade with respect to our finances, there are 6,200,000 dollars of anticipations due to the Bank now called for, besides the foreign instalments, and about 1,100,000 for the deferred debt, which will accrue by the time plans laid now will become regularly and adequately productive. Wolcott, in the spirit of his predecessor, proposes to fund the anticipations, &c., by selling new stock irredeemable for 25 years; that is, the redemption is not to commence till the end of 25 years. The new revenues contemplated are an increase of the duty on salt, a stamp tax, a tax on testamentary dispositions, an increase of the tax on Carriages, &c. A tax on leather and hats was also brought forward in a committee of ways and means, but will not be passed. Would you have supposed that a land tax and House tax, as indirect taxes, had also a patronage?

Writings of Madison, Volume 2: 1794-1815, p.84

The Constitutionality of the Carriage tax has been just argued here before the federal Court of Appeals; Ch. Lee and Hamilton on the side of the tax; Ingersoll, and Campbell, of Richmond, against it. Lee did not distinguish himself, and took ground different from that of his coadjutor. Hamilton exerted himself as usual. Ingersoll appeared to advantage, and Campbell, I am told, acquitted himself ably and very eloquently. The Judges on the Bench were Wilson, Patterson, Iredell, and Chase. No decision has yet been given, but an affirmance of the law is generally anticipated. The payments into the Virginia Treasury have also been argued at this term. Marshall and Campbell came hither for the purpose, in behalf of the debtors. They were combated by Lewis and Tilghman. Marshall is said to have figured very powerfully in his argument; and it is thought the event is at least doubtful.

Writings of Madison, Volume 2: 1794-1815, p.84

The birthday of the President has been celebrated with greater splendour than ever. The crisis explains the policy. A circumstance has taken place, however, more indicative in its nature than any display within the fashionable circle. You will recollect the usage of adjourning for half an hour to compliment the President on the anniversary of his birth. Last year there were but thirteen dissentients; this year, the motion to adjourn was negatived by fifty against thirty-eight.

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It has been whispered that you are to be recalled, and Bingham to replace you. I entirely disbelieve it; but the whisper marks the wishes of those who propagate it.

Writings of Madison, Volume 2: 1794-1815, p.84

Pickering will pay your draught on him. Bache has not yet received the second part of the Rights of Man, which he says is the only fund on which Mr. Paine could draw.

Writings of Madison, Volume 2: 1794-1815, p.84

Mrs. M. offers her best respects, along with mine, to Mrs. Monroe.

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Adieu. Yours sincerely.

Writings of Madison, Volume 2: 1794-1815, p.85

A letter from Mr. Jones accompanies this. We are three months without intelligence from France.

To Thomas Jefferson.

PHILADELPHIA. Feby 29, 1796.

Writings of Madison, Volume 2: 1794-1815, p.85

DEAR SIR,—The Treaty with Spain arrived on Tuesday last. It adjusts both the boundary and navigation in a very satisfactory manner. I have not yet been able to decide whether, on the latter point, it clashes or not with the British Treaty, the article being differently represented by different members of the Senate. Nor am I able to say whether any of the article comes within the objections to the Constitutionality of the British Treaty. In what relates to contraband and other points in the law of nations, I understand it presents an honorable contrast to Jay's stipulations. The Algerine Treaty has some curious features. Among others, the sum of one million paid for the ransom and the peace does not appear before the Senate as any part of the Treaty, but has been paid as a verbal part of the Contract, under the authority of the law of appropriation; so that the most material part of the Treaty has been made by the President and the Legislature, without the Treaty-agency of the Senate. The British Treaty, as finally ratified, has been republished in the newspapers from foreign copies, but is still not laid before Congress.

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The President's birthday has been celebrated with unexampled splendor. The crisis explains the policy of this. It is remarkable, however, that the annual motion to adjourn for half an hour to pay the compliment of the day was rejected this year by 50 vs. 38, altho' last year, on the yeas and nays, 13 only voted in the negative.

To Thomas Jefferson.

PHILADELPHIA, March 6, 1796.

Writings of Madison, Volume 2: 1794-1815, p.86

DEAR SIR,—The Senate have unanimously ratified the Algerine and Spanish Treaties. The latter was a bitter pill to some, for two reasons: first, as inviting additional emigrations to the Western country; secondly, as jostling with the Mississippi article in the British Treaties. The Spanish article is in the words following: "It is likewise agreed that the Western boundary of the United States which separates them from the Spanish colony of Louisiana is in the middle of the channel or bed of the river Mississippi, from the northern boundary of the said States to the completion of the 31° of latitude north of the Equator. And his Catholic Majesty has likewise agreed that the navigation of the said river, in its whole breadth, from its source to the ocean, shall be free only to his subjects and the Citizens of the United States, unless he should extend this privilege to the subjects of other powers by special Convertion." Doubts were expressed by King, in the Senate, whether this could be construed into a harmony with the stipulations to

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G. B., and the pulse of the body felt on the subject with a view to a declaratory proviso to the ratification. It was concluded, however, not to risk the project, and to presume a construction that would avoid the inconsistency. It seems that Pinckney considered the article as admitting a construction reconcileable with the British article. It is also said that he was offered and refused a proposition, expressing or implying our right to the navigation, but more directly clashing with the British Treaties.

Writings of Madison, Volume 2: 1794-1815, p.86

The President laid the Treaty before the House of Reps on Tuesday last, about one o'clock; and in the afternoon it appeared in a Proclamation in Brown's paper. I am well-informed that its publication was concerted with the Printer prior to its communication to the House. Whether an original ratification was received as the ground of this proceeding, or the copy, heretofore not deemed of sufficient formality, has been viewed in a more favorable light, I cannot undertake to say. I suspect the latter to be the case. Perhaps, also, the ratification of the Spanish and Algerine Treaties, which contain some stipulations analogous to those complained of as unconstitutional in the British Treaty, may have had weight on the occasion. In general, however, the Spanish Treaty forms rather a contrast to the British, being more than reciprocal in its essential articles, and on the subject of contraband, and the freedom of goods in free ships, being perfectly satisfactory. A motion has been laid on the table by Mr. Livingston, calling on the President for the instructions to Jay, &c. The policy of hazarding it is so questionable, that he will probably let it sleep or withdraw it. Notice of direct propositions on the Treaty will probably be given to-morrow. The purport and form of them create much diversity of ideas among the opponents of the Treaty. The state of the business as it now presents itself, with the uncertainty of the particular way of thinking in several quarters of the House, make it truly difficult to decide on the course most acceptable to the body of anti-treaty members. The other side, of course, have no difficulties of this sort to contend with.

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The bill for the sale of the back lands makes progress, tho' but slowly. Its fate is very uncertain. The proposed aid to the federal city will probably succeed in the event, under the patronage of the President, but, in the mean time, will no doubt be played off in favour of the Treaty.

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The Court has not given judgment yet on the carriage tax. It is said the Judges will be unanimous for its constitutionality. Hamilton and Lee advocated it at the Bar, against Campbell and Ingersoll. Bystanders speak highly of Campbell's argument, as well as of Ingersoll's. Lee did not shine; and the great effort of his coadjutor, as I learn, was to raise a fog around the subject, and to inculcate a respect in the Court for preceding sanctions in a doubtful case.

Writings of Madison, Volume 2: 1794-1815, p.87

We are three months without news from France, or even G. Britain. There is a report that one of the Sedition bills has passed the House of Lords, and is not likely to pass the H. of Commons. There is a paragraph which says that Sweden and Denmark have prohibited the exportation of Grain. Flour here is about 15 dolls., and wheat 20s.

To Thomas Jefferson.

PHILADELPHIA, Mar. 13, 1796.

Writings of Madison, Volume 2: 1794-1815, p.88

DEAR SIR,—Since my last, by the last weekly mail, I have seen Mr. Rittenhouse on the subject of the kitchen stoves. He says that at Lancaster, where they were invented and are best known, two only remain in use. They certainly save fuel, but are so much complicated in their operation as to require particular care, and are liable to the objection of keeping the kitchen excessively hot. Mrs. Rittenhouse intimated that as several modes of cookery, roasting, baking, &c., were carried on at the same time, it often happened that one of the modes did not keep pace with the other. Mr. R. could not learn the price. He supposed, from the quantity of Iron, that it must be considerable.

Writings of Madison, Volume 2: 1794-1815, p.88

We are at length embarked in the discussion of the Treaty, which was drawn in rather abruptly, by a proposition calling on the President for papers. The point in debate is, the constitutional right of Congress in relation to Treaties. There seem at present strong reasons to conclude that a majority will be firm in the doctrine that the House has a Constitutional right to refuse to pass laws for executing a Treaty, and that the Treaty power is limited by the enumerated powers. Whether the right ought, in the present case, to be exerted, will be a distinct question on the merits of the Treaty, which have not yet come into discussion. I understand the Treaty party expect success on this question, but despair on every other.

Writings of Madison, Volume 2: 1794-1815, p.88

Nothing very late from Europe. The British armament is arriving in the West Indies, which looks like a postponement of peace. It will augment the call on this country for provisions, and of course the price. Flour is about 15 dolls. here at present.

To Thomas Jefferson.

PHILADELPHIA, April 4, 1796.

Writings of Madison, Volume 2: 1794-1815, p.89

DEAR SIR,—I have received yours of the 6th ultimo; also your letters for Monroe, Mazzei, and Van Staphorst; and shall have a good conveyance for them in two or three days. I am in some doubt, however, whether it may not be best to detain those for Mazzei and V. until you can add the information I am now able to furnish you from Dohrman. He has at length closed the business of Mazzei in a just and honorable manner, by allowing the N.Y. damages in the bills of 20 per cent., and the N.Y. rate of interest of 7 per cent. This mode of settlement, after deducting the partial payments, for which he has receipts, leaves a balance of 3,087 dollars, which has been just paid into my hands, and will be disposed of as you. shall direct. You will of course lose no time in writing to me on the subject.

Writings of Madison, Volume 2: 1794-1815, p.89

I have not yet heard from Bringhurst on the subject of Sharpless. He has no doubt written to you, according to his promise. I have seen Mr. Howell, who says there would be no difficulty in allowing you the credit you desire, if his son should take the place of Lownes.

Writings of Madison, Volume 2: 1794-1815, p.89

I was not unaware of the considerations you suggest with regard to the post roads; but do not consider my proposition as involving any dangerous consequences. It is limited to the choice of roads, where that is presented, and to the opening them, in other cases, so far only as may be necessary for the transportation of the mail. This I think fairly within the object of the Constitution. It had, in fact, become essential that something should be done, and something would have been attempted on a worse principle. If the route shall be once fixed for the post road, the local authorities will probably undertake the improvement, &c., of the roads; and individuals will go to work in providing the proper accommodations on them for general use.

Writings of Madison, Volume 2: 1794-1815, p.89

The newspapers will inform you that the call for the Treaty papers was carried by 62 against 37. You will find the answer of the President herewith inclosed. The absolute refusal was as unexpected as the tone and tenor of the message are improper and indelicate. If you do not at once perceive the drift of the appeal to the General Convention and its journal, recollect one of Camillus's last numbers, and read the latter part of Murray's Speech. There is little doubt in my mind that the message came from N.Y., when it was seen that an experiment was to be made, at the hazard of the Pres., to save the faction against the Reps of the people. The effect of this reprehensible measure on the majority is not likely to correspond with the calculation of its authors. I think there will be sufficient firmness to face it with resolutions declaring the constitutional powers of the House as to Treaties, and that, in applying for papers, they are not obliged to state their reasons to the Executive. In order to preserve this firmness, however, it is necessary to avoid, as much as possible, an overt rencontre with the Executive; The day after the message was received, the bill guarantying the loan for the federal City was carried thro' the H. of Reps by a swimming majority.

Writings of Madison, Volume 2: 1794-1815, p.90

I have letters from Monroe of the 12th and 20th of Jany. The truce with Austria was demanded by the latter, and was not likely to be renewed. A continuance of the war with England was counted on. The French Government was in regular and vigorous operation, and gaining daily more and more of the public confidence. A forced loan was going on for 25 million Sterlg, 12 mil. of which was receivable in assignats at 100 for one; the balance in specie and produce. It is said that the British armament for the West Indies had suffered a third Coup de Vent, after leaving the channel a third time.

Writings of Madison, Volume 2: 1794-1815, p.90

According to my memory, and that of others, the Journal of the Convention was, by a vote, deposited with the Pres., to be kept sacred until called for by some competent authority. How can this be reconciled with the use he has made of it ? Examine my notes, if you please, at the close of the business, and let me know what is said on the subject. You will perceive that the quotation is nothing to the purpose. Most of the majority would decide as the Convention did; because they think there may be some Treaties, as a mere Treaty of peace, that would not require the Legislative power; a ratification by law also expressed a different idea from that entertained by the House of its agency.

To James Monroe.

PHILADELPHIA, April 7, 1796.

Writings of Madison, Volume 2: 1794-1815, p.91

DEAR SIR,—The letters from you of latest date are those of Oct. 23, 24, and 29, and of Jany 12 and 20th. The three first have been heretofore acknowledged. For the interesting contents of the two last, I now thank you. I have given the explanation you desired, as to Mr. Paine, to F. A. M., who has not received any letter as yet, and has promised to pay due regard to your request. It is proper you should know that T. Paine wrote some time ago a severe letter to the President, which Picketing mentioned in harsh terms to me when I delivered a note from T. P. to the Secretary of State, inclosed by T. P. in a letter to me. Nothing passed, however, that betrayed the least association of your patronage or attention to T. P. with the circumstance; nor am I apprehensive that any real suspicion can exist of your countenancing, or even knowing the steps taken by T. P., under the impulse of his personal feelings or political principles. At the same time, the caution you observe is by no means to be disapproved. Be so good as to let T. P. know that I have received his letter and handed his note to the Secretary of State, which requested copies of such letters as might have been written hence in his behalf. The note did not require any answer either to me or through me, and I have heard nothing of it since I handed it to Pickering. It is proper T. P., as well as yourself, should know that, on my first application to Mr. Bache for the payment of the draught in your favor, Mr. B. had no funds in his hands, but he now tells me he shall be able to honor the draught in a few days. Pickering has been spoken to several times, and has promised, as soon as he can find your letter and leisure, he will attend to the draught on his department. I have communicated to Mr. Yard the paragraph relating to Mr. and Mrs. K. It was impossible that we should not all approve the conduct of Mrs. M. The known eccentricity of character will easily explain the occurrence, if should ever arrive here.

Writings of Madison, Volume 2: 1794-1815, p.92

Some of your enemies here have been base enough to throw into circulation insinuations that you have launched into all the depths of speculation. It has even been propagated that you and Skipwith, or perhaps you, through Skipwith, had purchased Chantilly, the magnificent estate of the late Prince of Condé. I was joined by others of your friends in the roundest contradictions of such malicious reports, and in explaining the incredibility and palpable falsehood of them. Having heard nothing latterly on the subject, I conclude that the antidote has effectually destroyed the poison. I understand, however, that the circumstance of the money of which you were robbed, and which it is said ought to have gone long before to Amsterdam where the public faith was violated by the delay, is a topic of unfavorable conversation within the Treasury Department and in unfriendly circles. If you ever wrote any thing to me on the subject, it has totally miscarried. The first account I had of it was very lately, from Mr. Swan, who threw the whole blame on Skipwith, who was charged with the operation of remitting the money to Holland. I am not apprehensive that any impressions can be entertained, even among your enemies in the Cabinet, of anything more than incaution on your part; I am sure that nothing beyond that can be impressed on others. In the mean time, it is right you should know every handle that can be taken against you. It continues to be the suspicion of some that the Cabinet meditates your recall, and, of course, that they may possibly lay hold of the slightest pretext. I retain my opinion that such a step will never be hazarded on a slight pretext, and, consequently, that it will never be hazarded at all.

Writings of Madison, Volume 2: 1794-1815, p.92

I am much obliged by your kind offer to procure me articles which I may want toward housekeeping, as well as Books. As to the latter, I shall from time to time trouble you, particularly for what is wanting to my set of the Encyclopedie Methodique, as soon as I get to Virginia, and can ascertain the volumes which I have not. As to the former, I am obliged to consult a certain degree of economy, and have, in everything of that sort, a reference to the order of things in Virginia. I recollect nothing at present that I can particularize, unless it be a clock for the chimney-piece, and a pair of glasses, not exceeding 100 dollars, in which the size would be preferred to the ornamental expense. The china is not yet arrived, but I look for it by every vessel that escapes the British depredations. Whatever articles you may be good enough to provide for me after the receipt of this, I wish you to address to Virginia, not to this place, unless it may be such as will be wanted particularly here in the course of next winter, which I mean to 1569, 293, 1525. You will find that the elections in Boston are running in favor of republicanism. This will have a good effect. I have much always to say to you when I take up my pen, but am often obliged to hurry to a close sooner than I could wish. I am the less concerned at it now, as the bearer, Mr. Fulton, will be able to give you a thousand details which I omit. I have never been more occupied with the drudgeries of my station than at this moment. I began this on the 7th and conclude it on the 19th April, 1796.

Writings of Madison, Volume 2: 1794-1815, p.93

Always and affectionately adieu to yourself and Mrs. Monroe, to whom I offer my sincerest and best wishes, along with those of Mrs. M.

Writings of Madison, Volume 2: 1794-1815, p.93

I send, herewith, three letters from Mr. Jefferson, 1 from Mr. Jones, and I from Mr. Langdon.

Writings of Madison, Volume 2: 1794-1815, p.93

I send, also, three numbers of the Debates on the Treaty, and will, from time to time, add the rest as they come out. I also send a large collection of Newspapers, which contain most of the speeches not yet published in the pamphlet form. These papers will possess you of the whole history of Congressional proceedings for some time past.

To Thomas Jefferson.

PHILADELPHIA, April 11, 1796.

Writings of Madison, Volume 2: 1794-1815, p.94

DEAR SIR,—Yours of the 27th has been duly received. You already know that the call for papers was refused, and reasons assigned more extraordinary a great deal than the refusal. This measure of the Executive produced two propositions, asserting the right of the House to judge of the expediency of Treaties stipulating on Legislative subjects, and declaring that it was not requisite in a call for papers to express the use to be made of them. It was expected that a long and obstinate discussion would have attended these defensive measures. Under that idea, I entered into a free but respectful review of the fallacy of the reasons contained in the message, and the day being nearly spent, the Come rose and an adjournment succeeded.

Writings of Madison, Volume 2: 1794-1815, p.94

The next morning, instead of a reply, the question was called for, and taken without a word of argument on the subject. The two resolutions were carried by 57 against 35; and six members, who, not foreseeing the early call for the question, had not taken their seats, soon appeared, and desired to have their names added to the majority. This was not permitted by the rules of the House; but the case is explained in the newspapers. To-day is fixed for taking up the Treaties.

Writings of Madison, Volume 2: 1794-1815, p.94

We shall separate the Spanish and other Treaties from the British, and proceed to make the necessary provisions. With respect to the latter, it seems at present probable that it will be hung up on a recital of the vices of the Treaty itself, the want of information, and the perseverance in seizing our ships and seamen, which ought to have the same influence on our decision, whether viewed as consistent with or an infraction of the Treaty. An Embargo on Indian Corn is proposed, but has not been discussed. Nothing very material from abroad. Bache is publishing the Treaty Debates in nos, for an 8° Vol. I inclose the 1st no., under address to Mr. Carr.

To Thomas Jefferson.

PHILADELPHIA, April 18, 1796.

Writings of Madison, Volume 2: 1794-1815, p.95

DEAR SIR,—My last requested your orders relating to Dohr man's payment to me for Mazzei, and I impatiently wait for them.

Writings of Madison, Volume 2: 1794-1815, p.95

Resolutions have passed for carrying into effect the Spanish, Indian, and Algerine Treaties. The British is now depending. I inclose the proposition in which the opponents of it will unite. According to present calculation, this proposition will be carried by nearly the same majority as prevailed in the vote asserting the rights of the House on the subject of Treaties. The debate is but just commenced. Those who at first were for a silent question will probably now spin out time, for the purpose of calling in the mercantile interference in its behalf. You will see the expedient on foot in this City. The petition of the merchants, &c., will be signed by 7 or 800, as is said. An adverse petition will be signed by 3 or 4 times that number. In N.Y. and Boston, it is hoped, the counter petitioners will equally preponderate. Baltimore, which was at first most opposed to the Treaty, is become most generally reconciled to the execution. The hope of indemnification for past losses, and the fears for their floating speculations, which have been arranged on the idea that the Treaty would go into effect, bear down with that class all attention to the general and permanent good of the Country, and, perhaps, their own real and comprehensive interest. The Country is also under an operation for obtaining petitioners for the Treaty. The Western Counties have yielded a number; being dexterously alarmed for the Spanish Treaty, as involved in the fate of the British. I expected to have sent you my observations on the President's message, which the Printer told me should certainly be out this morning. He thought Mr. Iredell's charge and the echo of the G. Jury entitled to priority.

To James Monroe.

PHILADELPHIA, April 18, 1796.

Writings of Madison, Volume 2: 1794-1815, p.96

DEAR SIR,—A letter, chiefly on private subjects, written about ten days ago, will accompany this, which I have postponed to the last moment of the opportunity by Mr. Fulton. This will relate chiefly to the British Treaty and to subjects connected with it. For a general view of the proceedings of Congress I refer you to the Newspapers, &c., which Mr. Fulton will receive for you from myself, and other friends. You will find that the British Treaty was, after long delay, laid before the House. It gave rise to a motion calling for the instructions to the Envoy, his correspondences, and other documents relating to the Treaty. This unqualified form being objected to, the motion was varied, (by the mover, Mr. Livingston,) so as to except from the papers called for such of them as might relate to existing negociations. In order to render the motion perfectly unobjectionable, and the more justifiable to the public in case of a refusal of the papers, I moved to enlarge the exception to all such papers as the President might deem it inconsistent with the interest of the United States at this time to disclose. This accommodating amendment was opposed by the whole Treaty party, who, being joined by the warmer men on the other side, succeeded in rejecting it. The principal motion was then discussed at full length, and was made to turn, in the debates, principally on the constitutional power of the House in relation to Treaties. The debates will shew you the ground taken on both sides. They were spun out to a duration of several weeks. When the question was at length taken, the majority for the call was very decided, not less than twenty. Every eye within and without doors was then turned to the President. The prevailing belief was, that he would send a part, if not the whole, of the papers applied for. If he thought any part improper to be disclosed, or if he wished to assert his prerogative without coming to a rupture with the House, it was seen to be easy for him to avoid that extremity by that expedient. You will find by his Message, in answer, that he not only ran into the extreme of an absolute refusal, but assigned reasons worse than the refusal itself. I have no doubt that the advice, and even the Message itself, were contrived in New York, where it was seen that if the rising force of the republicans was not crushed, it must speedily crush the British party, and that the only hope of success lay in favoring an open rupture with the President. It is to be lamented that he so easily lent himself to the stratagem. It was expected that the Message would have produced long and animated discussion. In that expectation I entered into a full comment on it, and in support, at the same time, of the two Resolutions asserting the rights of the House, which you will find in the Newspapers. No reply, however, was given to me, and the question on the Resolutions was taken without anything more on the subject. They were carried by about 60 against 35. The next step was to go into a committee of the whole on all the Treaties. An attempt to lump them all, or, at least, the British and Spanish, was made, but readily defeated. The Span ish, Algerine, and Indian Treaties, were then decided on separately, and bills are ordered for carrying them into effect. The House is now engaged on the British Treaty. This is the third day of its discussion. I refer to the motion of Mr. Maclay for the form in which it is proposed to get rid of the Treaty. If no defections take place, the motion will succeed by a majority of about twenty. But vast exertions are on foot without and within doors. You will observe the memorial proposed by the Mercantile interest of this place. A counter one, it is said, will be circulated, and will be signed by the greater number. It is probable the example on both sides will be followed in the other large Towns. The Country, also, is stirred up to join in petitions for carrying the Treaty into effect. The four insurgent Counties of this State have been alarmed, by a dexterous combination of the Spanish and British Treaties, into petitions in favor of both. This has been the manoeuvre of Ross, the Senator. What the result of the whole is to be, is among the arcana of time. I trust, without being sure, that the House will be firm. If so, the public mind will rally under their auspices. If not, you can appreciate the consequences, which will be mischievous, but I hope temporary.

Writings of Madison, Volume 2: 1794-1815, p.98

April 19.—Another day has passed in discussing the British Treaty. The event will probably be procrastinated for the sake of the experiment making out of doors. I have put off closing this till the last moment, and therefore, am obliged, with tho truest cordialities, in which my partner joins, to Mrs. Monroe and yourself, to bid you Adieu.

To Thomas Jefferson.

April 23, 1796.

Writings of Madison, Volume 2: 1794-1815, p.98

DEAR SIR,—I inclose another number of the Debates on the Treaty. The subject is still going on in the House, as well as the press. The majority has melted, by changes and absence, to 8 or 9 votes. Whether these will continue firm is more than I can decide. Every possible exertion is made, as usual, on the other side. A sort of appeal has been made to the people, with an expectation that the mercantile force would triumph over the popular sentiment. In this city, the majority of petitioners has appeared against the mercantile party. We do not know the event of the experiment in N. York. Petitions on both sides are running thro' the adjoining States of Delaware and N. Jersey. Among other extraordinary manoeuvres, the Insurance Companies, here and in N. York, stopped business, in order to reduce prices and alarm the public. The Banks have been powerfully felt in the progress of the petitions in the Cities for the Treaty. Scarce a merchant or Trader but what depend on discounts, and at this moment there is a general pinch for money. Under such circumstances, a Bank Director, soliciting subscriptions, is like a highwayman with a pistol, demanding the purse. We hope the question will be taken to-morrow. But if carried against the Treaty, the game will be played over again in other forms. The Senate will either send it down by itself, or coupled with the Spanish Treaty, or both. Nothing of importance from Europe.

To Thomas Jefferson.

PHILADELPHIA, May 1st, 1796.

Writings of Madison, Volume 2: 1794-1815, p.99

DEAR SIR,—I have your favour of the 17 April, covering two Extracts—one from your notes, the other from mine. The latter corresponds with the recollection which myself and other members had expressed, and the former with that of Majr Butler, and with the Journals of the Senate. The report of the Committee to which you refer cannot be found, tho' Mr. B. says he knows one was made. This enquiry has been set on foot without your name.

Writings of Madison, Volume 2: 1794-1815, p.99

The Treaty question was brought to a vote on Friday in Come of the whole. Owing to the absence (certainly casual and momentary) of one member, and the illness of another, the Committee were divided, 49 and 49. The Chairman (Muhlenberg) decided in the affirmative, saying that in the House it would be subject to modification, which he wished. In the House yesterday an enemy of the Treaty moved a preamble, reciting "that altho' the Treaty was highly objectionable, yet considering all circumstances, particularly the duration for two years, &c., and confiding in the efficacy of measures that might be taken for stopping the spoliations and impressments, &c." For this ingredient, which you will perceive the scope of, all who meant to persevere against the Treaty, with those who only yielded for the reasons expressed in it, ought to have united in voting, as making the pill a bitter one to the Treaty party, as well as less poisonous to the public interest. A few wrongheads, however, thought fit to separate, whereby the motion was lost by one vote. The main question was then carried in favour of the Treaty, by 50 against 48. This revolution was foreseen, and might have been mitigated, tho' not prevented, if sooner provided for. But some, who were the first to give way to the crisis under its actual pressure, were not averse to prepare for it. The progress of this business throughout has been to me the most worrying and vexatious that I ever encountered; and the more so, as the causes lay in the unsteadiness, the follies, the perverseness, and the defections among our friends, more than in the strength, or dexterity, or malice of our opponents. It is impossible for me to detail these causes to you now. My consolation under them is in the effect they have in riveting my future purposes. Had the preamble, condemning the Treaty on its merits, exercising the discretionary power of the House, and requiring from the Ex. a stoppage of the spoliations, &c., been agreed to, I have reason to believe the Treaty party would have felt it a complete defeat. You will be informed by the newspapers of the means practised for stirring up petitions, &c., in favor of the Treaty. The plan was laid in this City, and circulated by a correspondence thro' the towns every where. In the mean time, the Banks, the British merchants, the Insurance Comps, were at work in influencing individuals, beating down the prices of produce, and sounding the tocsin of foreign war and domestic convulsions. The success has been such as you would suppose. In several neighbouring districts, the people have been so deluded as to constrain their Representatives to renounce their opposition to the Treaty. An appeal to the people on any pending measure can never be more than an appeal to those in the neighbourhood of the Government, and to the Banks, the merchants, and the dependents and expectants of the Government at a distance.

To Thomas Jefferson.

May 9th, 1796.

Writings of Madison, Volume 2: 1794-1815, p.100

DEAR SIR,—We have had a calm ever since the decision on the Treaty. Petitions, however, continue to arrive, chiefly in favor of the Treaty. The N. England States have been ready to rise in mass against the H. of Reps. Such have been the influence and exertions of Aristocracy, Anglicism, and Mercantilism, in that quarter, that Republicanism is perfectly overbalanced, even in the town of Boston. I hope it will prove but a transitory calamity, and that the discovery of the delusion will ultimately work a salutary effect. The people have been every where made to believe that the object of the H. of Reps in resisting the Treaty was war; and have thence listened to the summons "to follow where Washington leads." Nothing late from abroad. We expect to adjourn about the 20th or 25th Inst.

To James Monroe.

PHILADELPHIA, May 14, 1796.

Writings of Madison, Volume 2: 1794-1815, p.101

DEAR SIR,—My last, with some pamphlets and newspapers, was put into the care of Mr. Fulton, who, I had hoped, was half across the Atlantic, when he reappeared here in consequence of shipwreck. I avail myself of his second departure to add a little more to the printed budget, as well as to the narrative in my letter. At the date of it the British Treaty was in full discussion, and the event hanging in uncertainty. It soon appeared that the majority was not entirely composed of materials firm enough for the crisis. It daily melted down till the day of the question, when Muhlenberg, in the chair of the committee, gave very unexpectedly a casting vote in the affirmative, observing that he did so with a view to some modification in the House. It is to be remarked that when the vote was taken, Patton was ill, and Varnum casually not present; both of them firm against the Treaty. In the House, a proposition was made by Mr. Dearborn, reciting as a preamble, that although the Treaty was objectionable and injurious, yet, considering all circumstances, and particularly that the last eighteen articles will be of short duration, and confiding in the efficacy of measures that may be taken for bringing about a discontinuance of spoliations and impressments, Resolved, &c. This was lost by a single vote only; seven or eight of the stiffest anti-treaty men taking a wrong-headed course. Such a preamble would have been a bitter ingredient, though it would have transferred a few votes. On the main question there was a majority of three, 51 and 48, for carrying the Treaty into effect. Many of the means by which this majority was brought about will occur to you. But it is to be ascribed principally to an appeal to petitions under the mercantile influence, and the alarm of war. A circular letter from the Merchants of Philadelphia gave the signal to all other towns. The people were everywhere called on to chuse between peace and war, and to side with the Treaty if they preferred the former. This stratagem produced in many places a fever, and in New England a delirium, for the Treaty, which soon covered the table with petitions. The counter petitions, though powerful from Philadelphia, and respectable from some other quarters, did not keep pace. Indeed, there was not time for distant parts, where the Treaty was odious, to express their sentiments before the occurrence was over. Besides the alarm of war in the smaller States, a great excitement was produced in them by the appeal of the President, in his message, to their particular interest in the powers of the Senate. What the effect of this whole business will be on the public mind cannot yet be traced with certainty. For the moment, at least, it presses hard on the republican interest. It probably would have been better if the great majority existing at one moment had been taken advantage of for a strong preface in the tone of Dearborn, and if the Treaty party had then carried their object with the consequences on their own heads. The final turn of the majority ought at least to have been sooner prepared for. This was, in fact, contemplated. But before some were ripe for the arrangement, others were rotten. As soon as the subject was finished, an explanatory article, signed by Bond & Pickering, marked with sundry curious features, was laid before the Senate, and has been ratified. The avowed object is to declare that the Indian Treaty, which requires a special licence to Traders residing at the Indian Towns, shall not affect the British privileges under the third article. This, when known by the public, will justify an important ground of opposition to the Treaty. Adèt seems to have conducted himself with great circumspection throughout the crisis here, nor do I know what, or whether anything, escapes him since the the conclusion of it. It will be deeply interesting to know how France will take it all. I hope no rash councils will prevail with her. You can foresee the consequences of such here. Whilst the war lasts, England will command most attention, because she can do this country most harm. In peace, France will command most attention, because she can do it most good. This view of the subject may, perhaps, be worth your development on fit occasions. Among the bills just passed the House of Representatives is one prohibiting the sale of prizes in our ports. It did not pass without doubts and opposition. The real object with most was to protect Spanish and Dutch vessels as much as possible, on the supposition that the British Treaty protected hers in this respect against all nations. It is now generally understood that the President will retire. Jefferson is the object on one side; Adams, apparently, on the other. The secondary object still unsettled. The general result is rendered doubtful by the probable complexion of the New York Legislature, and by a late law of Pennsylvania for chusing Electors by a general ticket. If the decision should result to the House of Representatives, it will be safe. I have just received yours of Nov. 8th; your last was of January 20. The papers will inform you that Fitzsimmons and Innes are the American Commissioners for the Debts, and Pinkhey of Maryland and Gore of Massachusetts for the spoliations. The tediousness of the cypher obliges me to close in haste. I will write again before I leave this, which, I hope, will be in about ten days, there being now a general impatience to adjourn. Our best respects and regards to Mrs. Monroe and yourself.

Writings of Madison, Volume 2: 1794-1815, p.101

Adieu. Yrs afttly,

Writings of Madison, Volume 2: 1794-1815, p.101

J. M., JR.

To Thomas Jefferson.

PHILADELPHIA, May 22, 1796.

Writings of Madison, Volume 2: 1794-1815, p.103

DEAR SIR,—Congress are hurrying through the remnant of business before them, and will probably adjourn about Saturday next. Petitions in favour of the Treaty still come in from distant places. The name of the President and the alarm of war have had a greater effect than were apprehended on one side, or expected on the other. A crisis, which ought to have been so arranged as to fortify the Republican cause, has left it in a very crippled condition; from which its recovery will be the more difficult, as the elections in N. York, Massachusetts, and other States, where the prospects were favorable, have taken a wrong turn under the impressions of the moment. Nothing but auspicious contingencies abroad or at home can regain the lost ground. Peace in Europe would have a most salutary influence, and accounts just received from France revive in some degree the hope of it with the Emperor, which will hasten, of course, a peace with England. On the other hand, a scene rather gloomy is presented by a letter I have just received from Col. Monroe. It is dated Feby 27. The following extracts form the substance of it. "About a fortnight past, I was informed by the Minister of Foreign affairs that the Government had at length resolved how to act with us in respect to our treaty with England; that they considered it as having violated, or rather annulled, our treaty of alliance with them, and taken part with the coalesced powers; that they had rather have an open enemy than a perfidious friend; that it was resolved to send an envoy extraordinary to the U. S. to discuss this business with us, and whose powers would expire with the execution of the trust. I was astonished with the communication, and alarmed with its probable consequences. I told him it might probably lead to war, and thereby separate us, which was what our enemies wished; that it hazarded much, and without a probable gain; that from the moment a person of that character arrived, their friends would seem to act under his banner, and which circumstance would injure their character and lessen their efforts; in truth, I did every thing in my power to prevent this measure, and in which I am now told by the minister that I have succeeded, the Directors having resolved to continue the ordinary course of representation only. But thro' this I hear strong sentiments will be conveyed. The whole of this is made known to the Executive by me."

Writings of Madison, Volume 2: 1794-1815, p.104

"The forced loan was less productive than was expected, and the embarrassment in the finance extreme. Some think another movement at hand, but I see no evidence of it at present. In all calculations on this subject, it ought to be recollected that the Executive are sound, and, having the Government in their hands, are strong"

Writings of Madison, Volume 2: 1794-1815, p.105

"There are strong symptoms of an actual rupture between us and this country. The minister of the Government preferred to have us as open enemies rather than perfidious friends. Other proofs occur to shew that this sentiment has gone deep in their Councils."

Writings of Madison, Volume 2: 1794-1815, p.105

The "Minerve," of N. York, lately announced, with an affected emphasis, a letter from Paris to N. York, intimating that influential persons in the U. S. were urging measures on France which might force this Country to chuse war against England as the only alternative for war against France. It is probable that categorical steps on the part of France towards us are anticipated, as the consequence of what has been effected by the British party here, and that much artifice will be practised by it to charge them in some unpopular form on its Republican opponents.

Writings of Madison, Volume 2: 1794-1815, p.105

Before I leave this I shall make up a parcel of pamphlets, &c., for you, to be forwarded to Richmond. The inclosed number of the Debates is a continuation, which has been regular. I hope the preceding numbers have all arrived safe.

Writings of Madison, Volume 2: 1794-1815, p.105

King is appointed Minister to London, and Humphreys to Madrid, Pinckney and Short retiring. The vacancy at Lisbon not yet filled.

To Thomas Jefferson.

May 30th, 1796.

Writings of Madison, Volume 2: 1794-1815, p.105

Congress will adjourn the day after to-morrow. News as late as April 8 from London; peace likely to take place between France and England; provisions falling much in price, both in F. and G.B. The moneyed distresses reviving in the latter, and great alarms for a terrible shock to the Banking and Mercantile Houses.

To George Washington.

Writings of Madison, Volume 2: 1794-1815, p.106

J. Madison presents his respectful compliments to the President, and returns the Treatise on Small Canals, &c., with his acknowledgements for the perusal of it. He is not enough conversant with such subjects to decide on the merits of the various plans and machinery recommended by the Author. In general, his principles appear to be both effective and practicable; but the question of their utility must be decided by a very accurate comparison of expense and saving, which cannot easily be made without partial experiments, at least; and which must vary, also, in different Countries and different situations of Society. The Author, however, is certainly entitled to much praise for his ingenuity and laudable zeal for improvement; and has probably, by his work, really contributed to it, either immediately or by the use that may be made of his ideas by others.

PHILADELPHIA, Decr 1, 1796.

To Thomas Jefferson.

PHILADELPHIA, Dec. 5, 1796.

Writings of Madison, Volume 2: 1794-1815, p.106

DEAR SIR,—It is not possible yet to calculate with any degree of certainty whether you are to be left by the Electors to enjoy the repose to which you are so much attached, or are to be summoned to the arduous trust which depends on their allotment. It is not improbable that Pinckney will step in between the two who have been treated as the principals in the question. It is even suspected that this turn has been secretly meditated from the beginning, in a quarter where the leading zeal for Adams has been affected. This Jockeyship is accounted for by the enmity of Adams to Banks and funding systems, which is now become public, and by an apprehension that he is too headstrong to be a fit puppet for the intriguers behind the skreen. It is to be hoped that P. may equally disappoint those who expect to make that use of him, if the appointment should in reality light on him. We do not, however, absolutely despair that a choice better than either may still be made; and there is always the chance of a devolution of the business on the H. of Reps, which will, I believe, decide it as it ought to be decided.

Writings of Madison, Volume 2: 1794-1815, p.107

Adèt's note, which you will have seen, is working all the evil with which it is pregnant. Those who rejoice at its indiscretions, and are taking advantage of them, have the impudence to pretend that [it] is an electioneering manoeuvre, and that the French Govt have been led to it by the opponents of the British Treaty. Unless the unhappy effect of it here, and cause of it in France, be speedily obviated by wise councils and healing measures, the crisis will unquestionably be perverted into a perpetual alienation of the two Countries by the secret enemies of both. The immediate consequences of such an event may be distressing; but the permanent ones to the commercial and other great interests of this country form a long and melancholy catalogue. We know nothing of the policy meditated by the Executive on this occasion. The speech will probably furnish some explanation of it.

To Thomas Jefferson.

December 10th, 1796.

Writings of Madison, Volume 2: 1794-1815, p.107

DEAR SIR,—Exitus in dubio is still the motto to the election. You must reconcile yourself to the secondary, as well as the primary station, if that should be your lot. The prevailing idea is that Pinckney will have the greatest number of votes, and I think that Adams will be most likely to stand next. There are other calculations, however, less favourable to both. The answer to the President's speech is in the hands of Ames, Sit-greaves, Smith of Carolina, Baldwin, and myself. The form is not yet settled. There is a hope that it may be got into a form that will go down, without altercation or division in the House.

Writings of Madison, Volume 2: 1794-1815, p.107

Yours sincerely.

To Thomas Jefferson.

PHILADELPHIA, Dec. 19, 1796.

Writings of Madison, Volume 2: 1794-1815, p.108

DEAR SIR,—The returns from N. Hampshire, Vermont, S. Carolina, and Georgia, are still to come in, and leave the event of the election in some remaining uncertainty. It is but barely possible that Adams may fail of the highest number. It is highly probable, tho' not absolutely certain, that Pinckney will be third only on the list. You must prepare yourself, therefore, to be summoned to the place Mr. Adams now fills. I am aware of the objections arising from the inadequateness of the importance of the place to the sacrifices you would be willing to make to a greater prospect of fulfilling the patriotic wishes of your friends, and from the irksomeness of being at the head of a body whose sentiments are at present so little in unison with your own. But it is expected, that as you had made up your mind to obey the call of your country, you will let it decide on the particular place where your services are to be rendered. It may even be said, that as you submitted to the election knowing the contingency involved in it, you are bound to abide by the event, whatever it may be. On the whole, it seems essential that you should not refuse the station which is likely to be your lot. There is reason to believe, also, that your neighbourhood to Adams may have a valuable effect on his councils, particularly in relation to our external system. You know that his feelings will not enslave him to the example of his predecessor. It is certain that his censures of our paper system, and the intrigues at New York for setting Pinckney above him, have fixed an enmity with the British faction. Nor should it pass for nothing, that the true interest of New England particularly requires reconciliation with France as the road to her commerce; add to the whole, that he is said to speak of you now in friendly terms, and will no doubt be soothed by your acceptance of a place subordinate to him. It must be confessed, however, that all these calculations are qualified by his political principles and prejudices. But they add weight to the obligation, from which you must not withdraw yourself.

Writings of Madison, Volume 2: 1794-1815, p.109

You will see in the answer to the President's speech much room for criticism. You must, for the present, be content to know that it resulted from a choice of evils. His reply to the foreign paragraph indicates a good effect on his mind. Indeed, he cannot but wish to avoid entailing a war on his successor. The danger lies in the fetters he has put on himself, and in the irritation and distrust of the French Government.

To Thomas Jefferson.

PHILADELPHIA, Deer 25, 1796.

Writings of Madison, Volume 2: 1794-1815, p.109

DEAR SIR,—I cannot yet entirely remove the uncertainty in which my last left the election. Unless the Vermont election, of which little has, of late, been said, should contain some fatal vice in it, Mr. Adams may be considered as the President elect. Nothing can deprive him of it but a general run of the votes in Georgia, Tennessee, and Kentucky, in favour of Mr. Pinckney, which is altogether contrary to the best information. It is not even probable that Mr. P. will be the second on the list; the secondary votes of N. Hampshire being even said to have been thrown away on Ellsworth; and a greater number consequently required from the States above mentioned than will be .likely to fall to his lot. We have nothing new from Europe. The prospect and projects in our foreign Department are under a veil, not a corner of which I have been able to lift. I fear the distrust with which the French Government view the Executive here, and the fetters which the President has suffered himself to put on, will be obstacles to the reconciliation which he cannot fail to desire. It is whispered, also, that the Spanish minister has intimated the probable dissatisfaction of his Court at the Explanatory article of the British Treaty. Nor can it be doubted, from the nature of the alliance between that and France, that a common cause will be made in all the steps taken by the latter with respect to this Country. In the mean time, the British party are busy in their calumnies for turning the blame of the present crisis from themselves, on the pretended instigations of France, by Americans at Paris; and some of them are already bold enough to talk of an alliance with England, as the resource in case of an actual rupture with France. The new President, whoever he will be, will have much in his power; and it is important to make as many circumstances as possible conspire to lead him to a right use of it. There never was greater distress than at this moment in the monied world. Failures and frauds occur daily; and are so much connected with Banks, that these Institutions are evidently losing ground in the public opinion.

1797

To Thomas Jefferson.

PHILADELPHIA, Jany 8, 1797.

Writings of Madison, Volume 2: 1794-1815, p.110

DEAR SIR,—I have received your favour of the 17th ult. The election is not likely to terminate in the equilibrium of votes, for which the Constitution has not provided. If the Vermont votes should be valid, as is now generally supposed, Mr. Adams will have 71 and you 68, Pinckney being in the rear of both. It is to be hoped that the nicety, and, in truth, the unpropitious casualty of the choice of Mr. A., will lessen the evil of such an ostensible protest by this Country against Republicanism. Your acceptance of a share in the administration will not fail to aid this tendency. It is suggested to me that it will be necessary for you to be here before the adjournment of Congress, in order to be qualified. I have not examined the Constitution and the law on this subject. You will have the means of doing both, and of deciding on the question. Altho' I am sensible of the inconveniency of such a trip at this season of the year, yet I see so many advantages likely to result from it, that I cannot help wishing it may be found necessary. If you cannot qualify elsewhere, you must come, of course, that the danger of an interregnum may be provided against. The expense would be no objection; and is, besides, balanced by the effect of the qualification in settling the date of the compensation.

Writings of Madison, Volume 2: 1794-1815, p.110

The special communication from the President on our affairs with France is not yet made. The gloom over them is in no respect diminished. Not a word from Monroe, or any other quarter, relating to his recall, or enabling us to judge on the question whether Pinckney will be received. We wait with anxiety for the light that will probably be thrown on the first point by the expected communication.

Writings of Madison, Volume 2: 1794-1815, p.111

The inclosed paper will give you the foreign news as it has first made its appearance here. A comparison of paragraphs renders the Italian part of it unfavourable to the French very improbable. There may, nevertheless, be some foundation for it. The French operations against our trade seem to be better authenticated, as well as the renewal of the Algerine warfare. The abortive result of Lord Malmesbury's errand is also highly probable. I just understand that Spain declared war against G. Britain on the 8th of October.

To Thomas Jefferson.

PHILADELPHIA, Jany 15, 1797.

Writings of Madison, Volume 2: 1794-1815, p.111

DEAR SIR,—The last mail brought me your favour of Jan, 1, inclosing an unsealed one for Mr. A., and submitting to my discretion the eligibility of delivering it. In exercising this delicate trust I have felt no small anxiety, arising by no means, however, from an apprehension that a free exercise of it could be in collision with your real purpose, but from a want of confidence in myself, and the importance of a wrong judgment in the case. After the best consideration I have been able to bestow, I have been led to suspend the delivery of the letter, till you should have an opportunity of deciding on the sufficiency or insufficiency of the following reasons: 1. It is certain that Mr. Adams, on his coming to this place, expressed to different persons a respectful cordiality towards you, and manifested a sensibility to the candid manner in which your friends had, in general, conducted the opposition to him. And it is equally known that your sentiments towards him personally have found their way to him in the most conciliating form. This being the state of things between you, it deserves to be considered whether the idea of bettering it is not outweighed by the possibility of changing it for the worse. 2. There is, perhaps, a general air on the letter which betrays the difficulty of your situation in writing it, and it is uncertain what the impression might be resulting from this appearance. 8. It is certain that Mr. A. is fully apprized of the trick aimed at by his pseudo friends of N. Y., and there may be danger of his suspecting in mementos on that subject a wish to make his resentment an instrument for revenging that of others. A hint of this kind was some time ago dropped by a judicious and sound man, who lives under the same roof, with a wish that even the newspapers might be silent on that point. 4. May not what he said, "of the sublime delights of riding in the storm, &c." be misconstrued into a reflection on those who have no distaste to the helm at the present crisis? You know the temper of Mr. A. better than I do, but I have always conceived it to be rather a ticklish one. 5. The tenderness due to the zealous and active promoters of your election makes it doubtful whether their anxiety and exertions ought to be depreciated by anything implying the unreasonableness of them. I know that some individuals who have deeply committed themselves and probably incurred the political enmity at least of the P. elect, are already sore on this head. 6. Considering the probability that Mr. A.'s course of administration may force an opposition to it from the Republican quarter, and the general uncertainty of the posture which our affairs may take, there may be real embarrassments from giving written possession to him of the degree of compliment and confidence which your personal delicacy and friendship have suggested.

Writings of Madison, Volume 2: 1794-1815, p.112

I have ventured to make these observations because I am sure you will equally appreciate the motive and the matter of them; and because I do not view them as inconsistent with the duty and policy of cultivating Mr. A.'s favorable dispositions, and giving a fair start to his Executive career. As you have no doubt retained a copy of the letter, I do not send it back as you request. It occurs, however, that if the subject should not be changed in your view of it by the reasons which influence mine, and the delivery of the letter be accordingly judged expedient, it may not be amiss to alter the date of it, either by writing the whole over again, or authorizing me to correct that part of it.

Writings of Madison, Volume 2: 1794-1815, p.113

The special communication is still unmade. It is, I am told, to be extremely voluminous. I hope, under the sanction of the P.'s reply to our address, that it will be calculated rather to heal than irritate the wounded friendship of the two Countries. Yet I cannot look around at the men who counsel him, or look back at the snares into which he has hitherto been drawn, without great apprehensions on this subject. Nothing from France, subsequent to the arrival of Pinckney. The negociations for peace, you will see, are suspended. The accession of Spain to the war enforces the probability that its calamities are not likely yet to be terminated. The late news from the Rhine and from Italy are, on the whole, favorable to the French. The last battle was on the 27th Oct., in the Hunspruck, and ended in a victory on their side. The H. of Reps are on direct taxes, which seem to be so much nauseated and feared by those who have created both the necessity and odium of them, that the project will miscarry. Hamilton, you will recollect, assured the farmers that all the purposes of the Government could be answered without resorting to lands, houses, or stock on farms. This deceptive statement, with other devices of his administration, is rising up in judgment against him, and will very probably soon blast the prospects which his ambition and intrigues have contemplated. It is certain that he has lost ground in New York of late, and his treachery to Adams will open the eyes of New England.

To Thomas Jefferson.

PHILADELPHIA, Jany 22, 1797.

Writings of Madison, Volume 2: 1794-1815, p.113

DEAR SIR,—I have received yours of Jany 8th. You will find by the papers that the communication on French affairs has been at length made. It being ordered to be printed without being read, I have no direct knowledge of its character. Some of the Senate, where it has been read in part, represent it as well fitted to convert into an incurable gangrene the wound which the friendship between the two Republics has suffered. Adding this, on our side, to the spirit manifested in the language and proceedings on the other, an awful scene appears to be opening upon us. The only chance to escape it lies in the President elect. You know the degree in which I appreciate it. I am extremely apprehensive that he may have been drawn into a sanction to this last step of the Executive by a complimentary. initiation into the business which is soon to devolve on him. This is, however, apprehension merely, no circumstance being known from which the fact can be inferred. We hear nothing from Monroe or from Pinckney. It has got in the newspapers that an Envoy Extraordy was to go to France, and that I was to be the person. I have no reason to suppose a shadow of truth in the former part of the story, and the latter is pure fiction.

Writings of Madison, Volume 2: 1794-1815, p.114

Doct. Logan has put into my hands a copy of his agricultural experiments for you, which I will forward. A vote has passed in favour of a direct tax. The event is, notwithstanding, doubtful. The Eastern members, after creating the necessity for it, increasing the odium of it, and reproaching their brethren with backwardness in supporting the Government, are now sneaking out of the difficulty, and endeavouring, whilst they get what they wish, to enjoy the popularity of having opposed it.

To Thomas Jefferson.

PHILADELPHIA, Jany 29, 1797.

Writings of Madison, Volume 2: 1794-1815, p.114

DEAR SIR,—Yours, covering an unsealed letter to Mr. Tazewell, came duly to hand, and will be turned to the use you wish. As you take the Philadelphia Gazette, in which the belligerent answer to Adèt's note has been printed in toto, I refer to that for the posture and prospect of things with France. The British party, since this overt patronage of their cause, no longer wear the mask. A war with France, and an alliance with Great Britain, enter both into print and conversation; and no doubt can be entertained that a push will be made to screw up the President to that point before he quits the office. The strides latterly made with so much inconsistency, as well as weakness, in that direction, prepare us for receiving every further step without surprise. No further discovery has been made of the mind of the President elect. I cannot prevail on myself to augur much that is consoling from him. Nothing from abroad, nor more at home than you will gather from the newspapers.

To Thomas Jefferson.

PHILADELPHIA, Feby 5, 1797.

Writings of Madison, Volume 2: 1794-1815, p.115

DEAR SIR,—I have received yours of , giving notice that we shall have the pleasure of seeing you here soon, but that letters written before the 7th would arrive before you leave home. Nothing occurs to alleviate the crisis in our external affairs. The French continue to prey on our trade. The British, too, have not desisted. There are accounts that both of them are taking our East Indiamen. This is an alarming symptom, there being 60 or 70 vessels from different parts of the U. S. engaged in that trade. Pickering's corrosive letter has not yet been fully printed, so as to come before the H. of Reps. It is extremely difficult to decide on the best course to be taken. Silence may be construed into approbation. On the other hand, it is not likely that any opportunity will be given for negativing an approving resolution. And it is, at least, doubtful whether a vote of positive disapprobation in any form whatever could be safely risked in the House, or, if passed, whether the public opinion would not be brought to side with the Executive against it. It is, moreover, extremely difficult to shape any measure on the occasion so as to escape the charge either of censuring or advising without a proper warrant, from the nature of our constitutional relation to the Executive. Nor is it unworthy of consideration that there are formidable steps not yet taken by the Prest which may be taken before the moment of his exit, which, if taken, might be efficacious, and which his successor, without his sanction, would not dare to take.

Writings of Madison, Volume 2: 1794-1815, p.116

A bill for collecting the proposed taxes on land, &c., is before the Committee of Ways and Means. The difficulties of the subject, the shortness of the time, and the aversion of the Eastern people, render it uncertain whether it will pass or not at the present Session. I suspect the policy of the Treasury Department is, to separate the preparatory arrangements from the actual collection of the tax, and to provide for the former only at present; an expedient not unlikely to succeed, as it will smooth the way for the Eastern members. Some, I find, who do not disapprove of the plan of direct taxes, are unwilling to fortify the disposition to embroil us with France, by enlarging, at the present juncture, our system of revenue.

Writings of Madison, Volume 2: 1794-1815, p.116

I reserve for a verbal communication the indications by which we judge of the prospect from the accession of Mr. A. to the helm. They are not, I conceive, very flattering.

Writings of Madison, Volume 2: 1794-1815, p.116

I just learn that a British packet brings London accounts to Decr 7. Nothing is as yet given out but that the negociations at Paris have ended in abortion. It is probable that what is not given out is not more favorable to G.B. I do not believe that any intelligence has been received from Monroe or Pinckney subsequent to the arrival of the latter. It is said that the Spaniards are fortifying at the Chickasaw Bluffs. If this be the case, it strengthens the apprehension that they regard the British Treaty, with the explanatory article, as superseding the obligation or policy of their Treaty with us.

To Thomas Jefferson.

PHILADELPHIA, Feby 11, 1797.

Writings of Madison, Volume 2: 1794-1815, p.116

DEAR SIR,—After several little turns in the mode of conveying you notice of your election, recurrence was had to the precedent of leaving the matter to the Senate, where, on the casting vote of Mr. Adams, the notification was referred to the President of the U. States, in preference to the Pres. of the Senate. You will see in the papers the state of the votes, and the manner of counting and proclaiming them. You will see, also, the intimation given by Mr. A. of the arrangement he had made for taking the oath of office. I understand he has given another intimation which excites some curiosity, and gives rise to several reflections, which will occur to you; it is, that he means to take the advice of the Senate, on his coming into office, whether the offices held during pleasure are, or are not, vacated by the political demise of his predecessor. This is the substance. I do not aim at or know the terms of the question, of which previous notice is there given, that the members of the Senate may the better make up their opinions. What room is there for such a question at all? Must it not have been settled by precedent? On what principle is the Senate to be consulted ? If this step be the result of deliberation and system, it seems to shew—1. That the maxims of the British Government are still uppermost in his mind. 2. That the practice of his predecessor are not laws to him, or that he considers a second election of the same person as a continuation of the same reign. 3. That the Senate is to be brought more into Executive agency than heretofore.

Writings of Madison, Volume 2: 1794-1815, p.117

Accounts have been received of the arrival of Pinckney in France, but not at Paris. Nothing yet from Monroe since he knew of his recall. Everything relating to that quarter remains in statu quo.

Writings of Madison, Volume 2: 1794-1815, p.117

You will find in the inclosed papers that Buonaparte has nearly cut up another Austrian army. It is to be hoped that its consequences may force the Emperor to a peace, and, thro' him, G. Britain.

Writings of Madison, Volume 2: 1794-1815, p.117

Adieu.

Writings of Madison, Volume 2: 1794-1815, p.117

This goes by Mr. Bloodworth, son of the Senator from N. Carolina, appointed to carry you notification of your appointment.

To Thomas Jefferson.

ORANGE, Aug. 5th, 1797.

Writings of Madison, Volume 2: 1794-1815, p.118

DEAR SIR,—Yours of the 3d arrived safe yesterday. I will converse with Col Monroe, as you desire, on the subject of his letter to you, and listen to all his reasons for the opinion he gives. My present Conviction is opposed to it. I have viewed the subject pretty much in the light you do. I consider it, moreover, as a ticklish experiment to say publicly yes or no to the interrogatories of party spirit. It may bring on dilemmas, not to be particularly foreseen, of disagreeable explanations, or of tacit confessions. Hitherto the precedents have been the other way. The late President was silent for many years as to the letters imputed to him, and, it would seem, deposited in the office of State only the answer which the zeal of the Secretary communicated to the public. Mr. Adams has followed the example with respect to Callender's charge \* \* \* \* of advising the extermination of the Tories. Col. M. thinks that honest men would be encouraged by your owning and justifying the letter to Mazzei. I rather suspect it would be a gratification and triumph to their opponents; and that out of the unfixed part of the Community more converts would be gained by the popularity of Genl Washington, than by the kind of proof that must be relied on against it.

Writings of Madison, Volume 2: 1794-1815, p.118

Wishing to return the "petition, &c." to your Court, as you recommend, I must be brief on that subject. It is certainly of great importance to set the public opinion right with regard to the functions of grand Juries, and the dangerous abuse of them in the federal Courts; nor could a better occasion occur. If there be any doubts in the case, they must flow from the uncertainty of getting a numerous subscription, or of embarking the Legislature in the business. On these points, the two gentlemen you mean to consult can judge much better than I can do. The Petition, in its tenor, cannot certainly be mended. I have noted with a pencil the passages which, perhaps, may be better guarded against cavil.

To Thomas Jefferson.

Oct. 20th, 1797.

Writings of Madison, Volume 2: 1794-1815, p.119

DEAR SIR,—I received the inclosed pamphlet from Col. Monroe, with a request that it might be returned to you. The publication, under all its characters, is a curious specimen of the ingenious folly of its author. Next to the error of publishing at all, is that of forgetting that simplicity and candour are the only dress which prudence would put on innocence. Here we see every rhetorical artifice employed to excite the spirit of party to prop up his sinking reputation; and whilst the most exaggerated complaints are uttered against the unfair and virulent persecutions of himself, he deals out in every page the most malignant insinuations against others. The one against you is a masterpiece of folly, because its impotence is in exact proportion to its venom. Along with the pamphlet is inclosed a letter, which you will be good enough to have delivered by an early opportunity.

To James Monroe.

ORANGE, December 17, 1797.

Writings of Madison, Volume 2: 1794-1815, p.119

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 2: 1794-1815, p.119

I have not received a line from Philadelphia on the subject of the speech, or, indeed, on any other. To me no explanation of the phenomenon is necessary, having been on the ground for observing the progressive apostasy from the principles of our Revolution and Governments, which marked the period of your absence. If events should not be unpropitious to the monar- chical party, you may prepare yourself for still more wonderful indications of its spirit and views. Those who tolerate at present the fashionable sentiments, will soon be ready to embrace and avow them. The active characters who promoted Mr. Adams to his station, knowing him to be what he is, cannot at bottom have been much averse to his political tenets, and will find in the spirit of party, and in personal attachments and animosities, sufficient motives to go all lengths with him. Let us hope, however, that the tide of evil is nearly at its flood, and that it will ebb back to the true mark, which it has overpassed.

Writings of Madison, Volume 2: 1794-1815, p.120

Mrs. Madison, as well as myself, would be very happy to pass a few days with you and Mrs. Monroe, being not discouraged by the picture you give of your offices. But we are under an engagement to make a visit to our sister, near Richmond, on which she will set out the last of this week. I shall not follow for eight or ten days; and it will give me great pleasure, if I can, in that interval, to ride up; but the cause of my not accompanying her will, I fear, put it out of my power. I expect some workmen, who are to be put into a plan of business which will keep them employed till our return from below. Mrs. Madison offers her love to Mrs. Monroe, in which the family desire to be joined.

Writings of Madison, Volume 2: 1794-1815, p.120

Believe me, dear sir, your sincere friend and serv.

To Thomas Jefferson.

ORANGE, Decr 25, 1797.

Writings of Madison, Volume 2: 1794-1815, p.120

DEAR SIR,—We have had a great proportion of cold weather since you passed us. The thermometer, however, has not been lower than 10°. It was at this point on the morning of the 21st instant. The drought, also, is equal to the cold. Within the last 31 days the fall of water has been but 1¼ inches only. Of snow there has been none. This cold and dry spell, succeeding the dry fall and late seeding, gives to the wheat fields the worst of appearances.

Writings of Madison, Volume 2: 1794-1815, p.120

You will not expect political occurrences from this quarter. The objects of enquiry here are Liston's plot, the envoyship to France, and Monroe's publication. The delay of this last occasions some surprise. I observe that the President has laid hold of the late endemic at the seat of Government as an occasion for getting the prerogative for proroguing the Legislature. Fortunately, the Constitution has provided an important barrier in this case, by requiring a session at least within every year. But still the power may, in unforeseen emergencies, be made an instrument of party or of usurpation, and, it is to be hoped, will not therefore be granted. I have not examined it in a constitutional view, but that also merits attention. Ambition is so vigilant, and where it has a model always in view, as in the present case, is so prompt in seizing its advantages, that it cannot be too closely watched, or too vigorously checked.

Writings of Madison, Volume 2: 1794-1815, p.121

When you do me the favor to write, let your letters leave Philadelphia in the mail of Friday morning. They will then come without any halt.

Writings of Madison, Volume 2: 1794-1815, p.121

Adieu.

1798

To Thomas Jefferson.

ORANGE, Jany 21, 1798.

Writings of Madison, Volume 2: 1794-1815, p.121

DEAR SIR,—When your favor of the 3rd instant arrived, I was on a journey to the neighborhood of Richmond, from which I did not return till the 18th. The mail on the day following brought me the packet of newspapers under your cover. Col. Bell has written me that the nails ordered, as stated in my last to you, are all ready for me. I had not requested them to be prepared in parcels, as I shall use them, because I want some for out-houses immediately, and I wished to avoid the necessity of more than one trip.

Writings of Madison, Volume 2: 1794-1815, p.121

The attack on Monroe's publication evidently issues from, or is aided by, an official source, and is a proof that the latter bites. I have not yet seen a copy of it, and was astonished to learn in Richmond, where I passed a day, that a single copy only had reached that place, which, from the length of it, not more than two or three persons had read. By them it was said, that if this did not open the eyes of the people, their blindness must be incurable. If a sufficient number of copies do not arrive there before the adjournment of the Assembly, the only opportunity of circulating the information in this State will be lost for a year, that is, till the subject has lost its flavor. The enormous price, also, was complained of, as a probable obstacle to an extensive circulation.

Writings of Madison, Volume 2: 1794-1815, p.122

You will have seen in the newspapers the proceedings on the Amherst Memorial, on the Glebes and Churches, and on the proposition for revising the Constitution. The first was the only test of party strength, and so far deceptive, as it confounds scrupulous Republicans with their adversaries in the votes against a Legislative censure on the Grand Jury.

Writings of Madison, Volume 2: 1794-1815, p.122

I did not understand the presentment was vindicated positively by a single member in the Debate. The unfavorable accounts as to our three Plenipo's got to Richmond while I was there, by the way of Norfolk. It seemed to give extreme uneasiness to the warm and well-informed friends of Republicanism, who saw in a war on the side of England the most formidable means put in the hands of her partizans for warping the public mind towards Monarchy. This consideration certainly merits the strictest regard as an argument for peace, as long as we have a fair choice on the question. The Public will have a right to expect, also, from our Executive and the negotiators, the fullest communication of every circumstance that may attend the experiment, if it should miscarry. The British Treaty has placed such difficulties in the way of an adjustment, that nothing but the most cordial dispositions on both sides can overcome them; and such have been the indications on the side of our Executive, even during the negociation, that it will not be easily believed, in case of a rupture, that it was not promoted, if not caused, by our own counsels.

Writings of Madison, Volume 2: 1794-1815, p.122

We have had a fine spell of open weather, with plentiful rains at proper intervals. This has been favorable to our winter operations, but otherwise to some of those of nature, [?] particularly in our wheat fields, which continue to present the most unpromising aspect. Accept the most affectionate farewell.

To James Monroe.

Feby 5, 1798.

Writings of Madison, Volume 2: 1794-1815, p.123

DEAR SIR,—The calls of my carpenters, and the fineness of the weather, have induced me to hurry my wagon up for the nails. It will receive the few articles which you have been so good as to offer from the superfluities of your stock, and which circumstances will permit me now to lay in; to wit, Two table cloths for a dining-room of about 18 feet; two, three, or four, as may be convenient, for a more limited scale; four dozen napkins, which will not in the least be objectionable for having been used; and two mattresses. We are so little acquainted with the culinary utensils in detail, that it is difficult to refer to such by name or description as would be within our wants. We conclude it best, therefore, not to interfere with any opportunity you may have of gratifying your other friends, and to reserve our demands on your kindness till we can have the pleasure of seeing you, as well as have it in our power to compare the undisposed of remains with our probable wants.

Writings of Madison, Volume 2: 1794-1815, p.123

I found here a letter from Mr. Jefferson, of the 24th January. The following are extracts: "A letter is certainly received here from Talleyrand, which says our envoys have been heard, that their pretensions are high, that possibly no arrangement may take place, but that there will be no declaration of war by France. It is said that Bournonville has written that he has hopes of an accommodation, (three audiences having then, Novr 3, been had,) and to be himself a member of a new diplomatic mission to this country. On the whole, I am entirely suspended as to what is to be expected." "Very acrimonious altercations are going on between the Spanish Minister and the Executive, and at the Natchez something worse than mere altercations, &c." You will recollect the idea in our conversation, that a war with Spain would be courted as a succedaneum for the barren field presented by one with France to the privateering avidity. I inclose the paper mentioned to you, which you will of course be careful of. It is a curious specimen of Jay's regard for instructions in making the British Treaty, as his address, or rather petition, to his Majesty, is of that manly and independent spirit which Scipio labors to bestow on him.

Writings of Madison, Volume 2: 1794-1815, p.124

Mrs. Madison and the family offer their affectionate respects to Mrs. Monroe.

Writings of Madison, Volume 2: 1794-1815, p.124

Yours truly,

Writings of Madison, Volume 2: 1794-1815, p.124

Calling to mind the difficulty you may experience from the general failure of the potato crop last year, I beg you to accept by the bearer a couple of bushels, which may furnish the seed for your garden, if nothing more. Mrs. Madison insists on adding for Mrs. Monroe a few pickles and preserves, with half a dozen bottles of gooseberries and a bag of dried cherries, which will not be wanted by us till another season will afford a supply, and which the time of your return home must have deprived her of, as the fruit of the last season. We both wish we could substitute something more worthy of acceptance.

To Thomas Jefferson.

ORANGE, Feby 12, 1798.

Writings of Madison, Volume 2: 1794-1815, p.124

DEAR SIR,—The last mail brought neither letters nor papers from Philadelphia. By the preceding one I received your favor of Jany 24, and a bundle of the Gazettes down to the 25th, inclusive, with an omission only of that of the 23d, which it may be proper for you to supply in order to keep your set entire.

Writings of Madison, Volume 2: 1794-1815, p.124

Your account of the probable posture of the negociation at Paris is less decisively unfavorable than the reports prevailing here. It will be happy if a good issue should result from the crisis. But I have great apprehensions from two sources: 1. The spirit in which the negociation will be conducted on the side of our Executive, if not on the other side also. 2. The real difficulties which the British Treaty has thrown in the way. It is pretty clear that France will not acquiesce under the advantage which that insidious instrument gives to her enemy, and the House of Reps, at the last session, admitted that the condition of the two nations ought to be equalized. How can this now be done? In one of two ways only: either by dissolving the British Treaty, or by stipulating with France that she may plunder us, as we have stipulated that Britain may plunder us.

Writings of Madison, Volume 2: 1794-1815, p.125

To the first mode, the objections on the American side are obvious. To the second, will not France refuse so far to sanction the principle that free ships do not make goods free, as to enter into a positive stipulation to that effect, chusing rather to equalize her own situation on the principle of retaliation, which indirectly supports instead of surrendering her favorite object? Should this be her course, the U. S. will have no option but to go directly to war in defence of the British Treaty, which was adopted as a defence against war, and in defence of the principle that free ships do not make free goods, in opposition both to their own principles and their essential interests, or to go indirectly to war, by using the frigates as convoys, and arming private vessels, of which the owners and mariners will often be British subjects, under American colours; or to some defensive regulation of a commercial nature. The first will not be done, because the people are not yet confided in to tolerate it. The last will not be done, because it will be difficult to frame such a regulation as will not injure Britain, as well as ourselves, more than France. The second expedient I conclude, therefore, will be persisted in; and as there is likely to be a majority ready to back the hostility of the Executive, the best that can be done by the Republicans will be to leave the responsibility on the real authors of whatever evils may ensue.

Writings of Madison, Volume 2: 1794-1815, p.125

I am not surprized at the extremity to which the dispute at the Natchez is pushed. I never had a doubt that in proportion as war with France is contemplated, a war with Spain will be provoked by the present administration. The former would not be relished, even by the New England privateers, without the prospect of plunder presented by the latter. A war with Spain would also be a most convenient grave for the misdemeanours of Liston and his partizans.

Writings of Madison, Volume 2: 1794-1815, p.125

I returned from Albemarle on Monday last, where I consulted with your hailer on the subject of the sprigs and lathing nails not included in the parcels prepared for me. I found that the cutting machine has never been re-established, and I did not request that their slight kind of nails should be made in the common way. If you mean, however, that the machine shall be set up again, or if it be a part of your plan to make such nails in the common way, there will be time enough for either before I shall want them. I was at Mr. Randolph's, and found all well there, as you will doubtless learn to be the case from himself.

Writings of Madison, Volume 2: 1794-1815, p.126

I was astonished to find that even Monroe himself had not yet seen a printed copy of his publication. In the mean time, Scipio's misrepresentations and sophistries are filling the public mind with all the poison which P.'s malice can distil into it. Where the book is not seen first, and an antidote does not quickly follow from the same centre which gives circulation to the poison, innocence and truth cannot have fair play.

Writings of Madison, Volume 2: 1794-1815, p.126

Present my friendly respects to Mr. Giles, who, I hear, has gone on to Philadelphia; also to Mr. Tazewell and Mr. Dawson. I have been sorry to hear of the ill health of the former. As I perceive by the votes in the Senate that he has resumed his seat, I hope he is well again.

Writings of Madison, Volume 2: 1794-1815, p.126

Yours always and affectionately.

To Thomas Jefferson.

Feby, 1798.

Writings of Madison, Volume 2: 1794-1815, p.126

DEAR SIR,—Since my last I have received yours of Feby 8, with a continuation of the Gazettes down to that date, with the exception only, mentioned already, of the Gazette of Jany 23. I am glad to find the public opinion to be taking the turn you describe on the subject of arming. For the public opinion alone can now save us from the rash measures of our hot-headed Executive it being evident from some late votes of the House of Reps, particularly in the choice of managers for the Impeachment, that a majority there, as well as in the Senate, are ready to go as far as the controul of their constituents will permit.

Writings of Madison, Volume 2: 1794-1815, p.127

There never was, perhaps, a greater contrast between two characters than between those of the present President and his predecessor; although it is the boast and prop of the present that he treads in the steps of his predecessor. The one, cool, considerate, and cautious; the other, headlong, and kindled into flame by every spark that lights on his passions: the one, ever scrutinizing into the public opinion, and ready to follow, where he could not lead it; the other, insulting it by the most adverse sentiments and pursuits. Washington a hero in the field, yet overweighing every danger in the Cabinet: Adams without a single pretension to the character of a soldier, a perfect Quixotte as a statesman. The former chief magistrate pursuing peace every where with sincerity, though, mistaking the means: the latter taking as much pains to get into war as the former took to keep out of it. The contrast might be pursued into a variety of other particulars—the policy of the one in shunning connections with the arrangements of Europe, of the other in holding out the United States as a make-weight in the Balances of power; the avowed exultation of Washington in the progress of liberty every where, and his eulogy on the Revolution and people of France, posterior even to the bloody reign and fate of Robespierre; the open denunciations by Adams of the smallest disturbance of the ancient discipline, order, and tranquillity of despotism, &c., &c., &c.

Writings of Madison, Volume 2: 1794-1815, p.127

The affair of Lyon and Griswold is bad enough every way, but worst of all in becoming a topic of tedious and disgraceful debates in Congress. There certainly could be no necessity for removing it from the decision of the parties themselves before that tribunal, and its removal was evidently a sacrifice of the dignity of the latter to the party manoeuvre of ruining a man whose popularity and activity were feared. If the state of the House suspended its rules in general, it was under no obligation to see any irregularity which did not force itself into public notice; and if Griswold be a man of the sword, he should not have permitted the step to be taken; if not, he does not deserve to be avenged by the House. No man ought to reproach another with cowardice who is not ready to give proof of his own courage.

Writings of Madison, Volume 2: 1794-1815, p.128

I have taken some pains, but in vain, to find out a person who will engage to carry the mail from Fredericksburg to Charlottesville. When I was in the neighborhood of the latter I suggested the propriety of an effort there for the purpose, but do not know that it will be more successful.

Writings of Madison, Volume 2: 1794-1815, p.128

Our winter has continued without snow, and rather dry, and our wheat fields wear the most discouraging aspect.

Writings of Madison, Volume 2: 1794-1815, p.128

Adieu.

To Thomas Jefferson.

March 4, 1798.

Writings of Madison, Volume 2: 1794-1815, p.128

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 2: 1794-1815, p.128

Mr. Tazewell's speech is really an able one in defence of his proposition to associate juries with the Senate in cases of impeachment. His views of the subject are so new to me, that I ought not to decide on them without more examination than I have had time for. My impression has always been that impeachments were somewhat sui generis, and excluded the use of Juries. The terms of the amendment to the Constitution are indeed strong, and Mr. T. has given them, as the French say, all their lustre. But it is at least questionable whether an application of that amendment to the case of impeachments would not push his doctrine farther than he himself would be disposed to follow it.

Writings of Madison, Volume 2: 1794-1815, p.128

It would seem, also, that the reservation of an ordinary trial by a jury must strongly imply that an impeachment was not to be a trim by jury. As removal and disqualification, the punishments within the impeaching jurisdiction, were chiefly intended for offices in the Executive line, would it not also be difficult to exclude Executive influence from the choice of juries? or would juries armed with the impeaching power, and under the influence of an unimpeachable Tribunal, be less formidable than the power as hitherto understood to be modified ?

Writings of Madison, Volume 2: 1794-1815, p.129

The universality of this power is the most extravagant novelty that has been yet breached, especially coming from a quarter that denies the impeachability of a Senator. Hardy as these innovators are, I cannot believe they will venture yet to hold this inconsistent and insulting language to the public. If the conduct and sentiments of the Senate on some occasions were to be regarded as the natural and permanent fruit of the institution, they ought to produce not only disgust, but despair, in all who are really attached to free Government. But I cannot help ascribing some part of the evil to personal characters, and a great deal of it to the present spirit of the Constituents of the Senate. Whenever the State Legislatures resume the tone natural to them, it will probably be seen that the tone of their Representatives will vary also. If it should not, the inference will then be unavoidable that the present Constitution of the Senate is at war with the public liberty.

Writings of Madison, Volume 2: 1794-1815, p.129

If the countervailing act of G. B. does not open the mouths and eyes both of the Eastern Carriers, it will be a political phenomenon without example. In the year ]789, G. B. had about 230, and America 43 thousand of the tonnage in the mutual trade. The encouragements given by Congress, and which G. B. did not dare to countervail till Jay tied our hands from continuing the advantage on the side of America, have brought up the American share to about one-half. The bounties now secured to the British tonnage will pretty certainly reduce our proportion below its original scantiness.\* And if the French, as may be expected, should suffer their disgust at the British Treaty to dictate their navigation policy towards us, Jay will have accomplished more than perhaps was ever done by the same personal talents; he will have annihilated the marine of a maritime Country by a single stroke of his pen, and, what is still more extraordinary, received the plaudits of the victims whom he has sacrificed.

Writings of Madison, Volume 2: 1794-1815, p.129

I am curious to see how the zealots for expelling Lyon will treat the deliberate riot of Griswold. The whole affair has been extremely disgraceful; but the dignity of the Body will be wounded, not by the misconduct of individual members, which no public body ought to be answerable for, but by the misconduct of itself, that is, of a majority; and it is to be feared that the majority in this case are ready for every sacrifice to the spirit of party which infatuates them. The greatest sinners among them are Sewall and Harper, who forced the offensive business on the House.

Writings of Madison, Volume 2: 1794-1815, p.130

We have had lately 4 1/2 inches of snow. On the 22nd, however, the day on which it was snowing, as you observe in your letter, it was throughout fair here. On the 21st, day and night together, there fell 5/8 of an inch, and on the night of the 23rd, 1/8 of an inch of rain.

Writings of Madison, Volume 2: 1794-1815, p.130

Yours always and affectionately.

To Thomas Jefferson.

March 12th, 1798.

Writings of Madison, Volume 2: 1794-1815, p.130

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

Writings of Madison, Volume 2: 1794-1815, p.130

I think the Whigs acted very properly in attending the Birth-night, on the principle of appropriating it to the person, and not to the office of the late President. It is a pity that the non-attendance of the Adamsites is not presented to the public in such a manner, with their names, as to satisfy the real friends of Washington, as well as the people generally, of the true principles and views of those who have been loudest in their hypocritical professions of attachment to him.

Writings of Madison, Volume 2: 1794-1815, p.130

The proceedings relative to the Stamp act mark strongly two things: one, that the public feeling is not, as is pretended, in unison with the measures of the Government; the other, that it will, whenever it shews itself, direct immediately the course of the H. of Reps, and no doubt, finally, the Senate also. The Eastern votes for the repeal are a demonstration of both these truths.

Writings of Madison, Volume 2: 1794-1815, p.130

The enclosed paper contains all the information I possess on the subject of Mazzei's cargo of books. Notwithstanding the lapse of time, I have never had a single return of sales. Whilst Congress sat in New York, I repeatedly enquired of Rivington, without learning that any had taken place. I beg you to preserve and return the paper.

Writings of Madison, Volume 2: 1794-1815, p.131

We have had warm and dry weather for ten days till yesterday, which gave us a fine rain. The wheat fields in general retain their sickly countenance. In many places it is thought impossible to replace the seed, and it seems certain that the ensuing crop will be very short, whatever change for the better may happen in the residue of the season. Great efforts are generally on foot for crops of Tobacco.

To Thomas Jefferson.

April 2d, 1798.

Writings of Madison, Volume 2: 1794-1815, p.131

DEAR SIR,—Since my last, I am in debt for your two favors of the 15th and 22, the Gazettes of the 3, 6, 7, and 8 ult., with a regular continuation to the 22d; two statements from the Treasury Department, and Paine's letter to the French people and armies.

Writings of Madison, Volume 2: 1794-1815, p.131

The President's message is only a further development to the public of the violent passions and heretical politics which have been long privately known to govern him. It is to be hoped, however, that the H. of Reps will not hastily echo them. At least it may be expected that, before war measures are instituted, they will recollect the principle asserted by 62 vs. 37, in the case of the Treaty, and insist on a full communication of the intelligence on which such measures are recommended. The present is a plainer, if it be not a stronger case; and if there has been sufficient defection to destroy the majority, which was then so great and so decided, it is the worst symptom that has yet appeared in our Councils.

Writings of Madison, Volume 2: 1794-1815, p.131

The constitution supposes, what the History of all governments demonstrates, that the Executive is the branch of power most interested in war, and most prone to it. It has, accordingly, with studied care, vested the question of war in the Legislature. But the doctrines lately advanced strike at the root of all these provisions, and will deposit the peace of the Country in that Department which the Constitution distrusts as most ready, without cause, to renounce it. For if the opinion of the President, not the facts and proofs themselves, is to sway the judgment of Congress in declaring war; and if the Prest in the recess of Congress create a foreign mission, appoint the Minister, and negociate a war Treaty, without the possibility of a check, even from the Senate, until the measures present alternatives overruling the freedom of its judgment; if, again, a Treaty, when made, obliges the Legislature to declare war contrary to its judgment, and, in pursuance of the same doctrine, a law declaring war imposes a like moral obligation to grant the requisite supplies until it be formally repealed with the consent of the P. and Senate, it is evident that the people are cheated out of the best ingredients in their Government, the safeguards of peace, which is the greatest of their blessings.

Writings of Madison, Volume 2: 1794-1815, p.132

I like both your suggestions in the present crisis. Congress ought clearly to prohibit arming, and the President ought to be brought to declare on what ground he undertook to grant an indirect licence to arm. The first instructions were no otherwise legal than as they were in pursuance of the law of nations, and, consequently, in execution of the law of the land. The revocation of the instructions is a virtual change of the law, and consequently a usurpation by the Executive of a legislative power. It will not avail to say that the law of nations leaves this point undecided, and that every nation is free to decide it for itself. If this be the case, the regulation being a Legislative, not an Executive one, belongs to the former, not the latter authority, and comes expressly within the power, "to define the law of nations," given to Congress by the Constitution. I do not expect, however, that the Constitutional party in the H. of Reps is strong enough to do what ought to be done in the present instance.

Writings of Madison, Volume 2: 1794-1815, p.132

Your 2d idea, that an adjournment for the purpose of consulting the constituents on the subject of war, is more practicable, because it can be effected by that branch alone, if it pleases, and because an opposition to such a measure will be more striking to the public eye. The expedient is the more desirable, as it will be utterly impossible to call forth the sense of the people generally before the season will be over, especially as the towns, &c., where there can be most despatch in such an operation, are on the wrong side; and it is to be feared that a partial expression of the public voice may be misconstrued or miscalled an evidence in favor of the War party. On what do you ground the idea that a declaration of war requires 2/3ds of the Legislature ? The force of your remark, however, is not diminished by this mistake; for it remains true, that measures are taking, or may be taken by the Executive, that will end in war, contrary to the wish of the Body which alone can declare it.

To Thomas Jefferson.

April 15, 1798.

Writings of Madison, Volume 2: 1794-1815, p.133

DEAR SIR,—My last answered yours of the 21st, since which I received on Friday last your three favors of the 29 ult., of April 5 and 6. I have no reason to suspect that any of your letters have miscarried, or been opened by the way. I am less able to say whether mine have all reached you, as I have generally written them in haste, and neglected to keep a note of their dates. I will thank you to mention in your acknowledgement of this whether you received one from me inclosing a letter to F. A. Muhlenberg, and whether he certainly received it. It related to a case of humanity, and required an answer, which has never come to hand.

Writings of Madison, Volume 2: 1794-1815, p.133

The effect of the President's speech in France is less to be wondered at, than the speech itself, with other follies of a like tendency, is to be deplored. Still, the mode and degree of resisting them is rather meeting folly with folly than consulting the true dignity and interest which ought to prescribe such cases. The conduct of Talleyrand is so extraordinary as to be scarcely credible. I do not allude to its depravity, which, however heinous, is not without examples. Its unparalleled stupidity is what fills one with astonishment.

Writings of Madison, Volume 2: 1794-1815, p.134

Is it possible that a man of sagacity, as he is admitted to be, who has lived long enough in this Country, to understand the nature of our Government; who could not be unaware of the impossibility of secrecy, and the improbability of success, in pursuing his propositions thro' the necessary forms; who must have suspected the Executive rather of a wish to seize pretexts for widening the breach between the two Republics, than to make use of any means, however objectionable, to reconcile their differences; who must have been equally suspicions of the probable inclination of some one or other of the Envoys; is it possible that such a man, under such circumstances, could have committed both his character and safety by such a proposition? If the evidence be not perfectly conclusive, of which I cannot judge, the decision ought to be against the evidence, rather than on the side of the infatuation. It is easy to foresee, however, the zeal and plausibility with which this part of the dispatches will be inculcated, not only for the general purpose of enforcing the war measures of the Executive, but for the particular purpose of diverting the public attention from the other more important part, which shows the speech and conduct of the President to be now the great obstacle to accommodation.

Writings of Madison, Volume 2: 1794-1815, p.134

This interesting fact must, nevertheless, finally take possession of thinking minds, and strengthen the suspicion, that whilst the Executive were pursuing ostensible plans of reconciliation, and giving instructions which might wear that tendency, the success of them was indirectly counterworked by every irritation and disgust for which opportunities could be found in official speeches and messages, answers to private addresses, harangues in Congress, and the vilest insults and calumnies of newspapers under the patronage of Government.

Writings of Madison, Volume 2: 1794-1815, p.134

The readiness with which the papers were communicated, and the quarter proposing the call for them, would be entitled to praise, if a mass of other circumstances did not force a belief that the view in both was more to inflame than to inform the public mind. It is not improbable that the influence of the first impressions in checking the rising spirit in N. England, and bearing up the party of Jay in N. York, whose re-election is brought into danger by the pestilent consequences experienced from his Treaty, had considerable share in the motive.

Writings of Madison, Volume 2: 1794-1815, p.135

The negative declaration proposed by Mr. Sprigg is liable to so many specious objections, that I shall be surprised if a willing majority does not take advantage of them. In ordinary cases, the mode of proceeding is certainly ineligible; but it seems equally obvious that cases may arise for which that is the proper one. Three of these occur where there does not appear any room to doubt on the subject: 1. Where nothing less than a declaration of pacific intentions from the Department entrusted with the power of war will quiet the apprehensions of the constituent body, or remove an uncertainty which subjects one part of them to the speculating arts of another. 2. Where it may be a necessary antidote to the hostile measures or language of the Executive Department. If war sentiments be delivered in a speech to Congress which admits of a direct answer, and the sentiments of Congress be against war, it is not doubted that the counter sentiments might and ought to be expressed in the answer. Where an extra message delivers like sentiments, and custom does not permit a like explanation of the sentiments of the Legislature, there does not appear any equivalent mode of making it, except that of an abstract vote. 3. Where public measures or appearances may mislead another nation into distrust of the real object of them, the error ought to be corrected; and in our Government, where the question of war or peace lies with Congress, a satisfactory explanation cannot issue from any other Department.

Writings of Madison, Volume 2: 1794-1815, p.135

In Governments where the power of deciding on war is an Executive prerogative, it is not unusual for explanations of this kind to be given, either on the demands of foreign nations, or in order to prevent their improper suspicions. Should a demand of this sort be at any time made on our Govt, the answer must proceed, if thro' an Executive functionary, from the war prerogative, that is, from Congress; and if an answer could be given on demand, a declaration without a demand may certainly be made with equal propriety, if there be equal occasion for it.

Writings of Madison, Volume 2: 1794-1815, p.136

The discovery of Mr. A.'s dislike to the City of Washington will cause strong emotions. What sort of conscience is that which feels an obligation on the Govt to remove thither, and a liberty to quit it the next day ? The objection to the magnificence of the President's House belongs to a man of very different principles from those of Mr. A. The increase of expense, therefore, without a probable increase of salary in proportion, must be the real ground of objection.

Writings of Madison, Volume 2: 1794-1815, p.136

I have looked over the two papers which you consider as so threatening in their tendency. They do not, I own, appear to me exactly in the same light; nor am I by any means satisfied that they are from the pen you ascribe them to. If they are, there certainly has been a disguise aimed at in many features of the style. I differ still more from you as to the source from which an antidote, if necessary, ought to come. But waiving every thing of that sort, there is really a crowd and weight of indispensable occupations on my time, which it would be very tedious to explain, but which I pledge myself will justify me in leaving such tasks to others, not only commanding more time for them, but in every respect more favorably situated for executing them with advantage and effect. And it is with no small pleasure I observe that some pens are employed which promise the public all the lights with respect to their affairs which can be conveyed to them thro' the channels of the press.

Writings of Madison, Volume 2: 1794-1815, p.136

It is now become certain that not half crops of wheat can be made. Many will not get back more than their seed, and some not even that. We have lately had a severe spell of N. E. rain, which, in this neighborhood, swept off at least 15 per cent. of the cattle; and from accounts in different directions, it appears to have been equally fatal. We are at present in the midst of a cold N. W. spell, which menaces the fruit. The tops of the blue mountains are tinged with snow, and the thermometer this morning was at 31°. It does not appear, however, that the mischief is yet done. The coming night, if no sudden change takes place, must, I think, be fatal.

Writings of Madison, Volume 2: 1794-1815, p.137

If Mr. Bailey has not yet taken up his note, be so good as to have the enclosed forwarded to him.

To Thomas Jefferson.

April 22d, 1798.

Writings of Madison, Volume 2: 1794-1815, p.137

DEAR SIR,—My last was on the 15th, and acknowledged your preceding letters. I have since received that of the 12th, under the same cover with the Gazettes; and the instructions and despatches under a separate cover. The interruptions of company, added to the call of business, have not left me time as yet to read over the whole of those papers. A glance at them, with the extracts given of their contents, fully account for the state of astonishment produced in the public mind. And yet the circumstance that ought to astonish most, perhaps, is the publication of them by the Executive and Senate.

Writings of Madison, Volume 2: 1794-1815, p.137

Whatever probability there may be of individual corruption within the pale of the French Govt, the evidence is certainly very insufficient to support such an attack on its reputation in the face of the world, even if we could separate the measure from its inevitable effect in blasting every chance of accommodation, if it should reach France before terms shall be finally settled. After this stroke in the politics of those two branches of our Government, no one who has not surrendered his reason can believe them sincere in wishing to avoid extremities with the French Republic; to say nothing of the internal views to which they mean also to turn this extraordinary manoeuvre.

Writings of Madison, Volume 2: 1794-1815, p.137

There has not been time for any impressions on the public sentiment in this quarter, which the Despatches are calculated to make. The first will, no doubt, pretty much correspond with those made elsewhere. But the final impressions will depend on the further and more authentic developments, which cannot be far behind, and which by this time may be arrived where you are. I find that in several places the people have turned out with their protests against the war measures urged by the Executive. Whether the proceeding will be general, I cannot pretend to decide. In this County, a petition is to be handed about, which will, I presume, be pretty fully signed, if sufficiently circulated; unless the disaffected few among us should be em-boldened by the present crisis to circulate along with it the impressions emanating from the Despatches, which may stop the hands of wavering or cautious people.

To Thomas Jefferson.

April 29, 1798.

Writings of Madison, Volume 2: 1794-1815, p.138

DEAR SIR,—My last was on the 22d. Yours received by the last mail was of the 19th inst. The despatches have not yet come sufficiently to the knowledge of the bulk of the people to decide the impression which is to result from them. As far as I can infer from the language of the few who have read the newspapers, there will be a general agreement as to the improper views of our own Executive party, whatever difference of opinion there may be as to the purity of the French councils. Indeed, the reflexion of others, as well as my own, traces so many absurdities and improbabilities in many of the details, that the injustice seems equal to the temerity of publishing such a libel on the French Government. Col. Monroe lodged with me last night on his way to the District Court at Fredg. He considers the transaction as evidently a swindling experiment, and thinks the result will bring as much derision on the Envoys as mischief on the Country. I am sorry to learn that the Naval bill is likely to be carried, and particularly that any of our friends should, by their leaving Congress, be accessory to it. The public sentiment here is unquestionably opposed to every measure that may increase the danger of War. Petitions, expressive of it, will be signed by all to whom they are presented, with such exceptions only as may be guessed at. It appears, however, that the crisis is over for their effect on Congress, if there were a disposition there to listen to them.

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I take the liberty of subjoining a list of a few articles not to be got out of Philadelphia, and so important to my present object that I break through every restraint from adding to the trouble, of which you have more than enough. I hope the commission may be facilitated by your previous acquaintance with the places at which they are to be had, and that you will be able to make use of the time of others chiefly for the purpose. If J. Bringhurst should be in the way, he will readily relieve you from all attention to the details. I wish them to be forwarded to "Fredericksburg, to the care of Robert Dunbar, Esq., at Falmouth." The enclosed draught will be a fund for the purchase.

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Adieu. Affectionately.

To Thomas Jefferson.

May 5, 1798.

Writings of Madison, Volume 2: 1794-1815, p.139

DEAR SIR,—I have to thank you for your favor of the 26th ult. My last was of the 29th. The success of the war party in turning the Despatches to their inflammatory views is a mortifying item against the enlightened character of our citizens. The analysis of the Despatches by Sidney cannot fail to be an effectual antidote, if any appeal to sober reflection can prevail against occurrences which are constantly addressing their imaginations and feelings. The talents of this writer make it lucky that the task has not been taken up by other hands. I am glad to find, in general, that everything that good sense and accurate information can supply is abundantly exhibited by the newspapers to the view of the public. It is to be regretted that these papers are so limited in their circulation, as well as that the mixture of indiscretions in some of them should contribute to that effect. It is to be hoped, however, that any arbitrary attacks on the freedom of the press will find virtue enough remaining in the public mind to make them recoil on the wicked authors. No other check to desperate projects seems now to be left. The sanguinary faction ought not, however, to adopt the spirit of Robespierre, without recollecting the shortness of his triumphs and the perpetuity of his infamy. The contrivance of Jay for reproducing Hamilton into office and notice suggests, no doubt, a variety of conjectures. If the contrivance is to be ascribed chiefly to Jay, it probably originated in the alarm into which the consequences of the Treaty have thrown its author, and the new demand for the services of its champion. Events have so clearly demonstrated the great objects of that Treaty to have been to draw us into a quarrel with the enemies of G. B., and to sacrifice our navigation to hers, that it will require greater efforts than ever to skreen the instrument and author much longer from the odium due to them. The late acts of the B. Part would, before this, have unmasked the character of the Treaty, even to the people of N. England, if adventitious circumstances had not furnished its partizans with fresh dust for their eyes. A tax on land, with a loss of market for its produce, will put their credulity and blindness to a test that may be more dreadful to the Deluders.

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We have had a dry spell latterly, which, succeeding the effects of the frost, will affect every species of crop that depends on the favor of the season. I write to Mr. Dawson by this post for a small balance, between thirty and forty dollars, which I beg you to receive. You will further oblige me by having my brother William's name subscribed to Carey's paper, and paying the necessary advance; the paper to be sent to Orange Ct. House.

To Thomas Jefferson.

May 13, 1798.

Writings of Madison, Volume 2: 1794-1815, p.140

DEAR SIR,—I have received your favor of the 3d Inst. My last acknowledged your preceding one. The successful use of the Despatches in kindling a flame among the people, and of the flame in extending taxes, armies, and prerogative, are solemn lessons, which I hope will have their proper effect when the infatuation of the moment is over. The management of foreign relations appears to be the most susceptible of abuse of all the trusts committed to a Government, because they can be concealed or disclosed, or disclosed in such parts and at such times as will best suit particular views; and because the body of the people are less capable of judging, and are more under the influence of prejudices, on that branch of their affairs, than of any other. Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad. The credit given to Mr. Adams for a spirit of conciliation towards France is wonderful, when we advert to the history of his irritations, from the first name in the Envoyship, down to his last answer to the addressers. If he finds it thus easy to play on the prepossessions of the people for their own Govt against a foreign, we ought not to be disappointed if the same game should have equal success in the hands of the Directory.

Writings of Madison, Volume 2: 1794-1815, p.141

We have had little or no rain for a month, and the evil has been increased by much windy and cold weather. The thermometer yesterday morning was at 38°, and the frost such as to kill the leaves of tender trees in low situations. I hope now you will soon be released from the thorny seat in which you are placed, and that I shall not be disappointed of the pleasure of seeing you on your way. You must so arrange your time as to be able to ride a mile, while with me, to see a threshing-machine I have lately built on Martin's plan. It is worked and attended by five or six hands at most, and I think promises more for general use than all the other modifications. I shall not describe it, because your own inspection. will so soon give you a more perfect idea of it.

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Yours always and affectionately.

Writings of Madison, Volume 2: 1794-1815, p.141

I received no paper by last mail but Fenno's. I hope the bridle is not yet put on the press.

To Thomas Jefferson.

May 20, 1798.

Writings of Madison, Volume 2: 1794-1815, p.142

DEAR SIR,— \* \* \* \* \* \* \* \* \* \*

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The Alien bill proposed in the Senate is a monster that must forever disgrace its parents.\* I should not have supposed it possible that such an one could have been engendered in either House, and still persuade myself that it cannot possibly be fathered by both. It is truly to be deplored that a standing army should be let in upon us by the absence of a few sound votes. It may, however, all be for the best. These addresses to the feelings of the people from their enemies may have more effect in opening their eyes than all the arguments addressed to their understandings by their friends. The Prest, also, seems to be co-operating for the same purpose. Every answer he gives to his addressers unmasks more and more his principles and views. His language to the young men at Phila is the most abominable and degrading that could fall from the lips of the first magistrate of an independent people, and particularly from a Revolutionary patriot. It throws some light on his meaning when he remarked to me, "that there was not a single principle the same in the American and French Revolutions;" and on my alluding to the contrary sentiment of his predecessor, expressed to Adêt on the presentment of the Colours, added, "that it was false, let who would express it." The abolition of Royalty was, it seems, not one of his Revolutionary principles. Whether he always made this profession is best known to those who knew him in the year 1776. The turn of the elections in N. Y. is a proof that the late occurrences have increased the noise only, and not the number of the Tory party. Besides the intrinsic value of the acquisition, it will encourage the hopes and exertions in other States. You will see by the newspapers the turn which a Town-meeting took in Fredericksg. I forgot to acknowledge the pamphlet containing the last Despatch from the Envoys, received with your letter of the 10th. It is evidently more in the Forensic than Diplomatic style, and more likely in some of its reasonings to satisfy an American Jury than the French Government. The defence of the provision article is the most shallow that has appeared on that subject. In some instances the reasoning is good, but so tedious and tautologous as to insult the understanding, as well as patience, of the Directory, if really intended for them, and not for the partial ear of the American public.

Writings of Madison, Volume 2: 1794-1815, p.143

The want of rain begins to be severely felt, and every appearance indicates a continuance of it. Since the 10th of April there has fallen but one inch of water, except a very partial shower of less than 1/2 an inch.

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Adieu. Affectionately.

To Thomas Jefferson.

May 27, 1798.

Writings of Madison, Volume 2: 1794-1815, p.143

DEAR SIR,—I have duly received yours of the 17th, accompanied by the Direct tax bill, which I have not yet been able to run thro'. Everything, I perceive, is carried as the war party chuse. They will of course be the more responsible for consequences. The disposition to continue the Session is a proof that the operation of the irritating proceedings here on those of France is expected to furnish fresh fuel for the popular flame, and to favor the success of the Executive projects in the Legislature. It is to be deplored that we have no authentic and impartial channel thro' which the true state of things in Europe, particularly in France, can reach the public mind of this Country. The present temper of the Envoys cannot fail to discolour all that passes thro' them; and if this were not the case, the obvious policy of the Executive is a complete bar to the disclosure of all other than inflammatory communications.

Writings of Madison, Volume 2: 1794-1815, p.144

The inclosed accurate and authentic view of that "stupendous fabric of human wisdom," which Mr. A. idolizes so much, deserves, I think, the public attention at the present moment. At the request of Callender, I promised several years ago to send it to him, but never could lay my hand on it till a few days ago, when it fell in my way without being sought for. If you have an opportunity, and think it worth while, you can let the public have a sight of it; and, for the reason just mentioned, I could wish, if there be no objection, that it might pass thro' his hands. As the paper is of some value, it may be well to preserve it, in case it should not be republished, or in case a part only should be so.

Writings of Madison, Volume 2: 1794-1815, p.144

There have been pretty extensive, but not universal rains since my last. This neighbourhood has been but barely touched by them. I have not heard from yours.

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Adieu. Affectionately.

To Thomas Jefferson.

June 3, 1798.

Writings of Madison, Volume 2: 1794-1815, p.144

DEAR SIR,—Friday's mail brought me your favour of May 24. The letter from S. Bourne had previously reached us thro' a Fredg paper. It is corroborated, I find, by several accounts from different sources. These rays in the prospect will, if I can judge from the sensations in this quarter, have an effect on the people very different from that which appears in the public councils. Whilst it was expected that the unrelenting temper of France would bring on war, the mask of peace was worn by the war party. Now that a contrary appearance on the side of France is intimated, the mask is dropped, and the lie openly given to their own professions by pressing measures which must force France into war. I own I am not made very sanguine by the reported amendment in the posture of our negociators, first, because the account may not be very correct, and next, because there are real difficulties to be overcome, as well as those which the pride of one or other of the parties may create, not to mention the probable arrival of what has passed here before the scene is closed there. But the palpable urgency of the Executive and its partizans to press war in proportion to the apparent chance of avoiding it, ought to open every eye to the hypocrisy which has hitherto deceived so many good people. Should no such consequence take place, it will be a proof of infatuation which does not admit of human remedy. It is said, and there are circumstances which make me believe it, that the hot-headed proceedings of Mr. A. are not well relished in the cool climate of Mount Vernon. This, I think, may fairly be inferred from the contrast of characters and conduct; but if it has been expressed, it must have been within a very confidential circle.

Writings of Madison, Volume 2: 1794-1815, p.145

Since my last, there has been a sequel of fine and extensive rains. We have had a tolerable, though not an equal or sufficient share of them. Your neighbourhood, I fancy, has fared better.

Writings of Madison, Volume 2: 1794-1815, p.145

If Barnes has not sent off the glass, pullies, &c., please to order as much of the proper chord as will be wanted for the latter.

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Very affectionately yours.

To James Monroe.

June 9th, 1798.

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DEAR SIR,—Your favor of yesterday was duly delivered by your servant; and I herewith enclose the copies you request of the papers formerly transmitted to me. The originals I shall forward to Mr. D., as you suggest. I send, also, your letter to Van Staphorst, and his answer, which I found with the other papers, and which may possibly be of use now or hereafter in refreshing your memory, or otherwise. The other papers enclosed in your letter are also returned, as you desire.

Writings of Madison, Volume 2: 1794-1815, p.146

The base attack of Addison I had neither seen nor heard of. Doctr Edwards' letter and the two certificates added to your book meet it in all its points. The publication of the two former must place the vile calumniator in a light that must make him odious to honest men, whatever effect they may have on himself or his unprincipled abettors. It may deserve consideration how far the unnecessary passages of a personal nature in Doctor E.'s letter ought to go to the press. I mean the offensive allusion to Vanity, &c. and the mention of the names of

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Whitesides, &c. You are, however, the better judge on these points, and will no doubt suggest to Mr. D. what you decide to be done.

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The sortie of Mr. Adams presents, as you observe, more difficult questions. On one hand, silence may beget misconstructions from opposite quarters. On the other, it is not easy to find an unobjectionable, and at the same time adequate mode of repelling the aggression. A repetition of your demand for the reasons of your recall does not appear eligible after what has passed on that subject, though it must be owned the ground taken by Pickering is materially changed by the language of Mr. Adams. Any summons of a personal nature on Mr. Adams is, I think, forbidden by the considerations you have glanced at. Nor is it, perhaps, unworthy of consideration, that in the present composition and spirit of the two Houses anything like an occasion may be seized for wreaking party revenge through the forms of the Constitution. It is even possible that the fury of the moment may have suggested the unwarrantable attack as a snare that might answer the purpose. Whatever difficulties might obstruct such a proceeding, they would probably be got over by the same spirit which is overleaping so many others.

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If the case admits of any formal interposition on your part, it would seem to be in the way of a temperate and dignified animadversion, published with your name to it. In such a publication there would be room for such ideas relative to yourself as justice to yourself might render eligible, and also for such relative to Mr. Adams as prudence would permit. This is an idea, however, that has perhaps rather grown out of the difficulties of the case than is recommended by its own merit. You will be able to decide on it with more deliberation than I have bestowed on it.

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The course recommended by Mr. Jefferson certainly ought not to be hastily relinquished. The reflections you make on it have great weight, to which ought to be added the private sacrifice it would involve. But as I am persuaded that, in a general view, your taking a station in Congress would have a promising tendency, and as the present paroxysm may pass off with as great a rapidity as it has been brought on, I cannot but think it advisable to keep a hold on the disposition of Mr. C. to open the way to you, if on final consideration it should be judged proper to make use of it.

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Your letter found me engaged in some business with persons who are to return here this morning for its completion, as well as in despatching a servant with letters, papers, &c., to my father, who is beyond the Ridge. He has consequently been detained longer than I wished, as I presume you mean to write to Pennsylvania by the ensuing post; and I have been more hurried, at the same time, in the answer, than I would have chosen. Our sincerest offers of respect to Mrs. Monroe.

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Adieu.

To Thomas Jefferson,

June 10th, 1798.

Writings of Madison, Volume 2: 1794-1815, p.146

DEAR SIR,—I have duly received your favor of the 31st ult., and am glad to find mine are as regularly received as yours. The law for capturing French privateers may certainly be deemed a formal commencement of hostilities, and renders all hope of peace vain, unless a progress in amicable arrangements at Paris, not to be expected, should have secured it against the designs of our Govt. If the Bill suspending commerce with the French Dominions passes, as it doubtless will, the French Govt will be confirmed in their suspicion, begotten by the British

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Treaty, of our coalition in the project of starving their people; and the effect of the measure will be to feed the English at the expense of the farmers of this Country. Already flour is down, I hear, at 4 dollars a barrel.

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How far the views of the Government will be answered by annihilating the ability to pay a land tax at the very moment of imposing it, will be best explained by the experiment. Looking beyond the present moment, it may be questioned whether the interest of G. B. will be as much advanced by the sacrifice of our trade with her enemies as may be intended. The use of her manufactures here depends on our means of payment, and then on the sale of our produce to the markets of her enemies. There is too much passion, it seems, in our councils, to calculate consequences of any sort. The only hope is, that its violence, by defeating itself, may save the Country.

Writings of Madison, Volume 2: 1794-1815, p.148

The answers of Mr. Adams to his addressers form the most grotesque scene in the tragi-comedy acting by the Govt. They present not only the grossest contradictions to the maxims, measures, and language of his predecessor, and the real principles and interests of his constituents, but to himself. He is verifying completely the last feature in the character drawn of him by Dr. Franklin, however his title may stand to the two first, "Always an honest man, often a wise one, but sometimes wholly out of his senses."

Writings of Madison, Volume 2: 1794-1815, p.148

I thank you for the offspring of the Senatorial Muse, which shall be taken care of. It is truly an unique. It is not even prose run mad.

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Monroe is much at a loss what course to take in consequence of the wicked assault on him by Mr. A., and I am as much so as to the advice that ought to be given him. It deserves consideration, perhaps, that if the least occasion be furnished for reviving Governmental attention to him, the spirit of party revenge may be wreaked thro' the forms of the Constitution. A majority in the H. of R. and 2/3 of the Senate seem to be ripe for everything. A temperate and dignified animadversion on the proceeding, published with his name, as an appeal to the candor and justice of his fellow-citizens against the wanton and unmanly treatment, might, perhaps, be of use. But it would be difficult to execute it in a manner to do justice to himself, and inflict it on his adversary, without clashing with the temper of the moment. Hoping for the pleasure of congratulating you soon on your release from your painful situation, I close with the most affectionate assurance that I am, yours, &c.

To Thomas Jefferson.

Decr 29, 1798.

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DEAR SIR,—I enclose a draught on General Moylan, out of which you will be pleased to pay yourself the price of the nails, £48 11s. 3d., Va. currency, to let Barnes have as much as will discharge the balance I owe him, and to let what may remain lie till I write to you again.

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The President's speech corresponds pretty much with the idea of it which was preconceived. It is the old song, with no other variation of the tune than the spirit of the moment was thought to exact. It is evident, also, that he rises in his pitch as the echoes of the Senate and House of Representatives embolden him, and particularly that he seizes with avidity that of the latter flattering his vigilance and firmness against illusory attempts on him, without noticing, as he was equally invited, the allusion to his pacific professions.\* The Senate, as usual, perform their part with alacrity in counteracting peace by dextrous provocations to the pride and irritability of the French Government. It is pretty clear that their answer was cooked in the same shop with the speech.

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I have not seen the result of the discussions at Richmond on the Alien and Sedition laws. It is to be feared their zeal may forget some considerations which ought to temper their proceedings. Have you ever considered thoroughly the distinction between the power of the State and that of the Legislature, on questions relating to the federal pact ? On the supposition that the former is clearly the ultimate Judge of infractions, it does not follow that the latter is the legitimate organ; especially as a Convention was the organ by which the compact was made. This was a reason of great weight for using general expressions that would leave to other States a choice of all the modes possible of concurring in the substance, and would shield the General Assembly against the charge of usurpation in the very act of protesting against the usurpations of Congress.

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I have not forgotten my promise of M'Gehee's prices, but could not conveniently copy them for the present mail.

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Always affectionately yours.

1799

To Thomas Jefferson.

Jany 12, 1799.

Writings of Madison, Volume 2: 1794-1815, p.150

DEAR SIR,—According to a promise in my last, I enclose a copy of the rates at which M'Gehee works. I enclose, also, a few observations on a subject which we have frequently talked of, which are submitted to your entire disposal, in whole or in part, under the sole reserve of the name of the author. In Gordon's History, Vol. IV, p. 399, 400, is a transaction that may, perhaps, be properly referred to in the debate on the alien bill. Among other names is that of Sedgwick, to a protest against a bill subjecting to banishment, without trial by jury. It does not appear clearly whether the exiles were under the character of aliens or Citizens. If under the former, the case is in point.

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Our post had not arrived at the usual hour on Wednesday, and I have not since heard from the office. We are, consequently, without any late intelligence of your proceedings. I have been disappointed in seeing no step taken in relation to Lyon. He is clearly within privilege, and it ought to be claimed for him. In the case of Wilkes, the Judges were unanimously of opinion that a libel did not take away his privilege, altho' it is there less definite than with us. The Rouse of Commons voted differently; but it was the vote of a faction, and, therefore, of less weight than the other authority.

To Thomas Jefferson.

Feby 8, 1799.

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DEAR SIR,—I did not receive your last favor of the 16th ultimo till the mail after it was due, with the further delay of its coming by the way of Charlottesville.

Writings of Madison, Volume 2: 1794-1815, p.151

I have had a glance at Gerry's communications and Pickering's Report on it. It is impossible for any man of candor not to see in the former an anxious desire on the part of France for accommodation, mixed with the feelings which Gerry satisfactorily explains. The latter, \*\*\*\*\*\*\*\*\* taken in combination with preceding transactions, is a link that fits the chain. The President could not do less in his speech than allow France an option of peace; nor his minister do more than to insult and exasperate her, if possible, into a refusal of it.

To Thomas Jefferson.

RICHMOND, Decr 29, 1799.

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DEAR SIR,—My promise to write to you before your leaving Albemarle was defeated by a dysenteric attack, which laid me up for about a week, and which left me in a state of debility not yet thoroughly removed. My recovery has been much retarded by the job of preparing a vindication of the Resolutions of last Session against the replies of the other States, and the sophistries from other quarters. The Committee made their report a few days ago, which is now in the press, and stands the order of the day for Thursday next. A set of Resolutions proposed by Mr. Giles, instructing the Senators to urge the repeal of the unconstitutional acts, the disbanding of the army, and a proper arrangement of the militia, are also in the press, and stand the order of the same day for the same Committee. It is supposed that both these papers, the latter, perhaps, with some modifications, will go through the House of Delegates. The Senate, owing to inattention and casualties, is so composed as to render the event there not a little uncertain. If an election to fill the vacancy of Mr. H. Nelson, who lately resigned, should send Mr. Andrews, in preference to his competitor, Mr. Saunders, I am told that the parties will be precisely in equilibrio, excepting only one or two, whom circumstances now and then on particular questions transfer from the wrong to the right side. It is hoped that this contingent fund of votes will be applicable to the vindication. On other important questions, there is much less expectation from it. There is a report here that the Legislature of N. Carolina, now in session, have voted the Resolutions of Virginia under their table. The report is highly improbable, and I do not believe it. But it is impossible to calculate the progress of delusion, especially in a State where it is said to be under systematic management, and where there is so little either of system or exertion opposed to it. We had a narrow escape yesterday from an increase of pay to the members, which would have been particularly unseasonable and injurious, both within and without the State. It was rejected on the third reading by a small majority, and was so much a favorite with the distant members particularly, that I fear it has left them in rather an ill humour.

Writings of Madison, Volume 2: 1794-1815, p.152

The late Course of foreign events has probably made the same impression everywhere. If it should not render France less anxious to meet our advances, its good effects will be felt every way. If our Executive and their Envoys be sincere in their pacific objects, it will, perhaps, supply by their increased anxiety what may be lost on the other side. But there can be little confidence, after what has been seen, that the negociation would be influenced by this temper of the Envoys, instead of that which perverted it in the hands of their predecessors. This possibility of failure in the diplomatic experiment will present the most specious obstacle to an immediate discharge of the army. It would be useful for the Assembly to know how this matter is viewed where you are. Mr. Dawson will be good enough to write me on the subject. I intended to have written to him by this mail, but my time has been taken from me till the closing of the mail is approaching.

1800

To Thomas Jefferson.

RICHMOND, Jany 4, 1800.

Writings of Madison, Volume 2: 1794-1815, p.153

DEAR SIR,—My last covered a copy of the Report on the Resolutions of last year. I now enclose a copy of certain resolutions moved by Mr. Giles, to which he means to add an instruction on the subject of the intercourse law, which has been so injurious to the price of Tobacco. It is not improbable that the Resolutions, when taken up, may undergo some mollifications in the spirit and air of them. The Report has been under debate for two days. The attacks on it have turned chiefly on our alleged inconsistency between the comment now made and the arguments of the last session; and on the right of the Legislature to interfere in any manner with denunciations of the measures of the Genl Govt. The first attack has been parried by an amendment admitting that different constructions may have been entertained of the term "States," as "parties," &c., but that the sense relied on in the report must be concurred in by all. It is, in fact, concurred in by both parties. On examination of the Debates of the last session, it appears that both were equally inaccurate and inconsistent in the grounds formerly taken by them. The attack on the right of the Legislature to interfere by declaration of opinion will form a material point in the discussion. It is not yet known how far the opposition to the Report will be carried into detail. The part relating to the Common Law, it is said, will certainly be combated. You will perceive, from this view of the matter, that it is not possible to guess how long we shall be employed on it.

Writings of Madison, Volume 2: 1794-1815, p.153

There will, in the event, be a considerable majority for the Report in the House of Delegates, and a pretty sure one in the Senate. Can you send me a copy of Priestley's letters last published?

To Thomas Jefferson.

Jany 9, 1800.

Writings of Madison, Volume 2: 1794-1815, p.154

DEAR SIR,—The question on the Report printed was decided by 60 for and 40 against it, the day before yesterday, after a debate of five days. Yesterday and to-day have been spent on Mr. Giles' propositions, which, with some softenings, will probably pass by nearly the same vote. The Senate is in rather a better state than was expected. The Debate turned almost wholly on the right of the Legislature to protest. The Constitutionality of the Alien and Sedition acts, and of the Common Law, was waived. It was said that the last question would be discussed under Mr. Giles' propositions; but as yet nothing has been urged in its favour. It is probable, however, that the intention has not been laid aside. I thank you for the pamphlets.

To Thomas Jefferson.

RICHMOND, Jany 12, 1800.

Writings of Madison, Volume 2: 1794-1815, p.154

DEAR SIR,—My last informed you of the result of the debates on the justifying Report of the Select Committee. I am now able to add that of Mr. Giles's resolutions. The question on the whole was decided in the affirmative by a little upwards of a hundred against less than fifty. The vote was rather stronger on some of the particular resolutions, for example, the instruction for disbanding the army. The Alien, Sedition, and Tobacco instructions passed without a count or a division. That relating to the Common Law passed unanimously, with an amendment qualifying it in the words of the paragraph in the Justifying Report, under which certain defined parts of the Common Law are admitted to be the law of the U.S. This amendment was moved by the minority, on the idea that it covers the doctrine they contend for. On our side, it is considered as a guarded exposition of the powers expressed in the Constn, and those necessary and proper to carry them into execution. I am not able to say in what manner they misconstrue the definition, unless they apply the term "adopt" to the "Court," which would be equally absurd and unconstitutional. The judges themselves will hardly contend that they can adopt a law, that is, make that law which was before not law. The difference in the majority on the Report and the Resolutions was occasioned chiefly by the pledge given against the former by the members who voted against the Resolutions of last year. The resolutions also underwent some improvements, which reconciled many to them who were not satisfied with their first tone and form. It is understood that the present assembly is rather stronger on the republican side than the last one, and that a few favorable changes have taken place in the course of the Session. It is proposed to introduce to-morrow a bill for a general ticket in chusing the next Electors. I expect to leave this in a week, so that your subsequent favors will find me in Orange.

To Thomas Jefferson.

RICHMOND, Jany 18, 1800.

Writings of Madison, Volume 2: 1794-1815, p.155

DEAR SIR,—Since my last, the Senate have agreed to the Report and the Resolution by 15 to 6. To the latter, they made an amendment to the definition of the portion of Common Law in force in the U. S., by inserting the words "by Congress" after the word "adopted," in order to repel the misconstruction which led the minority to concur in that particular resolution as it passed the House of Delegates. The amendment was agreed to by 82 to 40. The plan of a Genl Ticket was so novel that a great number who wished it shrunk from the vote, and others, apprehending that their Constituents would be still more startled at it, voted against it, so that it passed by a majority of 5 votes only. The event in the Senate is rather doubtful, tho' it is expected to get thro'. As the avowed object of it is to give Virginia fair play, I think, if passed into a law, it will, with proper explanations, become popular. I expect to get away about the middle of the week. The Assembly will rise, perhaps, at the end of it, tho' possibly not so soon. I forgot to tell you that a renewed effort to raise the pay of the members to 3 Dolls. has succeeded; a measure wrong in principle, and which will be hurtful in its operation.

To Thomas Jefferson.

ORANGE, Feby 14, 1800.

Writings of Madison, Volume 2: 1794-1815, p.156

DEAR SIR,—My last to you was from Richmond; your last to me is just received, covering the Bill for drawing Jurors by lot. The plan proposed by the Bill is a great improvement on the regulation in force here. I cannot say whether it may have the same merit every where. This subject was not wholly forgotten during our late session. A Bill was even prepared on it by one of our State Judges. But subjects deemed more immediately interesting diminished so much the attention of some whose agency in carrying it thro' was essential, that the Bill was never introduced.

Writings of Madison, Volume 2: 1794-1815, p.156

We see by the late papers that a new scene is presented on the French Theatre, which leaves the denreceived the report on imports under your cover, and yesterday your favour of the 25 ult., accompanied with the pamphlet and Mr. Nicholson's motion on the Electoral Bill, which appears to be so fair and pertinent, that a rejection of it in favor of any other modification proposed must fix a new brand on the Authors. The spirit manifested in the Senate steadily, and in the other House occasionally, however mischievous in its immediate effects, cannot fail, I think, to aid the progress of reflection and change among the people. In this view our public malady may work its own cure, and ultimately rescue the republican principle from the imputation brought on it by the degeneracy of the public councils. Such a demonstration of the rectitude and efficacy of popular sentiment will be the more precious, as the late defection of France has left America the only Theatre on which true liberty can have a fair trial. We are all extremely anxious here to learn the event of the election in New York, on which so much depends. I have nothing to add to what I have already said on the prospect with us. I have no reason whatever to doubt all the success that was expected.

Writings of Madison, Volume 2: 1794-1815, p.156

If it should fall in your way, you will oblige me by inquiring whether there be known in Philadelphia any composition for encrusting brick that will effectually stand the weather; and particularly what is thought of common plaster, thickly painted with white lead and overspread with sand. I wish to give some such dressing to the columns of my portico, and to lessen as much as possible the risk of the experiment.

Writings of Madison, Volume 2: 1794-1815, p.156

Affectionately yours.

To Thomas Jefferson.

April 20, 1800.

Writings of Madison, Volume 2: 1794-1815, p.159

DEAR SIR,—Since my last, I have been favored with yours by Christor McPherson. It brought me the first agreeable information of the prospect held out by our Envoys. The posture of Europe, tho' dreadful to humanity in general, will, I trust, enforce the disposition of France to come to a proper adjustment with us. And notwithstanding the group of daring experiments presented by our public Councils, I also trust that they will not venture on either a direct refusal, or a palpable evasion of this result. Still, however, the situation of the party bent on war is such, that every stratagem ought to be suspected that may afford a chance of prolonging their ascendency. The horrors which they evidently feel at the approach of the Electoral epoch are a sufficient warning of the desperate game by which they will be apt to characterize the interval. In my next I shall be able to give you some partial information of the temper of the people here, as it will be shewn by our State Election, which takes place on the 23 inst. I find that considerable exertion is used to raise prejudices against the measures of the last session of Assembly, especially the novel mode of appointing Electors. I am not possessed, however, of any evidence of their success that deserves attention.

Writings of Madison, Volume 2: 1794-1815, p.159

I sincerely wish Mr. Dupont may fulfil his promise to you, and that I may come in for a participation of the visit. I beg you to make him sensible of the particular pleasure I shall feel in an opportunity of testifying to him, at my own house, the high esteem I entertain for his genius and virtues.

To James Monroe.

ORANGE, May 23, 1800.

Writings of Madison, Volume 2: 1794-1815, p.160

DEAR SIR,—I received your favor of the 15th from Albemarle a few days ago. I shall not be surprised at an experiment in this State, at this moment, of its republican sensibility, by putting in force the sedition act; and entirely approve your idea of the policy by which the measure ought to be turned against its author. Nothing seems necessary now to rectify the public opinion and reform the administration, but a steady adherence to the principles of prudence, which have so far succeeded in both. And it would be doubly unwise to depart from this course at a moment when the party which has done the mischief is so industriously co-operating in its own destruction. The late ungracious vote for disbanding the army will probably extinguish the project, if it existed, of making the camp at Warwick an auxiliary to the Judicial department. For the sake of propriety, I am extremely glad that so obnoxious a step has been precluded. In any other view, an opponent of the administration would have no reason to regret so odious a perversion of military force.

To James Monroe.

1800.

Writings of Madison, Volume 2: 1794-1815, p.160

DEAR SIR,—I now inclose a letter left here by Mr. Alston. It will communicate all that I could repeat from one to me from Col. Burr and Mr. Gelston. The latter is uneasy lest the Southern States should not be true to their duty. I hope he will be sensible that there was no\ occasion for it. It seems important that all proper measures should emanate from Richmond for guarding against a division of the Republican votes, by which one of the Republican Candidates may be lost. It would be superfluous to suggest to you the mischief resulting from the least ground of reproach, and particularly to Virginia, on this head.

To Thomas Jefferson.

Sept., 1800.

Writings of Madison, Volume 2: 1794-1815, p.161

DEAR SIR,—The silence which prevails as to the negociations of our Envoys, is not less surprising to my view than to yours. We may be assured, however, that nothing of a sort to be turned to the party objects on the anvil has been received, unless, indeed, the publication should be delayed for a moment deemed more critically advantageous. As we are left to mere conjectures, the following have occurred to me. The long continuance of the Envoys at Paris of itself indicates that difficulties of some sort or other have sprung up, or been created. As the French Government seems to have provided for the future security of our commerce by repealing the decrees under which it had been violated, and as the ultimatum of the Executive, explained by former instructions, permitted a waiver at least of claims for past spoliations, it would seem that no insuperable obstacles would be likely to arise on these articles. In looking for other solutions, my attentions have fallen on the articles contained in the Treaty of 1778, relating—1. To free ships freeing their Cargoes. 2. To the permissions granted to prizes. 3. To convoys. That a difficulty may have happened on the first is rendered not improbable by the late transaction with Prussia; the 2d is suggested by the circumstances under which the stipulation was sought and obtained by G. B.; and the 3d, by the late occurrences and combinations in Europe. Should any one or more of these conjectures be just, the explanation will also coincide with the reports from different quarters, which speak of the Treaty of '78 as at the bottom of the impediments; and if so, it seems more likely that they would be found in such parts of it as have been alluded to, than in the guaranty which cannot be needful to France, and which her pride would be more ready to reject than to claim.

To Thomas Jefferson.

October 21, 1800.

Writings of Madison, Volume 2: 1794-1815, p.162

DEAR SIR,—This will be handed to you by Mr. Alston, of S. Carolina, who proposes to call at Monticello on his return from a Northern tour. He will probably be made known to you by other introductions; but those which he has brought to me, as well as a short acquaintance with him, make me feel an obligation to add mine. He appears to be intelligent, sound in his principles, and polished in his manners. Coming fresh from New York, through Pennsylvania and Maryland, he will be able to furnish many details in late occurrences. The fact of most importance mentioned by him, and which is confirmed by letters I have from Burr and Gelston, is, that the vote of Rhode Island will be assuredly on the right side. The latter gentleman expresses much anxiety and betrays some jealousy with respect to the integrity of the Southern States in keeping the former one in view for the secondary station. I hope the event will skreen all the parties, particularly Virginia, from any imputation on this subject; though I am not without fears that the requisite concert may not sufficiently pervade the several States. You have no doubt seen the late Paris statement, as well as the comment on it by Observator, who is manifestly Hamilton. The two papers throw a blaze of light on the proceedings of our administration, and must, I think, co-operate with other causes in opening thoroughly the eyes of the people.

To James Monroe.

Novr 10, 1800.

Writings of Madison, Volume 2: 1794-1815, p.162

DEAR SIR,—I received yours of the 6th instant by Mr. Erwin, whom I have found to justify the recommendations he brought me. He appears to be intelligent, well informed, sound in his principles, and agreeable in his manners. He has not yet touched on the subject to which you allude, and I have not been led to start a conversation on it. At the desire of Mr. Jefferson, I returned the inclosed letters which you sent to him. Part of one of them would be useful to the public, if it could be communicated without impropriety. The substance of it, perhaps, might be thrown into an unexceptionable form, and produce reflections suitable to the crisis of our affairs with France. I hear, with some surprise and apprehension, that Charleston has chosen a large majority of anti-republican members for the Legislature. Should the country not afford a remedy in that State, and Pennsylvania be kept from voting, the election of President and Vice President will be a nice business. In this region of Country, the elections have exceeded our hopes. In this County, out of more than 350 votes, 7 only were on the wrong ticket. I hear that in Frederick, the Jefferson ticket prevailed in the proportion of 3 to 1.

To James Monroe.

November 10, 1800.

Writings of Madison, Volume 2: 1794-1815, p.163

DEAR SIR,—Mr. Erwin proposing to set out in the morning without my again seeing him, I think proper to add to the few lines with which he is already charged, that our interview closed without any allusion to the secondary object of the election. If I had not expected, as intimated by you, that he would bring on the subject, it would, no doubt, have dropped from me. As it is possible he may draw some erroneous inference from my silence, especially as a good deal of free conversation passed on the election generally, I hope you will take occasion to guard against it. You know my sentiments, and I am not averse to a communication of them, as far as you deem eligible. I cannot apprehend any danger of a surprize that would throw Mr. Jefferson out of the primary station. I cannot believe that any such is intended, or that a single republican vote will abandon him. The worst, therefore, that could possibly happen, would be a tie, that would appeal to the House of Representatives, where the candidates would certainly, I think, be arranged properly, even on the recommendation of the secondary one. As I do not wish that Mr. Erwin should be under any wrong impressions, which might be as injurious in a public as disagreeable in a private view, in case they should be conveyed to others. I have thought this supplement of sufficient importance to be written after the retirement of Mr. Erwin.

To Thomas Jefferson.

Novr , 1800.

Writings of Madison, Volume 2: 1794-1815, p.164

DEAR SIR,—Yours by Mr. Erwin was delivered by him safe, with the two letters inclosed. I forwarded them by him this morning, as you desired, to the Governor.\* They confirm, in substance, the state and difficulty of the negociation, as presented by the late statement under the Paris head. The observations on the delays carved out by the Executive, and the favorable moment lost thereby, are interesting, and deserve the public attention, if they could be properly submitted to it. I have suggested the idea to the Governor. The accounts from S. Carolina are rather ominous, but I trust we shall soon be relieved by an overbalance of republicanism in the upper elections. To the most unfavorable suppositions, we can, as yet, oppose the hopes presented by Pennsylvania, and the chance that a competency of votes may be obtained in spite of defections in the former State. I inclose a hand-bill lately published in Maryland, and industriously circulated there and to the Southward. You will probably be surprized at one of the documents included in it. Mr. Duval expresses considerable fears of its tendency, but I cannot view the danger in so serious a light. I am glad to find you do not mean to postpone your journey to Washington later than the 21st, as I wish much to see you on the way, and shall set out for Richmond, if called thither on the electoral errand, as is probable, at least 8 or 9 days before the legal day. The elections, as far as I have learned, are successful beyond expectation. In this County the votes were 340 odd to 7, and in a number of other Counties in the most commanding majorities. Even in Frederick, I hear the difference was nearly as 3 to 1.

To James Monroe.

Writings of Madison, Volume 2: 1794-1815, p.165

December ,1800. DR SIR,—I have received your favor of the 16th. It has not removed the inquietude prevailing in this quarter as to the precise issue of the election. There are reports from different quarters, which seem to be positive, that a difference of several votes has taken place between the two republican candidates, but I cannot trace in them either authenticity or particularity enough to entitle them to confidence.

Writings of Madison, Volume 2: 1794-1815, p.165

The project suggested by Col. Newton of a State Bank, as an antidote to the partialities of the National Bank, involves many important considerations. Although, as a dernier resort, much may be urged in its favor, yet I should presume the want of State funds would, at this time, be an insuperable objection; nor, perhaps, ought such an experiment to precede that which is to be made of a change in our national administration, from which a new turn may be given to most of the National measures. In every view, a better judgment could be formed on the subject some time hence than at present.

To Thomas Jefferson.

ORANGE, Decr 20, 1800.

Writings of Madison, Volume 2: 1794-1815, p.165

DEAR SIR,—I did not write to you from Richmond, because I was considerably indisposed during my stay there, and because I could communicate to you nothing that would not reach you with equal speed through other channels. Before I left that place, the choice of electors in S. Carolina had been received by the Governor in a letter from Col. Hampton, and was understood by all parties to fix the event of a Republican President. The manner in which the Electors have voted in that State, in Virginia, Maryland, Pennsylvania, and New York, makes it probable that the Vice President will also be republican. If the States of Georgia, N. Carolina, Tennessee, and Kentucky, should follow these examples, it will even [?] devolve on the House of Representatives to make the discrimination. There can be no danger, I presume, but that in such an event a proper one will be made; but it is more desirable that it should be precluded by the foresight of some of the Electors. Gelston, of New York, assures me that there are two, if not three States, in which something to this effect may be looked for, but he does not name the States. Governor Davie passed through Richmond whilst I was there. I happened not to see him, however, nor did I learn from others what complexion he seemed disposed to give to the business of his mission.

1801

To Thomas Jefferson.

January 10, 1801.

Writings of Madison, Volume 2: 1794-1815, p.166

DEAR SIR,—Mr. Browne having been detained at Fredericksburg for some time, I did not receive your favor of the 19th in time to be conveniently acknowledged by the last mail. The succeeding one of the 26th came to hand on the 7th instant only, a delay that fixes blame on the post office either in Washington or Fredericksburg. In all the letters, and most of the newspapers, which I have lately received through the post office, there is equal ground for complaint.

Writings of Madison, Volume 2: 1794-1815, p.166

I find that the vote of Kentucky establishes the tie between the Republican characters, and consequently throws the result into the hands of the House of Representatives. Desperate as some of the adverse party there may be, I can scarcely allow myself to believe that enough will not be found to frustrate the attempt to strangle the election of the people, and smuggle into the Chief Magistracy the choice of a faction. It would seem that every individual member who has any standing or stake in society, or any portion of virtue or sober understanding, must revolt at the tendency of such a manoeuvre. Is it possible that Mr. Adams should give his sanction to it, if that should be made a necessary ingredient? or that he would not hold it his duty or his policy, in case the present House should obstinately refuse to give effect to the Constitution, to appoint, which he certainly may do before his office expires, as early a day as possible after that event for the succeeding House to meet and supply the omission? Should he disappoint a just expectation in either instance, it will be an omen, I think, forbidding the steps towards him which you seem to be meditating. I would not wish to discourage any attentions which friendship, prudence, or benevolence, may suggest in his behalf, but I think it not improper to remark that I find \* \* \* \* \* \* \* the follies of his administration, the oblique stroke at his predecessor in the letter to Coxe, and the crooked character of that to T. Pickering, are working powerfully against him. Added to these causes is the pamphlet of Hamilton, which, though its recoil has perhaps more deeply wounded the author than the object it was discharged at, has contributed not a little to overthrow the latter, struggling as he before was in the public esteem.

Writings of Madison, Volume 2: 1794-1815, p.167

On the supposition of either event, whether of an interregnum in the Executive, or of a surreptitious intrusion into it, it becomes a question of the first order, what is the course demanded by the crisis? Will it be best to acquiesce in a suspension or usurpation of the Executive authority till the meeting of Congress in December next, or for Congress to be summoned by a joint proclamation or recommendation of the two characters having a majority of votes for President? My present judgment favors the latter expedient. The prerogative of convening the Legislature must reside in one or other of them, and if both concur, must substantially include the requisite will. The intentions of the people would undoubtedly be pursued. And if, in reference to the Constitution, the proceeding be not strictly regular, the irregularity will be less in form than any other adequate to the emergency, and will lie in form only, rather than substance; whereas the other remedies proposed are substantial violations of the will of the people, of the scope of the Constitution, and of the public order and interest. It is to be hoped, however, that all such questions will be precluded by a proper decision of nine States in the House of Representatives.

Writings of Madison, Volume 2: 1794-1815, p.168

I observe that the French Convention is represented as highly obnoxious to the Senate. I should not have supposed that the opposition would be hinged on the article surrendering public vessels. As the stipulation is mutual, it certainly spares our pride sufficiently to leave us free to calculate our interest, and on this point there cannot be a difference of opinion. I was less surprized at the obstacle discovered in the British Treaty; the latter of which, combined with the repeal of the French Treaty, beget a suspicion that, in some quarters at least, the present posture of things has been long anticipated. It is certain, however, that the Convention leaves G. Britain on a better footing than the British Treaty placed her, and it is remarkable that Ellsworth, Davie, and Murray, should have concurred in the arrangement, if it have any real interference with bona fide engagements to G. Britain. It may be recollected that the privilege given to British prizes was not purchased, like that to French prizes, by any peculiar services to us; and never had any other pretext than the alledged policy of putting the two great rival nations of Europe as nearly as possible on an equal footing. Notwithstanding this pretext for the measure, Hamilton, in his late pamphlet, acknowledges the error of it. It would be truly extraordinary, if a measure intended for this equalizing purpose should be construable into an insuperable barrier to the equality proposed. It is of vast moment, both in a domestic and foreign view, that the Senate should come to a right decision. The public mind is already sore and jealous of that body, and particularly so of the insidious and mischievous policy of the British Treaty. It is strongly averse, also, to war; and would feel abhorrence of an unjust or unnecessary war with any nation. It is much to be wished that these facts may not be disregarded in the question before the Senate. If there be anything fairly inadmissible in the Convention, it would be better to follow the example of a qualified ratification, than rush into a provoking rejection. If there be anything likely, however unjustly, to beget complaints or discontents on the part of Great Britain, early and conciliatory explanations ought not to be omitted. However difficult our situation has been made, justice and prudence will, it is hoped, steer us through it peacefully. In some respects, the task is facilitated at the present moment. France has sufficiently manifested her friendly disposition, and, what is more, seems to be duly impressed with the interest she has in being at peace with us. Great Britain, however, intoxicated with her maritime ascendency, is more dependent every day on our commerce for her resources, must for a considerable length of time look in a great degree to this Country for bread for herself, and absolutely for all the necessaries for her islands. The prospect of a Northern Confederacy of Neutrals cannot fail, in several views, to inspire caution and management towards the United States, especially as, in the event of war or interruption of commerce with the Baltic, the essential article of naval stores can be sought here only. Besides these cogent motives to peace and moderation, her subjects will not fail to remind her of the great pecuniary pledge they have in this Country, and which, under any interruption of peace or commerce with it, must fall under great embarrassments, if nothing worse. As I have not restrained my pen from this hasty effusion, I will add for your consideration one other remark on the subject. Should it be found that Great Britain means to oppose pretensions drawn from her Treaty to any part of the late one with France, may she not be diverted from it by the idea of driving us into the necessity of soothing France by stipulations to take effect at the expiration of the Treaty with Great Britain, and that would be a bar to the renewal of the latter? Or, in case the pretensions of Great Britain should defeat the Treaty now before the Senate, might not such an expedient be made a plaister for the wound given to France?

Writings of Madison, Volume 2: 1794-1815, p.169

My health still suffers from several complaints, and I am much afraid that any changes that may take place are not likely to be for the better. The age and very declining state of my father are making, also, daily claims on my attention, and from appearances it may not be long before these claims may acquire their full force. All these circumstances mingle themselves very seriously with one of the eventual arrangements contemplated. It is not my purpose, however, to retract what has passed in conversation between us on that head. But I cannot see the necessity, and I extremely doubt the propriety, should the contest in hand issue as is most probable, of my anticipating a relinquishment of my home. I cannot but think and feel that there will be an awkwardness, to use the softest term, in appearing on the political Theatre before I could be considered as regularly called to it, and even before the commencement of the authority from which the call would proceed. Were any solid advantage at stake, this scruple might be the less applicable; but it does not occur that the difference of not very many days can be at all material. As little can I admit that the circumstance of my participation in the Executive business could have any such effect on either the majority or minority as has occurred; or, if a partiality in any particular friends could be gratified by a knowledge of such an arrangement, that the end would not be as well attained by its being otherwise made known to them that it was to take place, as by its being announced by my appearance on the spot. I only add that I am sensible of the obligation of respecting your conclusion, whatever it may finally be, but I cannot but hope that it may be influenced by the considerations which I have taken the liberty to hint.

Writings of Madison, Volume 2: 1794-1815, p.170

You may recollect a difficulty suggested in making appointments without a Senate, in case of resignations prior to March 4. How have you solved it?

To Thomas Jefferson.

February 28, 1801.

Writings of Madison, Volume 2: 1794-1815, p.170

DEAR SIR,—Your letter of the 1st instant was to have been acknowledged a week ago, but the irregularity of the post, occasioned by high waters, has delayed it to the present opportunity. I have now to acknowledge your two subsequent ones of the 12th and 19th. In compliance with the last, I had proposed to leave home in a few days, so as to be with you shortly after the 4th of March. A melancholy occurrence has arrested this intention. My father's health for several weeks latterly seemed to revive, and we had hopes that the approach of milder seasons would still further contribute to keep him with us. A few days past, however, he became sensibly worse, and yesterday morning, rather suddenly, though very gently, the flame of life went out. It is impossible for me now to speak of my movements with precision. Although the exact degree of agency devolving on me remains to be known, a crowd of indispensable attentions must necessarily be due from me. In this posture of things, I can only say that I shall wait the return of the post after this reaches, by which I hope to learn whether your intended continuance at Washington will admit, and the state of things will require, my being there before you leave it. By this information I shall be governed, unless imperiously controuled by circumstances here.

Writings of Madison, Volume 2: 1794-1815, p.171

The conduct of Mr. Adams is not such as was to have been wished, or, perhaps, expected. Instead of smoothing the path for his successor, he plays into the hands of those who are endeavoring to strew it with as many difficulties as possible; and with this view, does not manifest a very squeamish regard to the Constitution. Will not his appointments to offices, not vacant actually at the time, even if afterwards vacated by acceptances of the translations, be null ?

Writings of Madison, Volume 2: 1794-1815, p.171

The result of the contest in the House of Representatives was generally looked for in this quarter. It was thought not probable that the phalanx would hold out against the general revolt of its partizans out of doors, and without any military force to abet usurpation. How fortunate that the latter has been withheld! and what a lesson to America and the world is given by the efficacy of the public will, when there is no army to be turned against it !

Writings of Madison, Volume 2: 1794-1815, p.171

I observe that a committee is appointed to enquire into the effects of the late fires. This is no doubt proper; but does not, I think, promise much. More is to be expected from the scrutinies of honest heads of Departments, aided by the documents and other evidences which they will have time and the best means of examining. I take for granted one of the first steps of the new administration will be to institute returns, particularly in the navy and war departments, of the precise state in which every circumstance involved in them comes into the new hands. This will answer the double purpose of enabling the public to do justice both to the authors of past errors and abuses, and the authors of future reforms.

Writings of Madison, Volume 2: 1794-1815, p.172

I received a few days ago the inclosed letter from Mr. Page. Although there are parts of it which might well be omitted in the transmission to you, yet the length of the proper extracts tempts me to shun the trouble of making them. In justice to Doctor Tucker, I say with pleasure, that I have always regarded him as a man of the greatest moral and political probity, truly attached to republican principles, of a very ingenious mind, extensive information, and great exactitude in his ideas and habits of business, and, consequently, well fitted for public service. The letter from Callender seems, from its contents, to have been meant for you, though superscribed to me.

To James Monroe.

May 6th, 1801.

Writings of Madison, Volume 2: 1794-1815, p.172

DEAR SIR,—Callender, I find, is under a strange error on the subject of his fine, and in a strange humor in consequence of it. I inclose an open letter for him, which you will please to read and forward. How has the delay in giving effect to the remission of the fine happened ? It ought to be known and explained to him. What I state to him as the view of the President I have from the President himself, and therefore cannot not be mistaken in.

To James Monroe.

WASHINGTON, June 1, 1801.

Writings of Madison, Volume 2: 1794-1815, p.173

DEAR SIR,—I have received your favor of the 23d ult. Callender made his appearance here some days ago, in the same temper which is described in your letter. He seems implacable towards the principal object of his complaints, and not to be satisfied in any respect without an office. It has been my lot to bear the burden of receiving and repelling his claims. What feelings may have been excited by my plain dealing with him, I cannot say; but am inclined to think he has been brought by it to some reflections which will be useful to him. It is impossible, however, to reason concerning a man whose imagination and passions have been so fermented. Do you know, too, that, besides his other passions, he is under the tyranny of that of love ? Strange as it may appear, this came out under a charge of secrecy, in a way that renders the fact unquestionable. The object of his flame is in Richmond. I did not ask her name, but presume her to be young, beautiful, in his eyes at least, and in a sphere above him. He has flattered himself, and probably been flattered by others, into a persuasion that the emoluments and reputation of a post office would obtain her in marriage. Of these recommendations, however, he is sent back in despair. With respect to the fine, even, I fear that delays, if nothing more, may still torment him, and lead him to torment others. The case stands thus: Randolph had sent on, but not settled his accounts, in which there was a credit to the United States for the amount of the fine. In settling the accounts the credit is struck out, and the comptroller has notified him that the 200 dollars are to be paid to Callender. Whether he will do it without a suit, is the question. If he will not, and the result can be anticipated in any way, it will be fortunate, as Callender's irritation, produced by his wants, is whetted constantly by his suspicion that the difficulties, if not intended, are the offspring of indifference in those who have interposed in his behalf. I cannot but hope that the late Marshal will see the propriety of not opposing the order of the Treasury Department. There was certainly no pretext for his refusal at all to refund the money, as I understand his own statement leaves him a debtor of about 1,660 dollars, and that of the Treasury Department at 2,500 dollars to the United States.

Writings of Madison, Volume 2: 1794-1815, p.174

You see by the papers that our Mediterranean trade is in jeopardy, if not attacked, and that the arrears of stipulated remittances are urged as the ground of complaint. Whether this be or be not more than a pretext, it is certainly extraordinary that the arrears should have been suffered so to accumulate. From Europe, in general, we hear little more than what you see in print. It is said that Portugal is presented with the alternative of shutting her ports against G. Britain, and receiving a French or Spanish garrison, or of being annexed and guarantied as a province to Spain. The legations to that Country and Batavia are to be abolished. The letters, &c., for the purpose, to go to Smith and Murray, will be ready for the signature of the President on Monday.

Writings of Madison, Volume 2: 1794-1815, p.174

Intelligence has come through several channels which makes it probable that Louisiana has been ceded to France. This is but little wonderful, considering the calculations into which France has been led by the transactions for several years back. You will readily view this subject in all its aspects. If any ideas occur on it that can be of service, favor me with them.

To James Monroe.

WASHINGTON, July 25, 1801.

Writings of Madison, Volume 2: 1794-1815, p.174

DEAR SIR,—The inclosed came last evening in a packet from Bordeaux. By the same conveyance I have a letter from Dawson, of May 27, at Paris. Every appearance assured him that the Convention would be ratified. Letters from King, of May 30 and June 1, represent the British Government as in dispositions equally favorable. They have given peremptory orders to their West India cruisers to abstain from the captures which have been most hurtful to us, and required all letters of Marque to be called in which do not conform to them. Lord Hawksbury has also, on an interview invited for the purpose, communicated to Mr. King, by order of his Majesty, that on hearing of the intended expedition to the Mediterranean, orders had been sent to Gibraltar, Minorca, and Malta, for the squadron to be received in the most friendly manner, and supplied with anything wanted from the King's stores, and that this communication was made to Mr. King in order to its being transmitted to the President of the United States. Although the sequel of the conversation disclosed some circumstances, which I shall not state on paper, detracting from the disinterestedness of this proceeding, it shows that the present policy of the British Government treats the U. States with more respect and conciliation than heretofore, notwithstanding the prophetic alarms sounded on this subject against the election of Mr. Jefferson.

To James Monroe.

WASHINGTON, Octr 24, 1801.

Writings of Madison, Volume 2: 1794-1815, p.175

DEAR SIR,—We have little news from abroad more than the newspapers give, except that the negociation for settling the difficulties under the 6th article of the British Treaty is in a fair way to issue in a conversion of their vague claims into a round sum, and that some other points in controversy are also likely to be arranged. The Spaniards, in seizing our vessels under the pretext of a blockade at Gibraltar, have excited much agitation among the Merchants, and considerable sensibility in the public at large. The Executive will attend to it, under the joint impression of the particular wrong done by Spain, and of her amicable disposition in general towards the United States.

Writings of Madison, Volume 2: 1794-1815, p.175

The election in New Jersey has had a republican issue. That in Pennsylvania entirely so. Every where the progress of the public sentiment mocks the cavils and clamors of the malignant adversaries of the administration.

1802

To James Monroe.

WASHINGTON, Jany 8, 1802.

Writings of Madison, Volume 2: 1794-1815, p.176

DEAR SIR,—I have not yet thanked you for the copy of your Message, which I find has attracted attention, and circulates with advantage to yourself, as well as to the public. It is much to be wished that the same manly and enlarged sentiments, and the same just and enlightened policy, might distinguish the addresses of all the Republican Governors, and co-operate with the example set by the President, in affording honorable contrasts to the passionate and apostate harangues which disgraced a certain period in certain quarters.

Writings of Madison, Volume 2: 1794-1815, p.176

Will you tell me what is the precise measure and kind of qualifications possessed by your friend, Mr. ? Has he any knowledge of law? is he any wise familiar with forms? is he practically acquainted with the usages and details of trade? is he ready and clever with his pen, and for a style of writing beyond the ordinary course of business? is his judgment of the solid and correct kind? I ask these questions with a wish that you would answer them in a manner enabling me to take the exact dimensions of the character, and with a further wish that it may not be known they were asked, particularly that it may not reach him or his friends that any correspondence in relation to him has passed between us.

To James Monroe.

WASHINGTON, Jany 19, 1802.

Writings of Madison, Volume 2: 1794-1815, p.176

DEAR SIR,—I have this moment received yours of the 14th instant. Mr. Dawson, as you will see, has at length reached his post. I do not learn that any proceeding is instituted for scrutinizing the legality of it. He brought ample despatches from England, but not of very late date. At his departure a cloud lay over the subjects depending between the United States and Great Britain, a sudden and unaccountable tergiversation having shewn itself in the leaders of the latter Cabinet.

To — Van Polaren.

VIRGINIA, August 13, 1802.

Writings of Madison, Volume 2: 1794-1815, p.177

SIR,—I have received and communicated to the President your letter of the 30th ult°, giving information of your appointment to another public station, which terminates that which you have held near the United States.

Writings of Madison, Volume 2: 1794-1815, p.177

The President receives, with much satisfaction, the assurance that the disposition of the Batavian Republic to cultivate friendship with the United States will suffer no diminution from the mutual recall of their Diplomatic functionaries; and I am charged to say in return, that as the step taken in this case, on the part of the United States, had its origin altogether in considerations of domestic arrangement and economy, your Government may be equally assured of the constancy of the United States in their cordial dispositions towards a nation whose early and welcome proofs of good will strengthen its other titles to their confidence, their esteem, and their cultivation of the friendly relations which subsist between the two Countries.

Writings of Madison, Volume 2: 1794-1815, p.177

I have the pleasure to add, that file personal merits exemplified during your residence in the United States have obtained for you the sincere esteem of the President. Be persuaded, Sir, that you will carry with you not less the regards and good wishes which I beg leave to offer you, with the sentiments of great respect and consideration, with which I have the honor to be, your most obedient and humble servt.

1803

To James Monroe.

WASHINGTON, March 1, 1803.

Writings of Madison, Volume 2: 1794-1815, p.177

DEAR SIR,—Since you left us we have no further intelligence from New Orleans, except a letter dated January 20th from the Vice Consular agent there, from which it appears that the letters to the Governor and Intendant from the Spanish Minister here had arrived about the 13th, and had not, on the 20th, produced the desired change in the state of things. The delay, however, does not seem to have been viewed by the Consul as any proof that the Intendant would not conform to the interposition. The idea continued that he had taken his measures without orders from his Government. There are letters (according to that from the Consul) for the Marquis Yrujo now on the way by land. These will probably shew whether the Intendant will yield or not. The despatch vessel which carried the Marquis's letters is not yet returned. The detention of her beyond the allotted time is favorably interpreted by him, on the presumption that she waits for a satisfactory answer, which the pride of the Intendant postpones as long as possible.

Writings of Madison, Volume 2: 1794-1815, p.178

The newspapers will have informed you of the turn given to the proceedings of Congress on the subject of New Orleans, &c. The propositions of Mr. Ross in the Senate, which drove at war thro' a delegation of unconstitutional power to the Executive, were discussed very elaborately, and with open doors. The adversaries of them triumphed in the debate, and threw them out by 15 votes against 11. On the motion of Mr. Breckenridge, measures of expenseless or cheap preparation, in the style of those which attended Mr. Jay's mission to G. Britain, have been agreed on in the Senate. It is uncertain whether even these will pass the House of Representatives. If they should, as is, perhaps, not improper, they will not be understood as indicating views that ought to excite suspicions or unfriendly sensations in either of the Governments to which your Mission is addressed. The truth is, that justice and peace prevail not only in the public councils, but in the body of the community; and will continue to do so as long as the conduct of other nations will permit. But France and Spain cannot be too deeply impressed with the necessity of revising their relations to us thro' the Mississippi, if they wish to enjoy our friendship, or preclude a state of things which will be more formidable than any that either of those powers has yet experienced. Some adjustments, such as those which you have to propose, have become indispensable. The whole of what we wish is not too much to secure permanent harmony between the parties. Something much better than has hitherto been enjoyed by the States is essential to any tolerable degree of it, even for the present.

Writings of Madison, Volume 2: 1794-1815, p.179

I enclose you an extract of a letter from Mr. Gallatin, which could not be well incorporated with the instructions. The information it gives may nevertheless be of use, and I take this .mode of putting it in your hands.

Writings of Madison, Volume 2: 1794-1815, p.179

I understand that a bill is likely to pass granting General La Fayette 12,000 acres of land, as due for military services. We are anxious that a clause may be inserted authorizing the President to locate the tract wherever he pleases. Should this idea succeed, the grant may become of great value, perhaps beyond the contemplation of the Marquis, or his most sanguine friends. Without such a clause, the land may be of little account, and will probably fall short of the lowest expectations.

Writings of Madison, Volume 2: 1794-1815, p.179

In the instructions relative to Article VI, you will find an important discretion given on the subject of Beaumarchais's claim. It was suggested by the possibility that the claim may be pressed with an energy beyond its importuned in any public view; such a discretion was, therefore, highly expedient, and may possibly be used with desirable effect.

Extract of a letter from Albert Callatin, Esqr.,

to J. Madison, Esqr.

Dated Feby 7, 1803.

Writings of Madison, Volume 2: 1794-1815, p.179

If West Florida can alone be purchased, it is certainly worth attending to; but in that case, making the river Iberville the boundary, as it was made in the Treaty of 1762, between France and England, the article should be so worded as to give us the whole channel of that river, or at least to permit us to open it, so as to render it navigable in all seasons. At present, the bed is 30 feet above low-water mark for 15 miles, from the Mississippi to Amit river; but I have no doubt that a very small opening would be widened and deepened afterwards by the river. There is no obstruction, the whole being level, or mud, or sand. But supposing even a portage there, the advantage of American Houses settled in a American port would soon give a preference over New Orleans to that port. The seaport may be, perhaps, on the main, between Pearl and Pargacola rivers, but certainly on that Island called "Ship Island," as through the passage between that and the next Island there are more than 20 feet water, and good anchorage close to the shore, which faces the main. A frigate of 36 guns was seen there by E. Jones, (the first Clerk in my office, who is brother of our late Consul at New Orleans, and lived ten years with him in West Florida,) and it is the reason of its bearing that name. Judge Bay says that there is another Island, called Deer Island, close to the entrance of Lake Pontchartrain, which affords the same advantages. That Jones disbelieves; but the other is certain; and as it is about half way between Mobile and the Lake, as the whole navigation between these two places is locked in by the Islands, and safe even for open boats and canoes, that Island would become the proper seaport for both rivers, Mississippi and Mobile; for you can bring but 9 feet up Mobile Bay, 7 feet over the bar of Lake Pontchartrain, and 15 over the bar at the mouth of the Mississippi. It results from all that, that the possession of West Florida, even without New Orleans island, is extremely important, and that if it can be obtained, it ought expressly to include all the islands within twenty leagues, or such distance as to include those which are marked on the map.

To James Monroe.

WASHINGTON, April 20, 1803.

Writings of Madison, Volume 2: 1794-1815, p.180

DEAR SIR,—You will receive with this all the communications claimed by the actual and eventual posture of our affairs in the hands of yourself and Mr. Livingston. You will find, also, that the Spanish Government has pretty promptly corrected the wrong done by its officer at New Orleans. This event will be a heavy blow to the clamorous for war, and will be very soothing to those immediately interested in the trade of the Mississippi. The temper manifested by our Western Citizens has been throughout the best that can be conceived. The real injury from the suspension of the deposit was, however, much lessened by the previous destruction of the entire crop of wheat in Kentucky, by the number of sea vessels built on the Ohio, and by throngs of vessels from Atlantic ports to the Mississippi, some of which ascended to the Natchez. The permission, also, to supply the market at New Orleans, and to ship the surplus as Spanish property to Spanish ports, was turned to good account. The trial, therefore, has been much alleviated. Certain it is that the hearts and hopes of the Western people are strongly fixed on the Mississippi for the future boundary. Should no improvement of existing rights be gained, the disappointment will be great. Still, respect for principle and character, aversion to poor rates and taxes, the hope of a speedy conjuncture more favorable, and attachment to the present order of things, will be persuasive exhortations to patience. It is even a doubt with some of the best judges whether the deposit alone would not be waived for a while, rather than it should be the immediate ground of war and an alliance with England. This suggested a particular passage in the official letter now sent you and Mr. Livingston.

Writings of Madison, Volume 2: 1794-1815, p.181

The elections in New England are running much against the administration. In Virginia, the result is but very partially known. Brent outvoted Lewis. In general, things continue well in that State.

Writings of Madison, Volume 2: 1794-1815, p.181

The affair between the President and J. W. has had a happy ecclaircissement. Even this general communication is for your own bosom, as already privy to the affair.

Writings of Madison, Volume 2: 1794-1815, p.181

I have received a very friendly letter from General La Fayette, which I shall answer as soon as I can get some further information. We are all much distressed by his late accident, and are anxious for every proof to be given him of the affection of this Country. Congress found an occasion of voting about 11 or 12,000 acres of land Northwest of the Ohio, with liberty to locate it any where. This may be made worth now, probably, about 20,000 dollars. In a little time the value must greatly increase. Whether any thing else can or will be done, you can judge as well as myself. Assure him of my undiminished friendship for him, which he knows to have been perfectly sincere and ardent.

To James Monroe.

WASHINGTON, May 1, 1803.

Writings of Madison, Volume 2: 1794-1815, p.182

MY DEAR SIR,—I commit to your care the inclosed letters and papers for General La Fayette, which are left open for your perusal.

Writings of Madison, Volume 2: 1794-1815, p.182

We have just received the message of his Britannic Majesty, which is represented as the signal of a certain rupture with France. From the positions taken by the parties, both diplomatic and military, such an event seems scarcely avoidable. I hope we shall be wise enough to shun their follies, and fortunate enough to turn them by honest means to our just interests. You will probably have arrived very critically for the purpose.

Writings of Madison, Volume 2: 1794-1815, p.182

The order from Spain for the restoration of the deposit has had a good effect every where. We are told at the same time, in the very words of the Article, that, in the cession of Louisiana, our rights under the Treaty of '95 are saved. On the 1st of April, Laussat, the Prefect, was at New Orleans, and the late Governor, Casa-Calvo, was expected in a few days from the Havanna, to deliver possession to the French. Whether this measure will be delayed for the arrival of the Capt. General, or what may result to it from other causes, can be better understood with you than here. Laussat professes to be kindly disposed, and undertakes to affirm that the French Government had nothing to do in the arrest of the deposit by the Spanish officer, and that if he had been there in authority no such thing would have happened. He does not admit that he has any authority to meddle in any way at present, and gives this answer to Pichon's exhortation. The Intendant had declined in like manner to obey the advice of Yrujo. The last more peremptory interpositions of these Ministers had not arrived, and the importance of them was superseded by the orders from Spain. The attention here is much alive to the transfer of the country to France, and it becomes her, if she wishes to be on cordial terms with us, to proceed in every step with strict justice and exemplary frankness.

Writings of Madison, Volume 2: 1794-1815, p.183

The elections in New York, as far as known, have issued as heretofore. In Virginia, there will certainly be two, and possibly three members of the anti-party. In New England, the tide has run strongly in that channel, but under impulses temporary and artificial. In general, our prospects are bright. Excepting the case of Louisiana, there is scarcely a cloud in them. Remove that, and the possibility of our being embarrassed by the war of others, and our Country will be what has been so often applied to another, the admiration and envy of the world.

Writings of Madison, Volume 2: 1794-1815, p.183

I am on the point of setting out to Virginia, whence I shall return in two or three weeks. In this harry, I can only add for myself and family affectionate respects to you and yours.

To James Monroe.

WASHINGTON, July 30, 1803.

Writings of Madison, Volume 2: 1794-1815, p.183

DEAR SIR,—I received your favor of —— by Mr. Hughes, the bearer of the public despatches from you and Mr. Livingston. The purchase of Louisiana in its full extent, tho' not contemplated, is received with warm, and, in a manner, universal approbation. The uses to which it may be turned render it a truly noble acquisition. Under pendent management it may be made to do much good, as well as to prevent much evil. By lessening the military establishment otherwise requisite or countenanced, it will answer the double purpose of saving expence and favoring liberty. This is a point of view in which the Treaty will be particularly grateful to a most respectable description of our Citizens. It will be of great importance, also, to take the regulation and settlement of that Territory out of other hands into those of the U. S., who will be able to manage both for the general interest and conveniency. By securing, also, the exclusive jurisdiction of the Mississippi to the mouth, a source of much perplexity and collision is effectually cut off. The communications of your colleague hither have fully betrayed the feelings excited by your message, and that he was precipitating the business soon after your arrival, without respect to the measure of the government, to yourself, or to the advantage to be expected from the presence and co-operation of the more immediate depository of the objects and sensibilities of his Country. It is highly probable that if the appeal to the French Government had been less hackneyed by the ordinary minister, and been made under the solemnity of a joint and extraordinary embassy, the impression would have been greater and the gain better.

Writings of Madison, Volume 2: 1794-1815, p.184

What course will be taken by his friends here remains to be seen. You will find in the Gazettes a letter from Paris, understood to be from Swan, indorsing a copy of his memorial, representing it as the primary cause of the cession, praising the patriotism which undertook so great a service without authority, and throwing your agency out of any real merit, while, by good fortune, it snatched the ostensible merit. This letter, with the memorial, has been published in all our papers; some of them making comments favorable to Mr. Livingston, others doing justice to you, others ascribing the result wholly to the impending rupture. Another letter from Paris has been published, which makes him Magnus Apollo. The publication of the memorial is so improper, and in reference to the writer invites such strictures, that from him is not to be presumed. The passages against England have not escaped the lash. It would not be very wonderful if they were to be noticed formally or informally by the British Legation here.

Writings of Madison, Volume 2: 1794-1815, p.184

My public letter will show the light in which the purchase of all Louisiana is viewed, and the manner in which it was thought proper to touch the policy of Mr. Livingston, in complaining that the communication did not authorize the measure, notwithstanding the information given that he was negociating for more than the East side of the Mississippi. The pecuniary arrangements are much disrelished, particularly by Mr. Gallatin. The irredeemability of the stock, which gives it value above par, the preference of the conditions to the true object in the cash payment, and the barring of a priority among them, are errors most regarded. The claims of the different creditors rest on principles as different.

Writings of Madison, Volume 2: 1794-1815, p.185

Governor Mercer has taken the field as a candidate for the State Legislature, against four with whom he has been on the same party. The inclosed print will give you an idea of the violence of the contest, and of the personalities growing out of it. His object is to set the State to rights on certain points. He expects to accomplish it by a skilful management of parties. It is difficult to calculate the precise result of this project, either as it relates to the public or to himself. It is probable that he will sink under it, or that he will throw the State off its centre, and possible that both may happen.

Writings of Madison, Volume 2: 1794-1815, p.185

I have received no letter from you or Mr. Livingston since the arrival of Mr. Hughes, and consequently know nothing of your subsequent movements. The public letters by this conveyance were written under an ignorance whether you would be found at Paris, London, or Madrid. I observe a paragraph from an English paper says you had left Paris for Madrid, which I presume to be founded in fact. I hope you will give the proper cue to Spain, and carry all our points with her. Avoid the error committed with France with respect to the Creditors.

To Thomas Paine,

ORANGE Court-House, Virgina, August 20, 1803.

Writings of Madison, Volume 2: 1794-1815, p.185

DEAR SIR,—Your letter of the 6th having arrived at Washington after I had left it, no answer could be given through the gentleman who was charged with it. The report to which it refers, that the British Government had cautioned ours not to pay the money for Louisiana, for that they meant to take possession of it, is utterly destitute of foundation. The British Government has, on the contrary, expressed its satisfaction with the cession, and, although the terms of it might not at the time be particularly known, yet as a price was to be presumed, and as the bargain was made bona fide, and even communicated prior to the commencement of hostilities, there can be no pretext whatever for complaint, nor is there the least ground for supposing that it will take place.

To James Monroe.

WASHINGTON, Oct. 10, 1803.

Writings of Madison, Volume 2: 1794-1815, p.186

DEAR SIR,—Finding that Mr. Purveyance is within reach of a few lines, I add them to what he is already charged with, to observe that Yrujo has written another remonstrance against our acquisition of Louisiana, alleging as a further objection, that France, by not obtaining the stipulated acknowledgments of the King of Etruria from the Courts of Petersburg and London, had a defective title herself to the Cession. Nothing can be more absurd than these cavils on the part of Spain, unless it should be her using in support of them force against our taking possession. This she will scarcely attempt, if not backed by France, which we hope is impossible. I am writing on this subject to Livingston and Pinckney. I have already done so to Yrujo, giving him to understand that we shall not withhold any means that may be rendered necessary to secure our object. Pichon is perfectly well disposed, is offended with the Spanish Minister, and, if left under the orders he now has, will co-operate zealously, with an honest view to the honor and obligations of his own Country. On our part, I trust every thing that the crisis demands will be done, and that we shall speedily be in possession of the valuable object which the Treaty with France has gained for us. Baring is here, but having not yet called on me I have had no opportunity of paying him civilities, or obtaining explanations from him. I wait anxiously for your next. Your last was of Aug. 15. I hope you have been favorably received, and will bring the British Government more and more to understand their own interests, as well as our rights. Insist on instructions to all their naval officers to abstain from impressmerits and to respect our jurisdictional rights. Incidents are daily occurring which, otherwise, may overcome the calculating policy of the present Executive, and provoke the public temper into an irresistible impetus on the public Councils. Mr. King says, that if he could have remained a little longer, the British Government might possibly have been brought into a contract guarding against this evil; but that the business is to be effected at that Court by the United States, not so well by formal notes and official discussions as by the frankness and familiarity of explanatory and expostulatory observations in private discourse. I give you this in confidence, as a hint that may be useful. Mr. Purveyance had seized your wishes before I returned hither, and I did not know till this moment that he had not sailed. I write in great haste to secure the present mail, which is the only one that promises a conveyance by him. He will give you much public and all private information.

To Barbe Marbois.

Writings of Madison, Volume 2: 1794-1815, p.187

DEPT OF STATE, Novr 4, 1803.

Writings of Madison, Volume 2: 1794-1815, p.187

SIR,—I received your favor of the 21 prairial, with a pleasure which is redoubled by the consideration that I am able, in acknowledging it, to inform you of the formal approbation of the late Treaty, and by every branch of our Government. The event establishes, I hope forever, perfect harmony between the two Countries. It is the more likely to do so, as it is founded in a policy, coeval with their political relations, of removing as much as possible all sources of jealousy and collision. The frankness and uprightness which marked the progress of this transaction are truly honorable to all concerned in it; and it is an agreeable circumstance that, in the exchange of ratifications, it was closed in the same spirit of mutual confidence, Mr. Pichon inferring, doubtless with the truest reason, that an unqualified exchange, under actual circumstances, would best accord with the real views of his Government.

Writings of Madison, Volume 2: 1794-1815, p.188

It remains now to compleat the work by an honest execution of the mutual stipulations. On our part, the sequel will certainly correspond with the good faith and prompt arrangements thus far pursued; and full reliance is placed on the reciprocal disposition of your Government, of which so many proofs have been seen.

Writings of Madison, Volume 2: 1794-1815, p.188

The interposition of Spain is an incident not more unexpected than it is unreasonable. It is to be wished that it may terminate without any serious consequences, even to herself. Whatever turn it may take, the honour of the French Government guaranties the object at which our measures are pointed; and the interest of France will equally lie in making the fruits of these measures hers, as well as ours.

Writings of Madison, Volume 2: 1794-1815, p.188

I partake, Sir, in all the satisfaction which you feel at an event which awakens recollections, both of a public and private nature, so agreeable to both of us; and I pray you to be assured that I observe with sincere pleasure, in the share you have contributed to it, those enlarged views and honorable principles which confirm the high esteem and distinguished consideration with which I remain, Dr sir, your friend and Servt.

To Mr. Marbois,

(but not sent.)

Writings of Madison, Volume 2: 1794-1815, p.188

Dr SIR,—I have duly received the volume relating to the Equestrian Statue of Henry 4th, with one of the Medals to which it gave rise, for both which I offer you my thanks.

Writings of Madison, Volume 2: 1794-1815, p.188

The volume is not only a valuable present to Artists, but is enriched with articles of information which make it interesting to the curious who are not artists. I observe that it justly records your essential agency in this National Monument, and have not overlooked the fine morsel of appropriate sentiment which it was your lot to address to the reigning Prince, whose name was so closely associated by the occasion with that of his illustrious ancestor.

Writings of Madison, Volume 2: 1794-1815, p.189

France is happy in having had a King worthy of the National devotion which the erection of this statue proclaims to the memory of Henry 4. He may be regarded as a model, not only to his hereditary successors under a limited Monarchy, but as one, also, to the other departments of the Government. His personal virtues seem to have furnished that check and balance to his royal prerogative, which are provided by partitions of power among the Constitutional orders of the State.

Writings of Madison, Volume 2: 1794-1815, p.189

I hope, Sir, you continue to enjoy the good health of which you make so good a use, and that you will accept this renewed assurance of my distinguished esteem.

To James Monroe.

WASHINGTON, Decr 26, 1803.

Writings of Madison, Volume 2: 1794-1815, p.189

DEAR SIR,—I have received, I believe, all your letters, public and private, down to that of October 22d, written merely to say that all continued well. I have taken due care of the communications on the subject of your—. Everything seems to be well understood on this side the water. I cannot say more now, as I write of necessity without cypher.

Writings of Madison, Volume 2: 1794-1815, p.189

Mr. Merry has been with us some time. He appears to be an amiable man in private society, and a candid and agreeable one in public business. A foolish circumstance of etiquette has created some sensibility in Mrs. Merry, and perhaps himself; but they will find so uniform and sincere a disposition in all connected with the Government to cultivate a cordial society with them, and to manifest every proper respect for their characters and station, that if any unfavorable impression has happened, it must be very transient. It would be unfortunate if it were otherwise, because a dissatisfaction, of whatever sort, or however produced, might mingle itself with his general feelings, and, thro' them, with the agency committed to them. We have had several conversations, both incidental and formal, on the topics most interesting to the two Countries. I have taken pains to make him sensible of the tendency of certain proceedings on the British side, and of their injustice as well as im-policy. I communicated to him a few days ago the intention of the President to explain our views fully to you on these topics, and to authorize you to negociate such conventional eclaircissements and arrangements as may put an end to every danger to which the harmony between the Countries is now subjected. His ideas appeared to be moderate, and his disposition conciliatory. As he will doubtless communicate to his Government what passed us, I think it proper, in order to place you on a level of information, to observe briefly, that the plan will be to get rid of impressments altogether on the high seas; to define blockades and contraband according to the last Treaty between Great Britain and Russia; to regulate visits and searches of our vessels, according to the Treaty of 1786 between Great Britain and France; to put aside the doctrine, that a Colonial trade, not allowed in time of peace, is unlawful in time of war; and, in return, to agree to a mutual surrender of deserters from ships and from garrisons, and to a legislative provision against exporting articles enumerated as contraband to places within the jurisdiction of an enemy. This will be the outline, excepting a few minor propositions. The subject is now before the Cabinet, and it will not be long before it will be forwarded to you in its details. It is much to be desired that something may be done to consolidate the good understanding between the two nations, and I really believe that there is nothing aimed at by us that is not for the true interest of both parties. I am not without hopes that Mr. Merry sees the business in a good degree in the same light, and that his representations will co-operate with your reasonings on it. I am glad to learn that in Europe violations of our maritime rights are so much mitigated in comparison with the former war. It is a good omen. In the American seas, however, the scene is very different, and I fear is growing worse and worse. Impressments and other outrages on our flag are multiplying, and the depredations, under pretext of blockades, are going on in rivalship with all the extravagances of the last war. I will send herewith, if I can, certain documents, both as to impressments and blockades, which will explain the justice of these remarks, and satisfy you, as they ought to do the British Government, that the friendship and patience of this country are put to a severe trial. A bill has been brought in Congress with a view to some remedy. It proposes to forbid the use of our pilots, our ports, and our supplies and hospitalities, to any ship of war which shall be proved and proclaimed to have impressed or otherwise insulted those on board our vessels. Whether it will be pursued into a law is uncertain; but if it should not, the forbearance will proceed merely from a hope that a remedy to the evil is contemplated by negociations. The public mind is rising to a state of high sensibility, and no other consideration than such a hope would, I am persuaded, suspend the effect of it on the Legislative Councils. It is to be wished that the introduction of the Bill may not be misconstrued into any unfriendly disposition towards Great Britain. I have every reason to believe that the supposed necessity of it is deeply regretted, and that a just accommodation of all differences with Great Britain will give the most sincere and general satisfaction. Louisiana was delivered by the Spanish authorities at New Orleans to Laussat, on the 30th of November. Our Commissioners, Claiborne and Wilkinson, with their troops, were at Fort Adams, on their way to receive the transfer to the United States. All difficulties are, therefore, at an end in that quarter. Nothing appears to have passed in relation to West Florida, or the boundaries in general. It is understood that Spain does not include any territory East of the Mississippi, except the island of New Orleans, in the idea of Louisiana. It will be an easy matter to take possession according to our idea. The mode alone can beget a question.

1804

To James Monroe.

WASHINGTON, Jany 18, 1804.

Writings of Madison, Volume 2: 1794-1815, p.192

DEAR SIR,—I write you by Mr. Baring, who will also take charge of full instructions on the subject of a Convention with Great Britain for putting an end to impressments, &c. It is of great importance to the harmony of the two Countries that the project should not entirely fail. There is not time to forward by this opportunity instructions relative to Madrid. They will probably soon follow. In the mean time, you will collect from a letter which the President writes his present views with respect to that mission. I refer to the same source, also, for other things, of which a repetition is unnecessary, particularly the arrangement as to Louisiana.

Writings of Madison, Volume 2: 1794-1815, p.192

Your outfit in going to London is of course. There will be a difficulty in varying the provision made beyond the annual allowance as Minister Extraordinary to Paris, it being fixed and recorded. Should you proceed to Madrid, it is probable that your expences will be defrayed, according to the several examples in point and the apparent reasonableness of it. As soon as the instructions to proceed issue, a draught may, I presume, be authorized, which will be better than the mode you suggest of leaving the advance made you here for settlement on your return.

Writings of Madison, Volume 2: 1794-1815, p.192

I informed you in my last that I had received all your private letters down to Oct. 22, including the documents relating to the joint negociation, &c., with France, and that every thing seemed to be sufficiently understood here to make you easy. The letter of 22 March from T. ———, that of April 10th to you, and the extract from Col. M.'s journal, completely establish the essential points.

Writings of Madison, Volume 2: 1794-1815, p.192

Mr. Merry has said nothing yet about St Domingo, altho' it is understood to be now in the hands of the negroes, and has been in that train clearly and certainly for some time past. I learn, from what I take to be a sure source, that Great Britain will not aim at a monopoly of the trade there, and will also, by an arrangement with the negroes, shut the sea against them, in order to keep Jamaica safe. If she pursues this course, we shall be relieved from difficulties on that side. And it is to be hoped that France will see that she has no motive to throw the commerce and the attachments of the negroes into the exclusive possession of England, by prohibitions against other nations.

Writings of Madison, Volume 2: 1794-1815, p.193

Mr. Merry expressed in strong terms the dissatisfaction of his government at the Memorial. He was told that the sentiments of this Government were truly expressed in the friendly assurances given by it, and that no authority had been given to express others. It was added that the memorial was not official, nor meant for the public eye, and very probably had been shaped into arguments most likely to favor the object of it, without adverting to the incidental tendency of mine. In a word, that the view taken of the subject was such as was deemed most likely to influence the policy of France, rather than to exhibit the opinions or feelings of the writer. He seemed to be content with this disavowal, and signified his confidence that his Government would be so likewise.

Writings of Madison, Volume 2: 1794-1815, p.193

The inclosed paper has an address to Mr. Merry, which shows the importance to Great Britain of a stipulation to surrender her deserting seamen. She cannot expect this to be either stipulated or practised whilst impressments go on. On the contrary, she must expect other States to follow the example of Virginia, which will throw the whole trade between the two Countries, in time of war at least, into American vessels.

To R. R. Livingston.

WASHINGTON, Feby 7, 1804.

Writings of Madison, Volume 2: 1794-1815, p.193

DEAR SIR,—The public letters which you will receive by this conveyance acknowledge all the letters received from you since the date of those last written to you, except your correspondence with Mr. Monroe. This I have thought proper to acknowledge in a private letter, because I have not placed it on the files of the office. You left me free to consider the letters which passed between you as private, and I have not yet decided that it can be of use to dispose of them as of a public nature. Should it, on further consideration, be deemed proper to view them in this light, they can at any time be deposited in the office; whereas if now deposited, and a further consideration should oppose this use of them, the step would be irrevocable. It is much to be desired, on various grounds, that the mutual sensibilities which betray themselves in the correspondence should have no greater publicity than may be inevitable, and that no insuperable obstacles should be thrown in the way of that oblivion of disagreeable incidents which cannot but be favoured by your mutual respect and liberality.

Writings of Madison, Volume 2: 1794-1815, p.194

Congress have been long in session, but have passed but few acts, and appear to move very slowly. They dwell with particular tediousness on the Bill providing a Government for Louisiana. The newspapers I herewith send will give you an account of their latest proceedings. I beg leave to refer to the same source for other public occurrences. I communicated to Genl Armstrong yesterday the present opportunity, namely, that of a young gentleman who goes in the vessel carrying the French Louisiana stock, and he said he would have a letter for you at the office in time for it. If it comes, it will be inclosed herewith.

Writings of Madison, Volume 2: 1794-1815, p.194

You will find in the public letter the reasons for not heretofore forwarding a letter of leave, and of the intention to forward one only on the receipt of your determination to make use of it. It was not wished to take any step which might be misinterpreted as an instruction for your return; and it was conceived that the letter you possess could, if your return was resolved on, without impropriety be made use of. The date alone suggests any difficulty, and that admits so easy an explanation, as scarcely to be regarded as one. You will, I am persuaded, be sensible that the footing on which the matter has been put was that deemed most consistent with the delicacy and friendship entertained for you, and which seemed best to reconcile a due respect for your personal inclinations with the respect due to the interest the public has in your diplomatic services.

To James Monroe.

WASHINGTON, Feby 16, 1804.

Writings of Madison, Volume 2: 1794-1815, p.195

DEAR SIR,—In a private letter by Mr. Baring I gave you a detail of what had passed here on the subject of etiquette. I had hoped that no farther jars would have ensued, as I still hope that the good sense of the British Government respecting the right of the government here to fix its routes of intercourse, and the sentiments and manners of the country to which they ought to be adapted, will give the proper instructions for preventing like incidents in future. In the mean time, a fresh circumstance has taken place, which calls for explanation.

Writings of Madison, Volume 2: 1794-1815, p.195

The President, desirous of keeping open for cordial civilities whatever channels the scruples of Mr. Merry might not have closed, asked me what these were understood to be, and particularly whether he would come and take friendly and familiar dinners with him. I undertook to feel his pulse thro' some hand that would do it with the least impropriety. From the information obtained, I inferred that an invitation would be readily accepted, and with the less doubt, as he had dined with me, (his lady declining,) after the offence originally taken. The invitation was accordingly sent, and terminated in the note from him to me and my answer herewith inclosed. I need not comment on this display of diplomatic superstition, truly extraordinary in this age and in this country. We are willing to refer it to the personal character of a man accustomed to see importance in such trifles, and over cautious against displeasing his Government by surrendering the minutest of his or its pretensions. What we apprehend is, that with these causes may be mingled a jealousy of our disposition towards England, and that the mortifications which he has inflicted on himself are to be set down to that account. In fact, it is known that this jealousy, particularly since the final adjustment with France, exists, or is affected in a high degree, and will doubtless give its colour to the correspondence of the legation with its government. To apply an antidote to this poison will require your vigilant and prudent attention. It can scarcely be believed that the British Government will not at once see the folly committed by its representative, especially in the last scene of the farce, and that it will set him right in that respect. But it may listen with a different ear to the suggestions that the United States, having now less need of the friendship of Britain, may be yielding to a latent enmity towards her. The best of all proofs to the contrary would be the confidential communications you possess, if it were not an improper condescension to disclose them for such a purpose. Next to that is the tenor of our measures, and the dictates of our obvious policy; on an appeal to both of which you may found the strongest assurances that the Government of the United States is sincerely and anxiously disposed to cultivate harmony between the two nations. The President wishes to lose no opportunity and spare no pains that may be necessary to satisfy the British administration on this head, and to prevent or efface any different impressions which may be transmitted from hence.

Writings of Madison, Volume 2: 1794-1815, p.196

I collect that the cavil at the pêle mêle here established turns much on the alledged degradation of ministers and envoys to a level with Charges D'Affaires. The truth is, and I have so told Mr. Merry, that this is not the idea; that the President did not mean to decide anything as to their comparative grades or importance; that these would be estimated as heretofore; that among themselves they might fix their own ceremonies, and that even at the President's table they might seat themselves in any subordination they pleased. All he meant was, that no seats were to be designated for them, nor the order in which they might happen to set to be any criterion of the respect paid to their respective commissions or Countries. On public occasions, such as an Inaugural speech, &c., the heads of department, with foreign ministers, and others, invited on the part of the Government, would be in the same pêle mêle within the space assigned them. It may not be amiss to recollect that under the old Congress, as I understand, and even in the ceremonies attending the introduction of the new Government, the foreign ministers were placed according to the order in which their Governments acknowledged by Treaties the Independence of the United States. In this point of view, the pêle mêle is favorable both to Great Britain and to Spain.

Writings of Madison, Volume 2: 1794-1815, p.197

I have, I believe, already told you that the President has discountenanced the handing first to the table the wife of a Head of Department, applying the general rule of pêle mêle to that, as to other cases.

Writings of Madison, Volume 2: 1794-1815, p.197

The Marquis d'Yrujo joined with Merry in refusing an invitation from the President, and has, throughout, made a common cause with him, not, however, approving all the grounds taken by the latter. His case is, indeed, different, and not a little awkward, having acquiesced for nearly three years in the practice against which he now revolts. Pichon, being a Chargé only, was not invited into the pretensions of the two Plenipotentiaries. He blames their contumacy; but I find he has reported the affair to his government, which is not likely to patronize the cause of Merry and Yrujo.

Writings of Madison, Volume 2: 1794-1815, p.197

Thornton has also declined an invitation from the President. This shews that he unites, without necessity, with Merry. He has latterly expressed much jealousy of our views, founded on little and unmeaning circumstances.

Writings of Madison, Volume 2: 1794-1815, p.197

The manners of Mrs. ——— disgust both sexes and all parties.

Note and Answer referred to in p. 195.

Writings of Madison, Volume 2: 1794-1815, p.197

Mr. Merry has the honor to present his respects to Mr. Madison.

Writings of Madison, Volume 2: 1794-1815, p.197

He has just had that of receiving a note from the President of the United States, of which the following is a copy:

Writings of Madison, Volume 2: 1794-1815, p.197

Thomas Jefferson asks the favor of Mr. Merry to dinner with a small party of friends on Monday, the 13th, at half past 3.

February 9th, 1804. Superscribed, Mr. MERRY.

Writings of Madison, Volume 2: 1794-1815, p.197

It so happens that Mr. Merry has engaged some company to dine with him on that day. Under other circumstances, however, he would have informed himself whether it is the usage, as is the case in most countries, for private engagements of every kind to give way to invitations from the Chief Magistrate of the United States; and if such were the usage, he would not have failed to have alleged it as a just apology for not receiving the company he has invited. But after the communication which Mr. Merry had the honor to receive from Mr. Madison on the 12th of last month, respecting the alteration which the President of the United States had thought proper should take place in regard to the treatment to be observed by the Executive government towards foreign ministers from those usages which had been established by his predecessors, and after the reply which Mr. Merry had the honor to make to that notice, stating, that notwithstanding all his anxiety to cultivate the most intimate and cordial intercourse with every of the government, he could not take upon himself to acquiesce in that alteration, on account of its serious nature, which he would, therefore, report to his own government, and wait for their instructions upon it; it is necessary that he should have the honor of observing to Mr. Madison that, combining the terms of the invitation above mentioned with the circumstances which have preceded it, Mr. Merry can only understand it to be addressed to him in his private capacity, and not as his Britannic Majesty's Minister to the United States. Now, however anxious he may be, as he certainly is, to give effect to the claim above expressed, of conciliating, personally and privately, the good opinion and esteem of Mr. Jefferson, he hopes that the latter will feel how improper it would be on his part to sacrifice to that desire the duty which he owes to his Sovereign, and, consequently, how impossible it is for him to lay aside the consideration of his public character.

Writings of Madison, Volume 2: 1794-1815, p.198

If Mr. Merry should be mistaken as to the meaning of Mr. Jefferson's note, and it should prove that the invitation is designed for him in his public capacity, he trusts that Mr. Jefferson will feel equally that it must be out of his power to accept it, without receiving previously, through the channel of the Secretary of State, the necessary formal assurances of the President's determination to observe towards him those usages of distinction which have heretofore been shewn by the executive government of the United States to the persons who have been accredited to them as his Majesty's Ministers.

Writings of Madison, Volume 2: 1794-1815, p.199

Mr. Merry has the honor to request of Mr. Madison to lay this explanation before the President, and to accompany it with the strongest assurances of his highest respect and consideration.

WASHINGTON, February 9th, 1804.

Writings of Madison, Volume 2: 1794-1815, p.199

Mr. Madison presents his compliments to Mr. Merry. He has communicated to the President Mr. Merry's note of this morning, and has the honor to remark to him that the President's invitation, being in the style used by him in like cases, had no reference to the points of form which will deprive him of the pleasure of Mr. Merry's company at dinner on Monday next.

Writings of Madison, Volume 2: 1794-1815, p.199

Mr. Madison tenders to Mr. Merry his distinguished consideration.

WASHINGTON, February 9th, 1804.

To Governor Claiborne.

(Private and Confidential.)

WASHINGTON, February 20, 1804.

Writings of Madison, Volume 2: 1794-1815, p.199

DEAR SIR,—It being understood that Morales means to settle himself at New Orleans, and that his temper and his treasures, his connections and his views, may render him a mischievous member of the society, his removal to some other part of the United States, where he would be unimportant and harmless, would be agreeable to the President. Perhaps it may be in your power to bring this about, without violating any principle which ought to be respected on such an occasion. It may have weight with him merely to know that his continuance in Louisiana attracts the notice of the Government, and that he would be perfectly secure in other situations, where his wealth could be engaged with more advantage. The case, however, is left to your own judgment, both in its merits and its arrangement.

Writings of Madison, Volume 2: 1794-1815, p.200

I have the honor to be, Sir, with great respect and esteem, yr mo. obt.

To James Monroe.

WASHINGTON, March 8th, 1804.

Writings of Madison, Volume 2: 1794-1815, p.200

DEAR SIR,—Since my last, which went by duplicates, and will, therefore, I hope, have been received, yours of Nov. 25, which, like this, is private, has come to hand. Your public letter accompanying it is answered publicly by this opportunity.

Writings of Madison, Volume 2: 1794-1815, p.200

It is very agreeable to find the British Ministers so candidly acknowledging the justice of our general conduct towards their nation, and the fairness, particularly, of our Treaty obtaining Louisiana. If, as they admit, the sole ground of complaint against us was the memorial of Mr. Livingston, there remains no longer a single exception to be taken, an explanation having been given to Mr. Merry which he thought would be satisfactory to his government.

Writings of Madison, Volume 2: 1794-1815, p.200

The Bill in the Senate on the impressment of seamen, of which you have been apprized, was a few days ago postponed generally, with reasons assigned, which were meant to render such an issue conciliatory, without renouncing the right, or the eventual necessity of some such remedy. The British functionaries here consider all that has passed on this subject as the effect of concert between the Executive and leading members of the Legislature, and as meant to operate on the apprehensions of England without the appearance of provoking a collision with her. In general, the idea of such an understanding between the Executive and Congress prevails among the Foreign Agents, more especially on their first coming, and it is not easy to correct the error. You know that a mutual independence exists, precluding a responsibility on either side for the separate measures of the other. Nothing is more common, in fact, than for those who in general form the majority in Congress to divide among themselves on questions in which it is known that the Executive have taken an interest. In the case of the two Bills concerning impressments, they were introduced under the general impulse of the Country, and the personal or local sentiments of the movers, and the destiny of them is to be referred to a like explanation. This country wishes for justice, and thinks it has efficacious means in its own hands. It wishes, at the same time, not to resort, without absolute necessity, to any means that may interrupt harmony, or even wear an unfriendly aspect. This is certainly the sentiment of the Executive, in common with the other branches of the Government, and with the nation. Among more general considerations favoring this temperate and solid policy, it merits attention, that as the present administration in Great Britain appears more liberal and cordial towards the United States than any preceding one, as the administration here is certainly more so towards Great Britain than was then anticipated, and as no formal experiment has been made since the commencement of the present war to adjust by negociation the question of impressments, it is proper to make a fair experiment in that form, before redress be pursued in any other. I have not learnt whether the Bill in the House of Representatives has yet been postponed. That it will be, is probable; and if it should not, the sense expressed by the Senate will be a bar to its passage into a law.

Writings of Madison, Volume 2: 1794-1815, p.201

In a conversation with Mr. Merry on these bills, he intimated the danger of their being considered in Great Britain as leading to a state of violence, if passed into laws; and if postponed, as still leaving a menace more likely to excite pride than compliance. Without admitting the first inference, the second was easily repelled by an appeal to the operative negociation of Mr. Jay, notwithstanding the strong posture taken by Congress at the moment, and the existence of an embargo, well understood to be levelled against British misconduct.

Writings of Madison, Volume 2: 1794-1815, p.201

My public letter answers your enquiry relating to the East and West India trade. The case of French prisoners taken in American vessels cannot be more affected by the Treaty than that of French property so taken, and must depend on the same principles of public law. If not in military service, the capture of them was wrong, and right requires that they should be discharged. It will be well, at the same time, to avoid interference in such cases, as far as will consist with the obligation and power of the United States.

Writings of Madison, Volume 2: 1794-1815, p.202

Your trip to Madrid has become a perplexing subject. The present moment is not favorable to it, and the other object presented to your view by the President's letter becomes every moment more pressing for such services as yours. Whilst you hold yourself ready, therefore, for a trip into Spain, in case events should prescribe it, you will hold yourself still more so for taking a station at New Orleans, whither it is more than probable you will be summoned to repair the instant your negociations at London shall be closed. In several views, the situation of the ceded territory is critically interesting. Should you go to Spain, it will evidently reconcile private with public economy, and both with the comfort of your family, to place them in the asylum you contemplate, and thereby stop the whole expence of your London establishment. As to the modifications of outfit, I can add nothing to what I have heretofore said. To be prepared for every turn which the settlement of your allowance may take, your expences cannot be too exactly noted and vouched.

Writings of Madison, Volume 2: 1794-1815, p.202

When I communicate finally your destination, I will communicate, also, the sentiments of the President as to the person into whose hands you are to deposit your papers, &c. In the mean time, authorize no particular expectation in any one. The President retains his favorable opinion of Erving; but it is of importance to respect his standing with the British Ministry, and also not to flatter pretensions beyond his standing in this country, to which his present grade is thought to be commensurate. Perhaps it will be found best to name no Chargé, and waive the necessary business with him as consul, making the proper commission and request to Lord Hawkesbury.

To Governor Claiborne.

VIRGINAIA, August 28, 1804.

Writings of Madison, Volume 2: 1794-1815, p.203

SIR,—I have received your favor of the 12 and 14 of July. The continuance and conduct of the Spanish officers at New Orleans justly excite attention. In every view, it is desirable that these foreigners should be no longer in a situation to affront the authority of the United States, or to mingle, by their intrigues, in the affairs of your territory. The first of October will be an epoch which may be used for letting it be understood that their stay, so much beyond the right and the occasion for it, is not seen with approbation. The mode and measure of the intimation are left by the President to your discreet judgment. With Morales there may be less need of very delicate management; especially if he perseveres in retaining a title which, having belonged to a Spanish officer purely provincial, in Louisiana, seems to arraign the present jurisdiction of the United States.

Writings of Madison, Volume 2: 1794-1815, p.203

You will soon receive from Mr. Granger blank commissions for offices within his Department. The President wishes you to sound the Marquis de Casa Calvo on the subject of a link of the chain of post offices within the contested territory, and, by friendly explanations, to obtain his concurrence in making such an establishment for mutual convenience by mutual consent; with an understanding, or, if preferred, an express declaration, that the measure is neither to strengthen nor weaken the rights of either nation. Should a post office within the limits possessed by Spain not be acquiesced in, it is thought best that it be waived for the present, leaving to the mail a mere passage, to which it may be presumed no opposition will be made.

Writings of Madison, Volume 2: 1794-1815, p.203

By the last communications from Madrid, of June 12, it appears that the Spanish Government had imbibed the discontent expressed by the Marquis d'Yrujo at the act of Congress authorising a revenue district on the waters of the Mobile, &c., and that it manifested a backwardness to ratify the Convention, which had been ratified here in the very terms in which it was concluded on there. A knowledge of this ill humor may be useful in the course of your transactions, particularly those with the Spanish Functionaries.

To Governor Claiborne.

VIRGINIA, August 30, 1804.

Writings of Madison, Volume 2: 1794-1815, p.204

SIR,—The President having thought proper to avail the United States of the continuance of your services, by appointing you Governor of the Territory of Orleans, in pursuance of the late act of Congress for erecting Louisiana into two territories, and providing for the temporary government thereof, I have the pleasure of enclosing the commission for that purpose, with a commission providing for the administration to you of the oath of office required.

Writings of Madison, Volume 2: 1794-1815, p.204

I enclose, also, a commission for the Secretary of the Territory of Orleans, commissions for the members of the Legislative Council, — for two Judges of the Superior Court of the said Territory, a commission for the Judge of the District Court of Orleans District, and for the Attorney and Marshal of the said District; all which commissions I request the favor of you to cause to be respectively delivered.

Writings of Madison, Volume 2: 1794-1815, p.204

With sentiments of great respect and consideration.

Writings of Madison, Volume 2: 1794-1815, p.204

N.B. All the commissions sent dated August 30, 1804, except that to Kerby, which is dated August 29. One of the Judges of the Superior Court not sent, and to be filled hereafter.

To Monsieur Pichon.

VIRGINIA, Septr 3, 1804.

Writings of Madison, Volume 2: 1794-1815, p.204

SIR,—I have received and laid before the President your letter of August 25, accompanied by a copy of the Senatus Consultum, giving a new form to the Government of France, and a copy of a letter from the Minister of Exterior Relations to Mr. Livingston, with an extract of a letter to you, relating to that important event.

Writings of Madison, Volume 2: 1794-1815, p.205

Previous to the departure of Genl Armstrong, appointed to succeed Mr. Livingston in the Representation of the United States at Paris, it having been sufficiently ascertained, without being formally notified, that a change had taken place in the form of the French Government, provision was made for the case by blanks in his letters of credence, which he was instructed to fill up, on consultation with the Minister of foreign Relations, in such manner as would adapt them to the new formulary.

Writings of Madison, Volume 2: 1794-1815, p.205

This precaution, calculated to avoid inconvenient delays which might be occasioned by the succession of a New Minister from the United States in the crisis of a change in the Government to which he is sent, will have the effect, at the same time, of manifesting the readiness of the United States to respect the right of every Nation to give to its Government the form deemed most correspondent with its situation and its happiness, and the desire of the President to maintain, on the part of the United States, all the confidence and friendly relations with the Government of France, under its new form, which so happily prevail between the two nations.

Writings of Madison, Volume 2: 1794-1815, p.205

The President learns with satisfaction that, during the interval preceding the introduction of new diplomatic instruments, a continuance in the accustomed form of all the communications useful to the harmony and interest of the two Countries is particularly authorised by his Imperial Majesty, the Emperor of the French. You will not doubt, Sir, that a like regulation on the part of the United States is prescribed not more by their principles than by their friendly dispositions.

To Mr. Merry, British Plenipotentiary.

VIRGINIA, Septr 3, 1804.

Writings of Madison, Volume 2: 1794-1815, p.206

SIR,—I had the honor to receive on the 25th of August your letter, with its inclosures, of the 15th of that month, which has been laid before the President.

Writings of Madison, Volume 2: 1794-1815, p.206

The several communications and representations to which it is a reply, had for their object to obtain your interposition towards repairing and controuling the irregularities practised by British ships of war in the harbour of New York, and on the adjoining coasts. The resort was produced by a confidence that proceedings so contrary to public and local law, so irritating in their tendency, and so much at variance with the sentiments which your Government is believed to entertain towards the United States, would have received from you all the discountenance which they seemed to merit. Finding from the tenor of your letter, and it is found with much regret, that, instead of the expected result, charges, supported by regular proof against the British Commanders, are considered as answered by the denials of the parties; that not only the authority to impress British subjects from American vessels on the high seas is maintained, but a positive sanction is, moreover, given to the impressment of British subjects (which includes the decision of questions of allegiance) from British vessels within the acknowledged Sovereignty of the United States, with an implied sanction to the extraordinary pretension of a British Naval Commander, the Captain of the Cambrian, to a dominion of his Ship over a certain space around it, even when lying in an American port; that the continuance of enemy Ships in one of our ports, a continuance which may be prolonged indefinitely at the pleasure of an adequate force, is alledged as a sufficient vindication of the use which continues to be made of the port by British Ships, and of their proceedings in its vicinity to which that use is made subservient: finding, in a word, that the view which you have been pleased to take of the complaints addressed to you appears to be calculated rather to fortify than to restrain the British Commanders in the course which they are pursuing; it is not perceived that any advantage is promised by the further discussion which might result from entering into the particular comments of which some of your observations are susceptible. It is deemed more proper to indulge the expectation that the subject will be seen by the Councils of his Britannic Majesty in a light more satisfactory to the United States, and more correspondent with the disposition to cherish all the friendly relations which so happily exist between the two Nations, and which are so strongly recommended by their mutual interests.

Writings of Madison, Volume 2: 1794-1815, p.207

The irregularities charged on the French Ships of War now at New York were first notified to the Government by your representations on that head. You may assure yourself, Sir, that they will be enquired into with that attention which the United States owe not only to their own jurisdiction, but to their neutral position, to which they will always be as ready to pay respect themselves as to insist on it from others.

To John Tyler.

WASHINGTON, Novr 3d, 1804.

Writings of Madison, Volume 2: 1794-1815, p.207

SIR,—In the year 1801, Governor Monroe placed in my hands three hundred Dollars, to be applied, when called for, to the payment in France for a Sword (as well as I recollect) voted by the State of Virginia to General Campbell. The money was lodged in the Bank of Columbia, in Georgetown. Having never been called for, it escaped my attention, till I was three days ago reminded of it by lighting on the receipt given by the Bank. With a view to remit it without delay, I have drawn the money from its depository, and now inclose it in halves of three bills, of 100 dollars each. The other halves will be sent by another mail.

To James Monroe.

WASHINGTON, Nov. 9, 1804.

Writings of Madison, Volume 2: 1794-1815, p.208

DEAR SIR,—Besides your public letters, I have received your series of private ones down to August 24th. From the tenor of the latest of both, I infer that your negociations with the British Government will have issued in proofs merely of a general disposition to be in amity with us, without stipulating the just accommodations claimed by the United States; and that you will of course have set out for Madrid, in order to try the temper of that Court. Thither I shall accordingly address this letter. The public one which it accompanies, with the documents therewith inclosed, and others to be found on Mr. Pinckney's files, furnish all the lights with which we can assist you in pursuing the objects of your mission. You cannot too earnestly press on Spain the necessity of closing all the differences between the two Countries. West Florida is essential to the United States, both as to their revenue on the Mississippi, and to the trade through the Mobile. Spain must also, sooner or later, swallow the claim for French injuries. All she can expect is, to have the pill wrapt up in the least nauseous disguise. I am not sure that all the distinctions and arguments suggested on that subject agree precisely with the principles and merits of the case, which is a complex one, and in some respects turns on questions not clearly defined and settled by public jurists or general usage. But it seems unquestionable that Spain is bound in honor, as an independent nation, and in strict justice also, unless she can prove as well as plead a real ———, to indemnify the sufferers within her jurisdiction. I presume you will be able to understand the subject more distinctly by inquiring into the classes and details of the cases on the spot; and I hope, if France cannot be brought to take side with us on this occasion, and on that of settling the boundaries of Louisiana, that she will not put her weight in the adverse scale. The South American claims will also claim your critical attention. The Convention of 1802 leaves so much to construction and opinion, that some further provision will be necessary, even if that instrument should go into effect. In a new Convention, it may be blended with a provision for wrongs subsequent to that date. In a communication ofto Mr. P. , an attempt was made to classify these South American claims, including those for similar irregularities in the Spanish Islands, in order to discriminate and graduate their respective merits. The aid of the claimants was asked, but never obtained. The materials and explanations on the spot may enable you to execute the task with more precision. There is reason to believe that Yrujo has worked against us with all his might, seeking to advance himself by flattering the prejudices of his government, instead of consulting its obligations or its true interest. He behaved so badly as to require the recall signified in my public letter. Pinckney's recall has been asked by the Spanish Government, and a letter of leave goes to him. I suspect he will not return in good humour. I could not permit myself to flatter him, and truth would not permit me to praise him. He is well off in escaping reproof, for his agency has been very faulty, as well as feeble. Should you find him at Madrid, he may, however, give you some clues that may be useful. It is probable that he will be succeeded by Bowdoin, whose character is probably not unknown to you. It is certainly respectable, altho' his talents are considered as moderate. You are aware, I presume, that the Prince of Peace will claim your special attention. Mr. Short inculcates the policy of it. He says that he governs the Court absolutely, and may be managed by his weaknesses, particularly his vanity. Such a resource is not to be neglected. But the main one will lie in a skilful appeal to the fears of Spain, and the interest which France, as well as Spain, has in not favoring a coalition of the United States with Great Britain. The President's message goes to you by this opportunity. The Tableau which it presents cannot fail to strengthen his administration at home, and to increase the weight of the United States abroad. His re-election is certain; so is the success of Clinton as Vice President.

Writings of Madison, Volume 2: 1794-1815, p.209

Congress have not yet proceeded beyond the introductory forms. The topics in the message, with some left open at the last session, particularly the trial of Chase, will give an idea of the range of these deliberations. I ought to have included the memorial from New Orleans, drawn by Edward Livingston, who is laboring to trouble the waters in which he means to fish. The bearers of the memorial have arrived at New York on their way hither. You will have noticed in the newspapers the dreadful mortality among the strangers and new settlers at New Orleans. Among the victims particularly lamented for his personal worth, and the dependents on his exertions, is Mr. Trist. Young Gelston has also been taken off. Governor Claiborne escaped narrowly, but lost, on the same day, his wife and only child.

To James Monroe.

WASHINGTON, Decr 3, 1804.

Writings of Madison, Volume 2: 1794-1815, p.210

DEAR SIR,—Captain Dulton goes immediately to Spain with despatches, of which sundry copies have been sent to England, so that you will be sure to get them, whether you should be in the one or the other of those Countries. A letter from Mr. Pinckney just received shews that Spain has laid aside certain reinforcements intended for Florida, &c. Whether this step proceeded from the note he put in, as he supposes, or partly from that and partly from the posture of her affairs in England, it is a proof that she does not wish to quarrel with the United States, and that the moment for your operations may have particularly arrived. We have the fullest confidence in the prudence with which you will make use of such an opportunity, as well as of every other, for the purposes with which you are charged. Mr. Bowdoin is to succeed Mr. Pinckney. It is probable that some little time will elapse before he will be able to embark. Your last letter from London was dated on the 8th of September. By Mr. Graham, I learn that you were there on the 26th, and by a letter from Mr. Purviance to him, of the 21st, it appears that the prospect of your negociation with the British Government was flattering neither as to the time nor the complexion of its issue. We do not, however, altogether despair of a less unfavorable account in your next letters, which we look for in every mail that arrives.

1805

To General Turreau.

Writings of Madison, Volume 2: 1794-1815, p.211

DEPt OF STATE, Apl 4, 1805..

Writings of Madison, Volume 2: 1794-1815, p.211

SIR,—I have received a translation of a late Edict by Genl Ferrand, Commander-in-Chief, and acting as Captain General at St Domingo, in which he undertakes to denounce as pirates all persons on board vessels, allies or neutrals, bound to or from any ports in Hispaniola occupied by rebels, or found at the distance of two leagues from any such port; and to declare that they shall be tried and sentenced to death by a Military Commission. Although this document has not yet appeared in any other than an unauthenticated form, and in a translation only, the channel through which it has been transmitted leaves no doubt as to its reality. A copy of it, as transmitted, is annexed.

Writings of Madison, Volume 2: 1794-1815, p.211

It would be perfectly superfluous to enter into a particular comment on this extraordinary measure. You well know, Sir, that piracy, being an offence defined by the law of Nations, cannot be varied by any particular Nation, much less by any of its subaltern authorities; that the penalties to which those subject themselves who are found on the high seas in the course of an unlawful trade are also defined by the law of Nations, and equally unalterable by any municipal authority; that the same remark is applicable to the distance from the shore to which the local jurisdiction extends, which is now generally limited to a sea league; and that in no case can the mere circumstance of a vessel's being found within a given distance of a coast, to which, in the course of a lawful and customary trade, vessels on W. India voyages may be constrained to approach, be deemed sufficient evidence that such vessel is actually destined for a port on that coast. Still less can it be requisite to dwell on the enormity of inflicting capital punishment in the cases stated in the Edict, or the unexampled substitution of a Military trial in place of the tribunal and rules which the law and practice of Nations have universally established.

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Persuaded, Sir, that you will view this measure of Genl Ferrand in all its violations of public law, and in its tendency, if carried into execution, to threaten the harmony so happily prevailing between our two Nations, and the better to guard which was an object of the regulations lately provided by the Legislature of the U. States, in relation to their intercourse with the W. Indies, I take the liberty of requesting that you will not only make the proper communication on the subject to your Government, but that you will be pleased, with the least possible delay, to address to Genl Ferrand the considerations most capable of diverting him from his rash and alarming purposes. Notwithstanding the full reliance which is placed in the indignation with which the Emperor of the French will be inspired by such an outrage on the law of Nations, and such an abuse of the authority confided by him to a distant officer, and in the remedy which he will cause to be applied, a more direct and prompt interposition is rendered particularly necessary by the precipitancy with which the Edict is to be carried into execution, its commencement being postponed no longer than till the 21 of the present month. Assuring myself that this interposition will be afforded with all the readiness and energy with which the occasion requires, and which will comport with your just and discerning appreciation of it, I have the honor to remain, with sentiments of high respect and consideration,

Writings of Madison, Volume 2: 1794-1815, p.212

Yr Mo. Obt Svt.

To R, R. Livingston.

WASHINGTON, July 5th, 1805.

Writings of Madison, Volume 2: 1794-1815, p.212

DEAR SIR,—Your favor of the 29 ult. was duly handed to me by Mr. Townsend. I congratulate Mrs. Livingston and yourself on your safe arrival, and on the shortness of the passage. Your trip up the North River was but a reasonable preliminary to your visit to Washington, and was advised, also, by the approach of the President's departure, which will take place in 8 or 10 days. Mine will be within a few before or after his. Our return will be the last of September or the first of October, when we shall see you with the greater pleasure, as being more convenient to yourself.

Writings of Madison, Volume 2: 1794-1815, p.213

The communications from Genl Armstrong are not later than May 4. Those from Madrid are of about the same date. They concur in shewing that Spain struggles much against our demands, and that France has her views in embarrassing, if not defeating, the negociation. What the end will be remains to be seen. Although appearances are not flattering, is there not some room to calculate that when France finds she cannot get her hand into our pocket, and that our disputes with Spain may involve herself, and throw the United States into the British scale, she will, unless events should place her above all such considerations, promote an adjustment of our affairs with her ally? Whether Madrid or Paris be the Theatre, the issue, it would seem, equally depends on the influence, or rather authority, over the Spanish Cabinet.

To James Monroe.

PHILADELPHIA, Septr 24, 1805.

Writings of Madison, Volume 2: 1794-1815, p.213

DEAR SIR,—The decision in the admiralty Courts of Great Britain, disallowing the sufficiency of landing and paying duties on Colonial produce of belligerent colonies, re-exported from parts of the United States, to protect the produce against the British cruisers and courts, has spread great alarm among merchants, and has had a grievous effect on the rate of insurance. From the great amount of property afloat subject to this new and shameful depredation, a dreadful sense of distress may ensue to our Commerce. The subject was brought to attention by the case of the Aurora, which gave rise to the observations and instructions contained in my letter of 12th of April last. I omitted in that letter to refer you to a case in Blackstone's reports, where Lord Mansfield says that it was a rule settled by the Lords of appeal, that a transhipment off a neutral port was equivalent to the landing of goods from an enemy's Colony, and that in the case of a landing, there could be no color for seizure. As Mr. King's correspondence may not be in London, I think it not amiss to remind you of what passed with the British Government in 1801, in consequence of such seizures as are now sanctioned. A copy of the document transmitted by the Government to the Vice Admiralty Courts, as the law for their guidance, is inclosed. If such a condemnation out of their own mouths has no effect, all reasonings will be lost; and absolute submission, or some other resort in vindication of our neutral rights, will be the only alternative left.

Writings of Madison, Volume 2: 1794-1815, p.214

I hope you will have received the instructions above referred to, and that your interposition will have had a good effect. I am engaged in a pretty thorough investigation of the original principle, to which so many shapes are given, namely, that "a trade not open in peace is not lawful in war," and shall furnish you with the result as soon as my researches are digested. If I am not greatly deceived, it will appear that the principle is not only against the law of nations, but one which Great Britain is precluded from assuming by the most conclusive facts and arguments derived from herself. It is wonderful that so much silence has prevailed among the neutral authors on this subject. I find scarcely one that has touched on it, even since the predatory effects have been known to all the world. If you can collect any publications which can aid in detecting and exposing the imposture, be so good as to send them.

To G. W. Erving.

WASHINGTON, November 1, 1805.

Writings of Madison, Volume 2: 1794-1815, p.214

DEAR SIR,—By Mr. Smith, to whom this is committed, you will receive the public letter in which the course approved by the President is marked out for your conduct at Madrid. The grounds for it are strengthened by the posture of things in Europe, and by the approach of the session of Congress. The impression made on this country by the proud and perverse conclusion given by Spain to the endeavours of Mr. M and Mr. P to adjust our differences, ought, if faithfully reported to her, to teach her a lesson salutary at all times, and particularly so at the present moment. She may be sure that she will never better her stipulations with this country by delay. If she calculates on the friend at her elbow, or be jogged by him into follies not altogether her own, she is so far to be pitied or despised as she avails herself of such explanations. But here, again, she receives a lesson from the scene which appears to be opening in Europe against the Imperial career of France. England seems as ready to play the fool with respect to this country as her enemies. She is renewing her depredations on our Commerce in the most ruinous shapes, and has kindled a more general indignation among our Merchants than was ever before expressed. How little do those great Nations in Europe appear, in alternately smiling and frowning on the U. States, not according to any fixed sentiments or interests, but according to the winds and clouds of the moment! It will be the more honorable to the United States if they continue to present a contrast of steady and dignified conduct; doing justice under all circumstances to others, and taking no other advantage of events than to seek it for themselves.

Writings of Madison, Volume 2: 1794-1815, p.215

For our domestic news, I refer to the Newspapers which go by Mr. Smith. Congress do not meet till December. Their session will involve important questions and measures relative to the transactions of Europe having unsettled relations to this Country, or committing wrongs against it.

Writings of Madison, Volume 2: 1794-1815, p.215

The attention which you have been so good as to pay to sending to us publications useful for the Department of State induces me to request that you will, during your stay at Madrid, procure whatever Books on diplomatic and commercial subjects deserve a place in the office shelves; also, such as may relate to America generally, and particularly the Ordinance, &c., relating to the Indies and Islands belonging to Spain. This general intimation will readily be applied by your own judgment to the pertinent objects.

1806

To Mr. Merry, British Plenipotentiary.

Writings of Madison, Volume 2: 1794-1815, p.216

DEPT OF STATE, Jany, 1806.

Writings of Madison, Volume 2: 1794-1815, p.216

SIR,—I have received the letter in which you have done me the honor to communicate, for the information of this Government, that his Britannic Majesty has directed a discontinuance of the Blockade at the entrance of the rivers Elbe and Weser.

Writings of Madison, Volume 2: 1794-1815, p.216

Considering communications from your Government on such occasions as made with a view to relieve our Merchants from the uncertainty they might otherwise be under, whether, on arriving at a given port, they would or would not find it in a state of Blockade, and be warned against entering it, the communications are received as friendly marks of attention to the commercial interests of the United States. You will pardon me for remarking, at the same time, that this is the only light in which they can be reconciled with the true principles of blockade, and the unquestionable rights of neutral commerce.

To James Monroe.

WASHINGTON, Jany 13, 1806.

Writings of Madison, Volume 2: 1794-1815, p.216

DEAR SIR,—I wrote you on the 8th instant, inclosing a pamphlet on the principle in question between this Country and Great Britain, and mentioned that it would be communicated by the President, with other documents on the subject. This will not be done, and I have written to recall the letter and pamphlets from the parts to which they were sent. If either of the copies should have gone to sea, and should reach you, be so good as to consider the whole as cancelled, and not to appear in your archives. The letter of this date, which this accompanies, is the substituted communication. I meant to have written you fully, but it is not in my power. With respect to your return, I hope you will at least postpone it till I can communicate the final sentiments of the President, which will soon be done.

Writings of Madison, Volume 2: 1794-1815, p.217

Congress have not yet taken up our British affairs, nor got through our Spanish.

To Genl Lafayette.

WASHINGTON, Feby 21, 1806.

Writings of Madison, Volume 2: 1794-1815, p.217

MY DEAR SIR,—Your favor of December 8 was duly delivered by Mr. Waddell. The one inclosed for Col. Toussard will be forwarded as soon as possible.

Writings of Madison, Volume 2: 1794-1815, p.217

It is with the sincerest regret, my excellent friend, that I find myself unable to give you such an answer as you wish, with respect to a loan here, which would meet your exigencies in the beginning of next year. Col. Toussard conferred with both Mr. Gallatin and myself on that subject, and must have communicated our anxious but unavailing deliberations on the means of effecting such an object. In truth, there is no country, where money exists at all, that is so unproductive of lenders as this. The Banks, as well from the nature of their constitution as from the critical situations into which the sudden jerks in our trade frequently throw them, make no loans, either on landed security, or for more than very short and fixed periods. Nor has Mr. Gallatin even, much less myself, any of that sort of weight with these institutions which could diminish the difficulty. And such is the demand for money to carry on the private enterprizes in commerce, and in landed property, that loans from the few individuals who have the command of money are utterly unattainable. I feel great pain in communicating such unwelcome truths; but as they unfortunately exist, it would be perfidious to suppress them. We must hope, therefore, that the state of things in Europe may be less unpropitious to your arrangements than it is found to be in this quarter.

Writings of Madison, Volume 2: 1794-1815, p.217

You already know that Mr. Du Plantier has been charged with the location of your land, and that he will be aided by Governor Claiborne in the trust. I have only now to add, that I have not yet received from either any information that is worth detailing to you. They are both full of zeal to do the most for you, and it will be reinforced by that of Col. Toussard, who, I hope, will keep you informed directly from the spot of the progress and prospect of the locations. The President writes by Mr. Skipwith, the bearer of this, and will say all that can be said as to one which has been particularly contemplated. I fear, from what Govr Claiborne tells me, that nothing can be made of the tract claimed by Marigny. I shall not fail to put him and Mr. Du Plantier on the scent of the cotton land near Point Coupe, to which your attention has been drawn.

Writings of Madison, Volume 2: 1794-1815, p.218

As Mr. Skipwith has been a considerable time among us, and proceeds immediately from the focus of our political affairs, I refer to him for every thing, except the affectionate assurance with which I remain your constant and faithful friend.

To James Monroe.

WASHINGTON, March 10th, 1806.

Writings of Madison, Volume 2: 1794-1815, p.218

DEAR SIR,—We are waiting with solicitude for the answer promised you by Lord Mulgrave early in December, and for the effect of the President's message, with the information probably transmitted from British sources here, on the Counsels of that Government. These, I presume, will have been received pretty early in January. The effect of the campaign in Germany may be greater than that of any other cause; but as we cannot foresee the course of events, and know here very imperfectly the real character of those which are passed, we can make little use of that fund of calculation. Our last accounts from the Theatre of the war are those contained in the publications in London on the 17th and 19th of December, which are less fitted to explain than to cloud the operations of the early days in that month.

Writings of Madison, Volume 2: 1794-1815, p.218

This is the 4th month since the Session of Congress commenced. Very little business, however, has been brought to a conclusion. The two subjects of most striking importance were the posture of things with Spain and Great Britain. That with Spain was the subject of a special and confidential message from the President, which followed on the heels of the general message. It intimated to Congress the ground disclosed through Armstrong for, an adjustment of the depending difficulties under the auspices of France, and was expected to have produced, without delay, a provisional appropriation analogous to that which was made for the negociation by you and Livingston. A very unexpected and elaborate opposition, however, to the purchase of an adjustment, tho' securing East as well as West Florida, spun out the question till a few days ago. And a further delay is now taking place in consequence of opposition in the Senate to Armstrong, whom, with Bowdoin, the President has nominated for the commission to treat at Paris. The opposition to Armstrong is occasioned by a very misjudged opinion given by him in the case of the ship New Jersey, and the offence and complaints which it has excited among the merchants and underwriters. As soon as a confirmation shall pass the Senate, the instructions will be forwarded by a vessel now waiting for them; and if the tide of French success should have changed the disposition which existed in September, a satisfactory, or at least an admissible result, may be hoped.

Writings of Madison, Volume 2: 1794-1815, p.219

The British case was also the subject of a special message, given in as soon as the Spanish one was finally provided for in the House of Representatives. It was accompanied by sundry documents, including your letter of the 18th October, which was noted as peculiarly confidential, and withdrawn after being read. In this case, also, the delay and deliberations have thus far been unexpectedly tedious, and are likely to continue so. For what has passed in it, I must refer you to a file of papers which will be committed to the bearer, Mr. Prentiss. Whether any and what harmonious result will succeed the discord of opinions and projects coming forward, remains to be seen. The merchants are zealous for an Extraordinary commission for the negociating experiment. In this, they are seconded by those who are averse to any legislative remedies, and by some, perhaps generally, by those who wish a negociation to be armed with legislative provisions. The President has decided nothing on this point as yet. I shall not fail to communicate his intentions as soon as they are ready for the purpose. You will of course be included in such a commission, unless it should be previously known that you will certainly not be on the ground to act under it. I need not express to you the confidence which your participation will add in the mind of the President. On the other hand, he is too much impressed with the weight which the reasons suggested in your letters may continue to have in urging your return, already so long suspended, to require a further sacrifice of what you owe to yourself and your family.

Writings of Madison, Volume 2: 1794-1815, p.220

You will find much in the newspapers with respect to Yrujo and Miranda. The case of the former fully explains itself, and no longer interests the public attention. That of the latter is still a subject of much noise and misrepresentation, and vigorous attempts are made to turn it into a battery against the administration. Miranda had the address to make certain persons at New York, among others Col. W. Smith, the Surveyor, believe that, on his visit to Washington, he had enlisted the Executive into a secret sanction of his project. They fell into the snare; and in their testimony, when examined, rehearsed the representations of Miranda as to what passed between him and the Executive. Hence the outcry against the latter as violating the law of nations against a friendly power. The truth is, that the government proceeded with the most delicate attention to its duty; on one hand keeping in view all its legal obligations to Spain, and on the other, not making themselves, by going beyond them, a party against the people of South America. I do not believe that in any instance a more unexceptionable course was ever pursued by any Government.

Writings of Madison, Volume 2: 1794-1815, p.220

We have had a most remarkably mild winter, resembling, with the exception of a very few days of vigorous cold, rather the autumn and Spring than the real season. The wheat has been in a constant state of growing, and is now as much advanced as is usual in the month of April. We have, of course, a prospect of good crops. The last crop was of good quality, but not a great one, in Virginia at least. That of Tobacco was rather short, and of inferior quality. The price of both articles is at present dull. Wheat sells from a dollar to a dollar and a quarter. Tobacco of the best quality at Richmond at about six dollars. Having not been in Orange for a year and a half, I can say the less of the state of things on your estate, which, I understand, has been farmed out. I shall, if possible, make a visit as soon as Congress adjourn.

Writings of Madison, Volume 2: 1794-1815, p.221

The President is just taken with one of his afflicting periodical headaches. We hope, from some symptoms, that it will be less severe than his former ones.

Writings of Madison, Volume 2: 1794-1815, p.221

I fear you will have considered me as a delinquent in my correspondence, but it is an appearance I could not possibly avoid. For the last year, especially the last 5 or 6 months, the weight of business has almost broken me down, and robbed me of every leisure for writing to my friends, even where public considerations, as well as private inclination, recommended it. I beg you to be assured that the privation could in no case be more sincerely regretted than it has been in yours; that I feel myself much indebted for the numerous private communications I have received from you; and that, with the united regards of Mrs. M. and myself for you and Mrs. Monroe, I remain, dear sir.

Letter from Monroe.

Private.—Triplicate.

LONDON, March 11, 1806.

Writings of Madison, Volume 2: 1794-1815, p.221

DEAR SIR,—I have seen Mr. Fox and Mr. Grey to-day, and had long conversations with each on our affairs, and have the pleasure to inform you that the sentiments which they expressed were of the most conciliating character. I cannot say that our affairs will be arranged to our satisfaction, but I have the utmost confidence that it will be the case. I ask'd Mr. Fox if he had read my notes, &c.? He said he had. Cannot we agree? He saw no reason to suppose the contrary. If you were to insist on the principle of the late decisions, you would embroil yourself with Russia. Yes, said he, and with other powers. He seemed to admit that the ground of the Russian Convention could not be opposed by G. Britain. But he added that he was not authorized to state that by any decision of the Cabinet. I have no doubt, however, that the Cabinet will be brought into it. He assured me that the business should be concluded as soon as possible, and certainly at no distant day. With Mr. Grey I conferred principally on the impressment of seamen, tho' I took occasion to give a sketch of the other; on which latter he was reserved, as I supposed, because it was not in his department. He informed me that great abuses were committed in granting protections, of which he gave me some examples, that were most shameful. He expressed, however, a very sincere desire to remedy the evil complained of on both sides, which he seemed to think a practicable thing. On the whole, I have great confidence in the opinion expressed above. The 13 Jany is the last letter which I have from you. The pamphlet is received, and will, I think, be republished here. I think it may be useful to have a sufficient number of copies struck to be put into the hands of the Ministry, and circulated among the members of Parliament. I hope that as soon as it is known that the Ministry hero has changed, our proceedings will assume a conciliating tone, and that it may even be understood that the more liberal and just character of the present one, which inspires confidence in the adoption of a system of just measures, is the cause of it. I am satisfied that such a change on our part would produce the happiest effect. Should everything fail, we shall be where we were, after giving a new proof of our disposition to conciliate. I write you in haste this private letter, to be sent by different conveyances.

Writings of Madison, Volume 2: 1794-1815, p.222

I am, dear sir, your friend and servt.

Writings of Madison, Volume 2: 1794-1815, p.222

P. S. Lord Selkirk is appointed to succeed Mr. Merry.

To James Monroe.

WASHINGTON, May 17, 1806.

Writings of Madison, Volume 2: 1794-1815, p.223

DEAR SIR, Your last favor was of March 11. The language of Mr. Fox and Mr. Grey raises very favorable prospects; but I am aware of the difficulties that may occur in settling details, as well as in defining general principles. Other members of the Cabinet may also not concur in the liberal dispositions of those gentlemen. This goes by Mr. Pinkney, who is charged with the joint commission, and instructions commensurate with its objects. The commercial one will doubtless be felt by you in all its delicacy. I need not suggest the expediency of guarding against the particular vices of that of 1794, or against others which might result from inattention. I hope the outline furnished you will be a safe guide, and that, as far as any practical information may be required in aid of your and Mr. Pinkney's general acquaintance with the course and character of our commercial relations to G. Britain, you will be able to obtain it from mercantile sources on the spot. Perhaps Mr. Jas. Maury, who must be well acquainted with the commerce between G. Britain and this Country, may be consulted with advantage on modifications which may be proposed by the adroitness of the British Government on commercial and navigation points. Mr. Pinkney has read over our correspondences with France and Spain, as well as with G. Britain; and understands particularly the objects committed to Mr. Armstrong and Mr. Bowdoin. To his information I must refer you. It will be happy, if, notwithstanding all the delays and difficulties which have so unexpectedly occurred, a final adjustment of everything should take place with Spain. According to our latest accounts, there is reason to believe that if no delay had arisen, the negociations would have come on at a most favorable moment. Much will now depend on the prospect of a peace or a continuance of war between G. Britain and those powers. The complexion, if not the issue, of your negociations will doubtless feel a like influence. Mr. Pinkney and the newspapers will best explain the state of our internal affairs. The Republicans, having lost the cement given to their union by the rivalship of the Federal party, have fallen in many places into schisms, of which the latter are taking advantage. It is to be hoped, however, that as new danger arises, it will heal the breaches which have been permitted by a state of security.

To James Monroe.

WASHINGTON, June 4, 1806.

Writings of Madison, Volume 2: 1794-1815, p.224

DEAR SIR,—With this you will receive a duplicate of the despatches taken with him by Mr. Pinkney, who sailed from Baltimore fourteen days ago; as, also, a supplemental instruction to you and him on the subject of the Indian trade, together with some other documents, particularly copies of Mr. Merry's communication and my answer on the notified blockade of the 4 German rivers. Mr. Merry communicated verbally, at the same time, the contents of a letter to him from Mr. Fox, dated April 7, in which Mr. Fox apologized for the delay in Treating with you on the subject in controversy; expressed the good will of the King towards the United States, and his wish for the establishment of friendship on solid and lasting foundations; and gave assurances that not a day would be unnecessarily lost in proceeding to the work. As a like communication has probably been made to you, we expect daily to hear from you on the subject.

Writings of Madison, Volume 2: 1794-1815, p.224

In the instruction to yourself relating to the convention of limits, it was signified as necessary to guard against a constructive relinquishment on our part of the Island of Grandmenan. I have not been able to investigate fully the several questions concerning that object. But although, in some respects, the possession of it is desirable to the United States, I doubt the propriety, under all circumstances, of suffering our claim to the Island to defeat or retard the definitive adjustment, if in other respects satisfactory. It will be well, at the same time, to go a prudent length in maintaining our claim, and, if possible, to avoid shutting the door against future discussion of it.

Writings of Madison, Volume 2: 1794-1815, p.225

I find, by the last accounts from Boston, that the Republicans have at length succeeded in getting a majority in each branch of the Legislature. In the Senate the majority is a bare one; in the House of Representatives it amounts to about fifty. Governor Strong has a hundred or two votes more than Mr. Sullivan. But it is not certain that, for want of a Constitutional majority, the election will not devolve on the Legislature. In New York the Federalists have also rather lost ground; but a violent schism exists between those of their opponents who adhere to Governor Lewis and those headed by the Clintonian family. The proportional relation between these parties does not appear to be ascertained. In general, the politics of that State are but imperfectly understood out of it.

To Pierrepont Edwards.

WASHINGTON, August 4, 1806.

Writings of Madison, Volume 2: 1794-1815, p.225

SIR,—I have received your two favors of the 30 and 31 ultimo, and am much obliged by the kind and confidential communications made in them.

Writings of Madison, Volume 2: 1794-1815, p.225

We were not inattentive to the suggestions that an improper acquittal of Smith and Ogden was to be apprehended from the course which was indicated. But it was impossible to apply a remedy without establishing a precedent objectionable in itself, and which might be turned to a more mischievous account than the case apprehended. We were aware, also, fully, of the policy in summoning the testimony from Washington; but it was thought best, on the whole, and in a permanent view, to meet it in the mode pursued, rather than to abandon our public duties, and exhibit the Heads of Departments as the sport of party management, and appearing in court, not for the sake of evidence, which it was known was irrelevant, and, therefore, could not be received, but rather to be examined as so many culprits.

Writings of Madison, Volume 2: 1794-1815, p.225-p.226

It were certainly to be wished that a fair state of the transaction, as far as the interviews of Miranda with the Executive are connected with it, could be laid before the public. It would prove, I believe, that the conduct of the latter was precisely such as became the guardians of the laws, and as was required by justice, honor, and sound policy. There is a real difficulty, however, in making such a disclosure without encountering obvious objections of different kinds, some of them apparently insuperable in their nature. The disclosure, therefore, must be left to time, which alone will do full justice to all parties. For the present, the public must be left to its candid inferences from the circumstances before it; and I cannot but believe that these will, everywhere, except the immediate theatre of the illusions, be such as they ought; nor do I think that even there the illusions will long resist the force of some of the facts brought out on the trial. It is against all experience that evidence, law, and argument, can long be borne down by such means as have been employed against them.

Examination of the British Doctrine Which Subjects to Capture a Neutral Trade not Open in Time of Peace.

A MEMOIR,

CONTAINING AN

EXAMINATION OF THE BRITISH DOCTRINE,

WHICH SUBJECTS TO CAPTURE

A NEUTRAL TRADE

NOT OPEN

IN TIME OF PEACE.

Examination of the British Doctrine

Which Subjects to Capture

A Neutral Trade not Open in Time of Peace.

Writings of Madison, Volume 2: 1794-1815, p.229

IN times of peace among all nations, their commercial intercourse is under no other restrictions than what may be imposed by their respective laws, or their mutual compacts. No one or more nations can justly control the commerce between any two or more of the others.

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When war happens between any two or more nations, a question arises, in what respect it can affect the commerce of nations not engaged in the war?

Writings of Madison, Volume 2: 1794-1815, p.229

Between the nations not engaged in the war, it is evident that the commerce cannot be affected at all by a war between others.

Writings of Madison, Volume 2: 1794-1815, p.229

As a nation not engaged in the war remains in the same relations of amity and of commercial pursuits, with each of the belligerent nations, as existed prior to the war, it would seem that the war could not affect the intercourse between the neutral and either of the belligerent nations; and that the neutral nation might treat and trade with either, or both the belligerent nations, with the same freedom as if no war had arisen between them. This, as the general rule, is sufficiently established.

Writings of Madison, Volume 2: 1794-1815, p.229

But inasmuch as the trade of a neutral nation with a belligerent nation might, in certain special cases, affect the safety of its antagonist, usage, rounded on the principle of necessity, has admitted a few exceptions to the general rule.

Writings of Madison, Volume 2: 1794-1815, p.229

Thus, all instruments of war, going into the hands of one belligerent nation, may be intercepted, on the high seas, by its adversary.

Writings of Madison, Volume 2: 1794-1815, p.230

In like manner, a neutral trade with a place actually besieged is liable to be interrupted by the besiegers.

Writings of Madison, Volume 2: 1794-1815, p.230

It is maintained also on one side, though strongly contested on the other, that the property of a nation at war, in a neutral ship, may be seized and condemned by the enemy of that nation.

Writings of Madison, Volume 2: 1794-1815, p.230

To these exceptions, Great Britain has undertaken to add another, as important as it is new. She asserts a right to intercept the trade of neutrals with her enemies, in all cases, where the trade, as it respects the ship, the cargo, or even the individual port of destination, was not as free before the war, as it is made during the war.

Writings of Madison, Volume 2: 1794-1815, p.230-p.231

In applying this doctrine, the British government and courts have not, as yet, extended it beyond the trade of neutrals on the coasts, and with the colonies of enemies. But it is manifest, that this limitation is rounded in considerations of expediency only; and that the doctrine is necessarily applicable to every other branch of neutral commerce with a belligerent nation, which was not open to the same nation in time of peace. It might indeed with equal reason be extended farther. It might be applied to the case of a trade legally permitted to foreign nations in time of peace, but not actually carried on by them in time of peace; because in time of peace actually carried on by the nation itself; and which is taken up by foreign nations in time of war only, in consequence of the war, which, by increasing the risk or by finding other employment for the vessels and seamen of the nation itself, invites neutral traders into the deserted channels. In both cases, the neutral intervention may be said to result from the pressure of the war; and in both cases, the effect is the same to the belligerent; since in both, neutrals carry on for him, a trade auxiliary to his prosperity and his revenue, which he could no longer carry on for himself; and which at the same time, by liberating his naval faculties for the purposes of war, enables him to carry on the war, with more vigor and effect. These inferences cannot be impaired by any sound distinction, between a trade of foreigners with colonies, and a trade of foreigners with the ports of the mother country. Colonies, more especially when they are altogether subject to the same authority which governs the parent state, are integral parts of the same dominion or empire. A trade, therefore, between a colonial port and a port of the parent or principal State, is precisely of the same nature with a trade between one and another port of the latter: and a trade between a colony and a foreign port is, in like manner, precisely the same with the trade between a foreign port and the parent country; which is only a more considerable, as a colony may be a less considerable, part of the same country or empire. Previous to the late political union of Ireland with Great Britain, the relation between those two islands was strictly analogous to the relation between Great Britain and the West Indies. Was any difference ever entertained between a coasting trade from a British to a British port, and a trade from a British to an Irish port? or between a trade from a foreign port to an Irish port, and a trade from a foreign to a British port? In the nature of things, and in the eye of foreign nations, the cases were the same. If any difference existed, it was merely circumstantial, such as may be incident to all cases essentially the same; or merely municipal, such as may result from those regulations of trade, which all sovereigns have an acknowledged right to make. It would not be unfair, therefore, in examining the doctrine asserted by Great Britain, to view it in the whole extent of which it is susceptible. But the latitude in which it is avowed, and carried into operation, sufficiently demands the serious attention of all nations; but more than any, that of the United States, whose commerce more than any is the victim to this belligerent pretension. To prepare the way for this examination, several remarks are to be premised.

Writings of Madison, Volume 2: 1794-1815, p.231

First. The general rule being, that the trade between a neutral and belligerent nation is as free as if the latter were at peace with all nations, and the cases in which it is not as free being exceptions to the general rule, the exceptions, according to a received maxim of interpretation, are to be taken strictly, against those claiming the benefit of the exceptions, and favorably for those claiming the benefit of the general rule.

Writings of Madison, Volume 2: 1794-1815, p.232

Secondly. The exceptions being rounded on a principle of necessity, in opposition to ordinary right, the necessity ought to be evident and urgent. In proportion as the necessity may be doubtful, and still more, in proportion as the sacrifice of neutral interests would exceed the advantage to the belligerent, the exception fails.

Writings of Madison, Volume 2: 1794-1815, p.232

Thirdly. The progress of the law of nations, under the influence of science and humanity, is mitigating the evils of war, and diminishing the motives to it, by favoring the rights of those remaining at peace, rather than of those who enter into war. Not only are the laws of war tempered between the parties at war, but much also in relation to those at peace.

Writings of Madison, Volume 2: 1794-1815, p.232

Repeating then, that every belligerent right to controul neutral commerce must, as an exception to the general freedom of commerce, be positively and strictly proved, and the more strictly, as the exceptions are in a course of restriction rather than extension, the question is ready for examination, whether it be a part of the law of nations, that a trade ordinarily shut in time of peace, and opened to neutrals in time of war, on account of the war, is liable, as much as a trade in contraband of war or with a blockaded port, to capture and condemnation.

Writings of Madison, Volume 2: 1794-1815, p.232

It will not be overlooked, that the principle, as thus laid down, does not extend to any of the cases, where a new trade, though opened during a war, is not opened on account of the war, but on considerations which would produce the same measure, if no war existed: from which follows another important observation, that talking into view the probable occurrence of such considerations, the still greater probability of a mixture of such with considerations derived from the war, the impossibility of distinguishing the proportion of these different ingredients in the mixture, with the evident disadvantage of rendering more complicated, instead of simplifying, a rule of conduct between independent nations, to be expounded and enforced by one of the parties themselves, it would seem to require no great effort of candor, to acknowledge the powerful objection in practice, to such a principle, were it really embraced by the most specious theory.

Writings of Madison, Volume 2: 1794-1815, p.233

But without dwelling on this view of the subject, however just in itself, the principle in question will be tried:

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FIRST—by the writings most generally received as the depositaries and oracles of the law of nations;

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SECONDLY—by the evidence of treaties;

Writings of Madison, Volume 2: 1794-1815, p.233

THIRDLY—by the judgment of nations, other than Great Britain;

Writings of Madison, Volume 2: 1794-1815, p.233

FOURTHLY—by the conduct of Great Britain herself;

Writings of Madison, Volume 2: 1794-1815, p.233

FIFTHLY—by the reasoning employed in favor of the principle.

Writings of Madison, Volume 2: 1794-1815, p.233

First. The written authorities on this subject.

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It cannot be necessary to examine the historical fragments which have been gleaned by modern authors, as evidence of the usage and tenets of the civilized nations of antiquity. The great change which has taken place in the state of manners, in the maxims of war, and in the course of commerce, make it pretty certain, that either nothing would be found relating to the question, or nothing sufficiently applicable, to deserve attention in deciding it. There is but little hazard in saying, that in none of the learned collections, is a single fact presented, which countenances the British pretension; or even shews, that a single ancient nation asserted or acted on it.

Writings of Madison, Volume 2: 1794-1815, p.233

On a cursory review of the naval laws of Rhodes, of Oleron, of Wisbuy, and of the Hanse Towns, they appear to be perfectly barren of information. They are confined to subjects within the law-merchant, taking no notice of questions between nations; and are no further binding on particular nations, than [as] they may be respectively adopted into their municipal codes.

Writings of Madison, Volume 2: 1794-1815, p.233

The ancient compilation under the title of Conselato del Mare, a work of great authority with British jurists, has two chapters which treat particularly of captures and recaptures. They do not, however, touch any cases but those where either the ship or the cargo, in whole or in part, might be enemy's property; and consequently are inapplicable to the case under examination.\*

Writings of Madison, Volume 2: 1794-1815, p.234

Descending to more modern times, the first authority which offers itself, is the work of Albericus Gentilis.

Writings of Madison, Volume 2: 1794-1815, p.234

He was the immediate precursor of Grotius, and has the merit of preparing the way for the great work supplied by the genius and erudition of the latter. Gentills being so soon eclipsed by a superior authority, is but little known beyond a few occasional citations, which, as far as they may not coincide with the doctrines of Grotius, are, for the most part, superseded by them.

Writings of Madison, Volume 2: 1794-1815, p.234

Grotius is not unjustly considered, as in some respects, the father of the modern code of nations. Great, however, as his authority deservedly may be, it yields, in a variety of instances, to that of later jurists; who, to all the lights furnished by this luminary, have added those derived from their own sources, and from the improvements made in the intercourse and happiness of nations.

Writings of Madison, Volume 2: 1794-1815, p.234

On the relations between belligerent and neutral nations, Grotius has but a single, and that a short chapter, (B. III, Ch. 17,) with three short sections, Ch. 1, sec. 5, of the same book with a note, and B. II, Ch. 2, sec. 10, and B. III, Ch. 6, sec. 6, with a note.\* The chapter begins with the following paragraph:

Writings of Madison, Volume 2: 1794-1815, p.234

"It may seem needless for us to treat of those that are not engaged in war, when it is manifest that the right of war cannot affect them: but because upon occasion of war, many things are done against them on pretence of necessity; it may be proper here briefly to repeat what we have already mentioned\* before, that the necessity must be really extreme, to give any right to another's goods: that it is requisite that the proprietor be not himself in the like necessity. When real necessity urges us to take, we should then take no more than what it requires; that is, if the bare keeping of it be enough, we ought to leave the use of it to the proprietor; and if the use be necessary, we ought not to consume it; and if we cannot help consuming it, we ought to return the full value of it."

Writings of Madison, Volume 2: 1794-1815, p.235

Having illustrated this exemption of neutral property from the effect of war between others, with the sole exception of cases of extreme necessity, by a train of examples, he proceeds to lay down the duty of neutrals towards the belligerent parties, as follows:

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"On the other side it is the duty of those who are not engaged in the war, to sit still and do nothing that may strengthen him that prosecutes an ill cause or to hinder the motions of him that hath justice on his side, as we have said before. [Ch. 1, of this B., sec. 5.] But in a dubious cause to behave themselves alike to both parties; as in suffering them to pass through their country, in supplying them with provisions, and in not relieving the besieged." In illustration of the impartiality here enjoined, a number of instances are specified in the sequel of the chapter and the notes.

Writings of Madison, Volume 2: 1794-1815, p.235

The 5th section of chapter 1, above referred to, makes up the whole of what Grotius teaches on this branch of the subject. As it is more definite and particular than the other extracts, the insertion of it, though of greater length, will be proper.

\*"Here also there uses to arise another question, what we may lawfully do to those who are not our enemies, nor are willing to be thought so, and yet supply our enemies with certain things. There have been formerly, and still are great disputes about this matter, some contending for the rigors [\* of the laws] of war, and others for a freedom of commerce.

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"But first we must distinguish between the things themselves. For there are some things which are of use only in war, as arms, &c. Some that are of no use in war, as those that serve only for pleasure; and lastly, there are some things that are useful both in peace and war, as money, provisions, ships, and naval stores. Concerning the first (things useful only in war) it is true what Amalasuintha said to the Emperor Justinian, he is to be reputed as siding with the enemy, who supplies him with things necessary for war. As to the second sort of things [for pleasure only, of which sort he gives examples from Seneca] there is no just cause of complaint.

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"As to the third sort of things, that are useful at all times, we must distinguish the present state of the war. For if I cannot defend myself without interrupting those things that are sent to my enemy, necessity\* (as I said before) will give me a good right to them, but upon condition of restitution, unless I have just cause to the contrary. But if the supply sent hinder the execution of my designs, and the sender might have known as much; as if I have besieged a town or blocked up a port, and thereupon I quickly expect a surrender, or a peace, that sender is obliged to make me satisfaction for the damage that I suffer upon his account, as much as he that shall take a prisoner out of custody that was committed for a just debt, or helps him to make his escape, in order to cheat me; and proportionably to my loss I may seize on his goods and take them as my own, for recovering what he owes me. If he did not actually do me any damage, but only designed it, then have I a right, by detaining those supplies, to oblige him to give me security for the future, by pledges, hostages, or the like. But further, if the wrongs, done to me by the enemy, be openly unjust, and he, by those supplies, puts him in a condition to maintain his unjust war, then shall he not only be obliged to repair my loss, but also be treated as a criminal, as one that rescues a notorious convict out of the hands of justice; and in this case it shall be lawful for me to deal with him agreeably to his offence, according to those rules which we have set down for punishments; and for that purpose I may deprive him even of his goods."

Writings of Madison, Volume 2: 1794-1815, p.238

The following extracts explain the principles of Cretins on the cases, where the property of an enemy is found in a neutral ship, or neutral property in a belligerent ship.

Writings of Madison, Volume 2: 1794-1815, p.238

In a note to B. III, Ch. 1, sec. 5, Cretins cites the Consolato del Mare for the doctrine that enemy's property might be taken in neutral ships, but that the ship of an enemy did not affect the neutral cargo, nor the cargo of an enemy, the neutral ship. The residue of this long note recites and disapproves the attempts of Great Britain, France and other nations, to prohibit altogether the trade of neutrals with their enemies.

\*B. III, Ch. 6, sec. 6: "Wherefore the common saying, that goods found in our enemies' ships are reputed theirs, is not so to be understood, as if it were a constant and invariable law of the right of nations; but a maxim, the sense of which amounts only to this, that it is commonly presumed, in such a case, the whole belongs to one and the same master; a presumption, however, which, by evident proofs to the contrary, may be taken off. And so it was formerly adjudged in Holland, in a full assembly of the sovereign court during the war with the Hanse Towns in 1333, and from thence hath passed into a law."

Writings of Madison, Volume 2: 1794-1815, p.239

In a note to this section, Grotius adds:\* "Neither do the ships of friends become lawful prize on the account of the enemies' goods; unless it is done by the consent of the owner of the ship;" referring in this case to the authority of several writers, and the practice of several nations.

Writings of Madison, Volume 2: 1794-1815, p.239

The spirit of these passages, taken altogether, can leave no doubt, as to the side on which the authority of Cretins is to be placed.

Writings of Madison, Volume 2: 1794-1815, p.239

In the first place he expressly limits the general right of war against the property of neutrals, to cases of that evident and extreme necessity, which must always make a law for itself whenever it exists, but which can never be applied to the cases falling within the belligerent claim asserted by Great Britain.

Writings of Madison, Volume 2: 1794-1815, p.239

In the next place he particularly limits to the case of a necessity of self-defence, the right of intercepting neutral supplies, even to a blockaded or besieged place; and makes it a condition, moreover, that a surrender of the place, or a peace, be quickly expected as the effect of the blockade.

Writings of Madison, Volume 2: 1794-1815, p.239

In the third place it is to be observed, that as in these passages, Grotius has taken express notice of the several questions of contraband, of blockades, and of the carriage of enemy's property, which formed all his exceptions to the freedom of neutral commerce; his silence with respect to the British exception is an abundant proof, that this last had either never been then asserted, or that he considered it so manifestly groundless as not to merit notice.

Writings of Madison, Volume 2: 1794-1815, p.239

This is, in fact, the material inference to be drawn from the review here taken of this celebrated jurist: and for the sake of this inference principally, the review has been made thus full and minute; for it must be admitted, that in general his ideas are much less precise and satisfactory than those which are to be found in succeeding authorities. In distinguishing wars, by their justice or injustice, on which neutrals have no right to decide; in not distinguishing between supplies, as they may be sold only or sent; or as they may be sent by a government, or by private persons; nor sufficiently distinguishing between the right of a belligerent to prevent supplies by intercepting them, and the right to do so, by punishing the offenders; he gives a proof that his work is more to be admired for the novelty and magnitude of the undertaking, than for the accuracy of its doctrines and definitions.

Writings of Madison, Volume 2: 1794-1815, p.240

Pufendorf, who may next be consulted, contents himself with a simple reference to Grotius on the question—" How they are to be dealt with, who supply the enemy with what he wants."

Writings of Madison, Volume 2: 1794-1815, p.240

In a note by Barbeyrac on this reference to Grotius, he himself refers to a letter from Pufendorf to Groningius, as conveying the judgment of Pufendorf with respect to the question "whether we may hinder neutral nations from trading during the war with the enemy." Groningius, it seems, having consulted Pufendorf on a treatise he had planned upon "free navigation," received the following answer; which, having undergone much discussion, and as found in the English translation, seeming to glance at the British principle of intercepting a commerce opened to neutrals in time of war, is copied at full length, and receives an attention Which would not otherwise be bestowed on it:

Writings of Madison, Volume 2: 1794-1815, p.240-p.241

"The work, sir, that you have in view, relating to the liberty of navigation, excites my curiosity. It is a curious subject, and what no person as yet, that I know of, has particularly handled. I very much however fear, if I may judge from your letter, that you will find people who will dispute your notions. The question is, certainly, one of those which have not yet been settled upon any clear or undeniable principles; so as to afford a general rule to mankind. In all the examples brought upon this subject, there is a mixture of right and fact. Each nation usually allows or forbids the maritime commerce of neutral people with its enemy, either according as it is its interest to preserve the friendship of those people, or it finds itself strong enough to obtain from them what it requires. For example, the English and Dutch may say, without absurdity, that it is lawful for them to do all the ill they can to the French, with whom they are at war; and consequently to employ the method the most proper to weaken them, which is to traverse and ruin their trade. They say it is not reasonable that neutral nations should enrich themselves at their expence; and by engrossing to themselves a commerce which the English and Dutch want, furnish the French with money to continue the war. This seems the rather just, because England and Holland commonly favor the trade of neutral nations, by suffering them to transport and sell in foreign markets merchandizes of their own growth and manufacture. In short, they say that they are willing to leave them the trade they usually carry on in time of peace; but they cannot see them take advantage of the war, to extend their commerce to the prejudice of England and Holland. But as this matter of trade and navigation does not so much depend upon rules founded on a general law, as upon conventions made between particular nations; so in order to form a solid judgment of the point in question, we ought previously to examine what treaties subsist between the northern crowns and England and Holland; and whether these last powers have offered the former just and reasonable conditions. On the other hand, nevertheless, if the northern princes can maintain their trade with France, by sending strong convoys with their fleets, I see nothing to blame in it, provided their vessels do not carry contraband goods. The laws of humanity and equity between nations do not extend so far as to require, without any apparent necessity, that one people should give up its profit in favor of another. But as the avarice of merchants is so great that for the smallest gain they make no scruple of exceeding the just bounds of commerce; so nations that are at war may certainly visit neutral ships, and, if they find prohibited goods on board, have a full right to confiscate them. Besides I am no way surprised that the northern crowns have a greater regard to the general interest of Europe, than to the complaints of some greedy merchants who care not how matters go, provided they can satisfy their thirst of gain. These princes wisely judge that it is not at all convenient for them to take precipitate measures, while other nations unite all their forces to reduce within bounds an insolent and exorbitant power, which threatens Europe with slavery, and the Protestant religion with destruction. This being the interest of the northern crowns, it is neither just nor necessary, that for a present advantage, they should interrupt so salutary a design, especially as they are at no expence in the affair and run no hazard," &c.

Writings of Madison, Volume 2: 1794-1815, p.242

Without knowing more of the plan of "free navigation" espoused by Groningius, it is not easy to understand precisely the sentiments of Pufendorf on the subject. It deserves to be remarked, however, that, in the argument on the belligerent side, he states not what he thought, but what they said. On the neutral side he expresses his own opinion: "On the other hand, nevertheless, if the northern princes can maintain their trade by sending strong convoys with their fleets, I see nothing to blame in it, provided their vessels do not carry contraband goods."

Writings of Madison, Volume 2: 1794-1815, p.242

But what is most material to be observed is, that the expression, "that they (the belligerent nations) are willing to leave them (the neutrals) the trade they usually carry on in time of peace; but that they cannot see them take advantage of the war to extend their commerce to the prejudice of England and Holland," cannot possibly refer to the British distinction between a trade usually permitted in peace, and a trade permitted only in war. Such a construction, by no means countenanced either by the general tenor of the letter, or the commercial history of the period, is absolutely precluded by the preceding sentence. "They say, qu'il n'est pas just que les peuples neutres s'enrichissent à leurs depens, et en attirant â eux un commerce inter-rompupour l'Angleterre et la Holland, fouruissent à la France des secours, &c." The English translation of this sentence is equivocal, if not false. The true meaning of it is, that it was not deemed just that neutrals should enrich themselves by entering into a commerce interrupted, for England and Holland, by the war. The commerce in question, therefore, was not a commerce opened to neutrals during the war; but a commerce which England and Holland had carried on with France previous to the war, which the war had shut against them, and which they did not like to see transferred to commercial competitors remaining at peace.\*

Writings of Madison, Volume 2: 1794-1815, p.243

Pufendorf, then, not derogating in this explanation of his sentiments, from his reference to Grotius for the law of nations concerning neutral rights and duties, but rather strengthening the neutral rights asserted by Grotius, must be placed in the same scale in which Grotius has been placed.

Writings of Madison, Volume 2: 1794-1815, p.243

Bynkershoeck is the authority next in order of time. He treats the subject of belligerent and neutral relations with more attention, and explains his ideas with more precision, than any of his predecessors.

Writings of Madison, Volume 2: 1794-1815, p.243

His 9th chapter is professedly on the question,\* "what neutrals may or may not do, during a war between other nations." After stating, hypothetically, an unlimited claim, on the neutral side, to trade with belligerents, in every thing, as if there was no war; rejecting the distinction made by Grotius between a just and unjust war; and urging the duty of impartiality towards those engaged in it, he proceeds to observe,\* "that the enemies of our friends are to be viewed in a two-fold character; either as our friends, or the enemies of our friends. If you consider them as friends, it would be lawful to aid them with our counsel, and to succor them with military forces, with arms, and with all other things whatsoever useful in war. But, inasmuch as they are the enemies of our friends, that cannot lawfully be done by us; because we should, in so doing, prefer one to another in the war, contrary to the equality of friendship, which is of primary obligation. It is better to preserve friendship with both, than, by favoring one in the war, to renounce tacitly the friendship of the other.

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"And, indeed, what I have just said is taught not only by reason, but also by the usage received among almost all nations. For although the commerce with the enemy of our friends be free, it is agreeable to usage, as in the next chapter I shall show more at large, that we should assist neither one nor another, with those things which may furnish and foment the war against our friends. It is not lawful, therefore, to carry to either, those things which are needful in making war; as are cannon, arms, and what are of principal use in war, soldiers; who are also excepted by various treaties between nations: materials for ships are also sometimes excepted, where an enemy is in absolute want of them for building ships to be employed against our friends. Provisions even, are often excepted, when an enemy is pressed by the siege of our friends, or is otherwise labouring under the want of food. On the best ground, therefore, are we interdicted to supply any of these things to belligerents; because by these things we should, in a manner, appear to make war ourselves on our friends. If, therefore, we consider belligerents, simply, in the light of friends, we may rightfully carry on commerce with them, and send them merchandizes of whatever kind; if we consider them as the enemies of our friends, merchandizes are to be excepted, which, in war, might annoy our friends; and this consideration prevails over the former one; for in whatever manner we succour one against the other, we take part in the war, which would be incompatible with the preservation of friendship."

Writings of Madison, Volume 2: 1794-1815, p.245

Thus far the doctrine of this jurist cannot be mistaken. He lays it down as a general rule, that the trade of neutrals with the nations at war, provided it be impartial, is as if there were no war; but that certain articles, as instruments of war, form an exception to this general rule; to which he suggests as a further exception, the case of a siege, or of a similar pressure of famine. It cannot be pretended that there is either a single general expression, or particular allusion, that can be tortured into an exception of any trade, merely for the British reason, that it was not open to neutrals before, as well as during, the war.

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The residue of the chapter is chiefly employed in discussing the legality and construction of treaties of succour and subsidy, between a nation at peace and nations at war; after which he proceeds to the tenth chapter, in which he treats of the list of contraband, with several questions incident to it. His doctrine here, the same precisely as in the preceding chapter, is laid down in the following words:\* "The rule, confirmed almost invariably by treaties is, that neutrals are not to carry contraband articles to our enemies. If they carry them and are intercepted, they incur a forfeiture. But with the exception of these articles, they trade freely both backward and forward; and carry with impunity, all other articles whatever to the enemy."

Writings of Madison, Volume 2: 1794-1815, p.246

That under the term contraband, he could mean to class so vague and novel a description of trade, as that which distinguishes between commercial regulations, as existing before the war, and as made in the course of the war, is rendered the more impossible, by the definition given of contraband:\* "Hence by contraband, are to be understood, things which in their actual state are adapted to war; without considering whether apart from war, they may also be of use; there being few instruments of war, which may not be used for other purposes." For this he gives as a just reason, that\* "if you prohibit every material out of which any thing may be formed for warlike use, great would be the catalogue of prohibited articles; since there is scarcely any material, out of which something at least, adapted to war may not be fabricated."

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In the ensuing chapter, he treats of the case of sieges and blockades, as an exception to the freedom of neutral character.

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In the 11th chapter, he examines the question, "whether the contraband character of a part of the cargo, can affect the residue of the cargo or the ship;" with several other questions incident to such mixed cases.

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Chapter 13th relates to neutral property in the ships of an enemy; which he exempts from confiscation. His positions on this subject shew how much the turn of his judgment must have been adverse to any such restrictions on neutral commerce, as that instituted by Great Britain.\* "According to reason, a right of that sort [to confiscate neutral property in a belligerent vessel] cannot be defended; for why may I not be allowed to use the ship of my friend, though your enemy, in transporting my merchandize? When treaties do not prohibit, I have a right, as I said above, to carry on commerce with your enemy; and if this be lawful, it is also lawful to enter into any contracts whatever with him; to buy, to sell, to let, to hire, &c. Wherefore, if I shall have engaged his ship and his service to transport my effects by sea, it was a transaction on every principle lawful. You, as his enemy, may take his ship; but with what right can you take what belongs to me, that is, to your friend ? If, indeed, I prove them to be mine; otherwise I agree with Grotius, that there is some room for presuming things found in the ship of an enemy, to be enemy's property."

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Finally, in his 14th chapter, he treats the case of enemy's effects in neutral vessels; deciding with Grotius and others, that the neutrality of the ship does not protect the cargo from capture and condemnation. He consequently makes this case also an exception to the general freedom of neutral commerce, in favor of belligerent privileges.

Writings of Madison, Volume 2: 1794-1815, p.247-p.248

From this distinct and full view of the sentiments of Bynkershoeck, it is clear, that the whole weight of his authority is opposed to the principle advanced by Great Britain. He is the first writer who seems to have entered into a critical and systematic exposition of the law of nations, on the subject of maritime commerce between neutral and belligerent nations; and the plan which he adopted was well calculated to do justice to the subject. Instead of undertaking, after the example of Grotius and Pufendorf, an entire code of public law, he selected for a more thorough discussion, the particular questions which were deemed most important, and most frequent in the transactions and intercourse of modern nations. Among these, he very properly classed the question of neutral commerce, and bestowed on it, the formal investigation which we have seen. He begins with the general question, how far a war between two nations can affect the rights, particularly the commercial rights, of a nation at peace with both, deciding in favor of neutral nations, that their commerce remains free as a general rule; and in favor of belligerent nations, that in certain cases, exceptions to that general freedom are prescribed by the principle of self-defence. He goes on then to examine the several cases which had been allowed or claimed, as exceptions. He establishes the belligerent right to intercept articles on the list of contraband. He establishes also the right to controul supplies to places besieged or blockaded. He concurs in the doctrine, that the flag of a friend does not protect the property of an enemy. He discusses the claim, maintained by some, to confiscate the property of a friend under the flag of an enemy, which he disproves. He discusses, moreover, several other minor questions, which were incident to the main subject. He appears, in short, to have taken a comprehensive view of the commercial relations between neutral and belligerent nations; and to have omitted no question, belonging to those relations, which was of sufficient importance to deserve his attention. And yet, it appears, that he has not even glanced at the question, "whether a neutral commerce, in articles not contraband, nor going to a besieged or blockaded place, was unlawful, for the reason that the belligerent party had been induced by the war, to new-model its commercial regulations." Does it not necessarily and undeniably follow, either that no such pretension had, at that period, ever been started, or that it had received no countenance, which could entitle it to notice? It is impossible to conceive that a question of such magnitude could be otherwise passed over, by a pen which dwelt with such minute attention on questions less nearly allied to the main subject.

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The authority of Bynkershoeck, in this case, ought to have the greater weight with Great Britain, because, in other cases, so much weight is claimed for it, by the champions of her favorite doctrines.

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The reputation which Vattel enjoys in Great Britain, greater perhaps than he enjoys any where else, requires that he should be particularly consulted on this subject. The work of Vattel unquestionably possesses great merit; not so much, indeed, for the originality of his plan, or his matter, which he admits to have been derived from Wolf; as for the agreeable dress which he has given to the dry treatise of his prototype, and for the liberal spirit which has, in many instances, improved the doctrines of all his predecessors. Vattel is, however, justly charged with failing too much in the merit of a careful discrimination; and sometimes with delivering maxims, which he either could not reconcile, or does not take pains to explain. In the chapter on neutrality (B. III, Ch. 7,) he might perhaps have been more exact in his definitions, and more lucid in the order of his ideas. His meaning, nevertheless, is, on the whole, sufficiently clear, and arranges him beyond all controversy, with Grotius, Pufendorf, and Bynkershoeck, in opposition to the doctrine under consideration.

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As the basis of the true doctrine, on the subject of neutral commerce, he lays down these principles:

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That a neutral nation is bound to an exact impartiality;

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That this impartiality relates solely to the war;

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That it includes two obligations: the first forbidding succours in troops, not stipulated before the war, arms, ammunition, or any thing of direct use in the war; the second, requiring that in whatever does not relate to the war, one of the parties must not be refused, on account of its present quarrel, what is granted to the other. He observes "that this does not trespass on the liberty of the neutral nation, in negotiations, connexions of friendship, or its trade, to govern itself by what is most advantageous to the State. When this consideration induces it to preferences in things of which every one has the free disposal, it only makes use of its right, and is not chargeable with partiality. But to refuse any one of these things, to one of the parties, purely as being at war with the other, and for favoring the latter, would be departing from an exact neutrality."

Writings of Madison, Volume 2: 1794-1815, p.250

Having laid this foundation, and recommended to nations, intending, as they have a right, to remain neutral, that they should secure their neutrality by treaties for the purpose, he proceeds to state more particularly—

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1st. "That whatever a nation does in use of its own rights, and solely with a view to its own good, without partiality, without a design of favoring one power to the prejudice of another, cannot, in general, be considered as contrary to neutrality; and becomes such, only upon particular occasions, when it cannot take place without injury to one of the parties, who has then a particular right to oppose it. Thus, the besieger has a right to prohibit access to the place besieged. Exclusively of this kind of cases, the quarrels of another cannot deprive me of the free disposal of my rights in the pursuit of measures which I judge advantageous to my country." Hence he infers a right to permit, in certain cases, levies of troops to one of the parties, and to deny it to the other, where there may be good reason for the distinction; and where it is the custom, as among the Swiss, to grant levies; and, consequently, where the custom would of itself be a proof that the grant was not the effect of partiality in relation to the war. He asserts, in like manner, for the sovereign, as well as private citizens, in the habit of lending money at interest, the right to lend it to one of the parties at war, "who may possess their confidence, without lending it to the other;" observing, that "whilst it appears that this nation lends out its money purposely for improving it by interest, it is at liberty to dispose of it according to its own discretion, and I have no reason to complain. But if the loan be manifestly for enabling the enemy to attack me, this would be concurring in the war against me." He applies the same remark to the case of troops furnished to an enemy, by the State itself, at its own expence; and of money lent without interest: adding, at the same time, as a further instance of neutral rights, that if a nation trades in arms, timber, ships, military stores, &c., I cannot take it amiss that it sells such things to my enemy, provided it does not refuse to sell them to me also. It carries on its trade without any design of injuring me, and in continuing it, the same as if I was not engaged in war, that nation gives me no just cause of complaint.

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Making, thus, impartiality the test of lawfulness in the conduct of neutrals, and the mere pursuit of their own interest, without a design to injure any of the belligerents, the test of impartiality, he enters more particularly on the discussion of the active trade which neutral nations carry on with those at war.

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"It is certain," he says, "that, as they [neutrals] have no part in my quarrel, they are under no obligation to abandon their trade that they may avoid furnishing my enemy with the means of making war. Should they make it a point\* not to sell to me any of these articles, whilst they take measures for transporting great quantities of them to my enemy, with a manifest intention of favouring him, such a partiality would exclude them from the neutrality they enjoyed. But if they simply pursue their commerce\* [suivre tout uniment leur commerce] they do not thereby declare themselves against my interest; they only exercise a right, which they are under no obligation of sacrificing to me."

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The general freedom of neutral commerce, being thus asserted, the writer goes on to lay down the exceptions which war makes to it.

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"On the other hand, whenever I am at war with a nation, both my safety and welfare prompt me to deprive it as much as possible of every thing which may enable it to resist or hurt me. Here the law of necessity shews its force. If this law warrants me on occasion to seize what belongs to another, shall it not likewise warrant me to stop every thing relative to war, which neutral nations are carrying to my enemy? Even if I should, by taking such measures, render all these neutral nations my enemies, I had better run the hazard than suffer him who is actually at war to be thus freely supplied to the great increase of his power. It is therefore very proper and very suitable to the law of nations which disapproves of multiplying the causes of war, not to consider those seizures of the goods of neutral nations as acts of hostility. When I have notified to them my declaration of war against such or such a people, if they will afterwards run the risk of supplying them with things relative to war, let them not complain if their goods fall into my hands, for I do not declare war against them, because they attempted to carry such goods. They suffer indeed by a war in which they have no concern, but it is accidentally. I do not oppose their right, I only make use of my own, and if our rights clash, and reciprocally injure each other, it flows from the effect of inevitable necessity," &c.

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"But that limits may be set to these inconveniences; that the commerce of neutral nations may subsist in all the freedom which the laws of war will admit, there are rules to be observed, and on which Europe seems to be generally agreed."

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What are the rules which fix these limits?

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"The first is carefully to distinguish common goods which have no relation to war, from those peculiarly subservient to it. In the trade of the former neutral nations are to enjoy an entire liberty, the parties at war cannot with any reason deny it, or hinder the importation of such goods into the enemy's country," &c. He observes that the goods here referred to, as having relation to war, are those called contraband, of which he gives a description; proceeding thence to shew how far they are subject to confiscation, and to infer from the right of confiscation the right of search on the high seas.

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He next mentions, as a limit to the freedom of neutral commerce, that the effects of an enemy found in a neutral ship are subject to capture; deciding otherwise as to neutral effects on board an enemy's ship, which some nations had been in the practice of capturing.

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He specifies, as his last limit or exception to the general freedom of neutral commerce, the belligerent right to prohibit all commerce with a place besieged or blockaded; closing the discussion of this particular subject with an emphatic deduction in these words—"A neutral nation continues with the two parties at war, in the several relations which nature has placed between nations. It is ready to perform towards them both all the duties of humanity reciprocally due from nation to nation. It is in every thing not directly relating to war to give them all the assistance in its power, and of which they may stand in need. But this assistance is to be given with impartiality, that is, in not refusing to one of the parties any thing on account of his being at war with the other. This does not hinder a neutral State having particular connections of friendship and good neighborhood with one of the parties at war, from granting him in whatever does not relate to military transactions the preference due to friends: much more may he without giving offence continue to him, for instance in commerce, such indulgencies as have been stipulated in their treaties, &c."

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We see then that the authority of Vattel coincides perfectly with the preceding authorities, more especially that of Bynkershoeck, in establishing the general freedom of neutral commerce, with the exception of things relating to the war, and in limiting this exception to the several cases of supplying the enemy with military contraband, of trading with places besieged or blockaded, and of carrying enemy's property.

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Perhaps this author, not remarkable as already intimated for well-defined ideas, has in no particular branch of his work left less room for mistaking or perverting his meaning.

Writings of Madison, Volume 2: 1794-1815, p.254

It would be improper not to add Martens to the authorities, who ought to be heard on this question. Martens was a professor of law in a Hanoverian University, with a salary from the King of Great Britain as Elector of Hanover, and has distinguished himself by several publications, which demonstrate his critical judgment of the law of nations, and the extent of his researches in order to verify and elucidate it. His SUMMARY of this law is a work which was received by the public with a due portion of that respect which constituted his predecessors authentic depositaries and expositors of the code, by which the society of nations ought to be governed. We find him accordingly on the same shelf already with Grotius, Pufendorf, Bynkershoeck, and Vattel. In Great Britain indeed, notwithstanding his being a subject of her sovereign, and a professor under his patronage, the doctrine he teaches on the question whether free ships make free cargoes, has drawn on him the censure of the zealous advocates for the side taken by Great Britain on that question. In opposing, however, a favorite doctrine of that nation, under the relation in which he stood to it, he gave a proof of integrity and independence, which justly inspire the greater esteem for his character, at the same time that they give the greater weight to his opinions. Even there, however, his censors have done justice to his eminent talents, and been ready to avail themselves of his authority in cases where it supported British principles and interests.

Writings of Madison, Volume 2: 1794-1815, p.254

On the present subject the authority of Martens is clear and full.

Writings of Madison, Volume 2: 1794-1815, p.254

He speaks first of neutral commerce according to the universal law of nations, and next of the modern law of nations with respect to neutral commerce, and its freedom, as acknowledged by the powers of Europe.

Writings of Madison, Volume 2: 1794-1815, p.254

The first he lays down as follows: "The right that a nation enjoys in time of peace of selling and carrying all sorts of merchandize to every nation who chooses to trade with it, it enjoys also in time of war, provided that it remains neuter." He admits at the same time that necessity may authorize a power at war to hinder the conveyance of warlike stores to its enemies, so far as to sequester them till the end of the war, or to take them at their full value for his own use.\* He admits again that the power at war may prohibit all commerce with such places "as he is able to keep so blocked up as to prevent any foreigner from entering." But he maintains that "since a belligerent power cannot exercise hostilities in a neutral place, nor confiscate property belonging to neutral subjects, such power ought not to confiscate the goods of an enemy found in a neutral vessel navigating on a free or neutral sea, nor neutral goods found in the vessel of an enemy: provided, however, in both cases that these goods are not warlike stores."

Writings of Madison, Volume 2: 1794-1815, p.255

In explaining what he styles the modern law of nations with respect to neutral commerce, and its liberty as acknowledged by the powers of Europe, he states it "as generally acknowledged that a neutral power ought not to transport to either of the belligerent powers merchandizes unequivocally intended for warlike purposes, that treaties have at some times swelled out this list with articles not evidently and unequivocally intended for such purposes; at others have expressly declared these not to be contraband, and that this last ought to be presumed to be the case between powers having no treaties on the subject."

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"With respect to merchandizes which are not contraband" he says, "it is generally acknowledged by the powers of Europe, that neutral powers have a right to transport them to the enemy,\* except it be to places blockaded, with which all commerce is prohibited."

Writings of Madison, Volume 2: 1794-1815, p.256

These two exceptions, namely contraband of war, and the case of blockaded or besieged places, are the only ones which he allows against the freedom of neutral commerce. For with respect to enemy's property in neutral ships, he considers the new principle which identifies the cargo with the vessel, and thereby avoids the disputes and embarrassments arising from the old principle, as having been sufficiently established to take the place of the old one in the law of nations.

Writings of Madison, Volume 2: 1794-1815, p.256

The authority of Martens, then, unequivocally and undeniably concurs with that of his great predecessors, in deciding that the commerce between neutral and belligerent nations, with a very few exceptions, is entirely free, and that these exceptions do not include any such pretension as that of Great Britain, to prohibit a trade otherwise lawful, merely because it might have been laid open to neutrals in consequence of the war.

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It would have been easy to add to the authorities here selected, other respectable jurists within the same period; as well as a phalanx of authorities of later date, both in the South and the North of Europe; but the testimony of Grotius, of Pufendorf, of Bynkershoeck, of Vattel, and of Martens, is more than sufficient for the occasion. They are the luminaries and oracles, to whom the appeal is generally made by nations, who prefer an appeal to law, rather than to power; an appeal which is made by no nation more readily than by Great Britain, when she has sufficient confidence in the justice of her cause.

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Two feeble objections may be thought to claim attention, on tiffs branch of the investigation.

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First. In describing the general freedom of neutral commerce with a nation at war, the writers who have been reviewed, being strangers to the distinction now introduced between the legal regulations of the latter in time of war, and those in time of peace, have sometimes used expressions, which, though they do not favor, do not necessarily exclude, such a distinction. Thus Bynkershoeck, speaking of the neutral trade of the Belgians with the French, who were at war with the Spaniards, says that it was of right, as free as before the war.\* The freedom of neutral commerce is laid down, in similar phrases, by other jurists, both before and after Bynkershoeck. Many of the more modern writers, not apprized of the misconstruction which might be attempted on their phraseology, have also described the general freedom of neutral commerce in time of war, by a reference to the freedom which it enjoyed in time of peace.

Writings of Madison, Volume 2: 1794-1815, p.257

The obvious and decisive answer to these criticisms is, that the freedom of commerce between two nations in time of peace does not refer to the actual footing on which it happened to be placed by the mutual regulations of the parties, a continuance of which would, on a subject so fluctuating as that of commerce, be often inconvenient, sometimes absurd; but to the right which the parties have to regulate their commerce, from time to time, as their mutual interest may suggest, or, to adopt the language of Vattel, to the relations in which nature has placed independent nations.

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This construction is not only the most obvious and rational in itself, but is enforced by several additional reflections.

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It is most consistent, and sometimes alone consistent, with other passages in the same authors. An example may be seen in Bynkershoeck, Lib. I, Ch. 9, where the expressions "ut ante bellum constabat," and "ut cum pax esset inter eos, &c.," are evidently meant to comprehend every right, as well as the existing state of commerce between the neutral and belligerent parties, previous to the war.

Writings of Madison, Volume 2: 1794-1815, p.257

As there is no evidence that the distinction was known at the dates of the elder writers, it would be absurd to suppose them alluding to a state of things which had never existed; rather than to a state of things which was familiar in practice. And with respect to the more modern writers, to most of whom the distinction appears to have been equally unknown, the absurdity of the supposition is doubled by its inconsistency with the whole tenor and complexion of their doctrines and reasonings in behalf of neutral rights. Many of them are, in fact, champions for the principles of the armed neutrality; one of which is, that neutrals may trade freely with, and between any of, the ports of an enemy not blockaded.

Writings of Madison, Volume 2: 1794-1815, p.258

Finally—As all the writers on the general subject of neutral commerce, discuss the several other exceptions to its rights, which have, at any time, been claimed by belligerent nations, it would be absurd to suppose that an exception, more extensive than any of them, should be pretermitted. Their silence alone, therefore, is an unanswerable proof, that the exception now contended for, could not be known, or could not be recognized by those writers.

Writings of Madison, Volume 2: 1794-1815, p.258

A second objection may be, that the practice of opening colonies to neutral trade, had not been introduced, at the dates of these publications, particularly the more early of them.

Writings of Madison, Volume 2: 1794-1815, p.258

The fact on which this objection relies, might be disproved by a mass of historical testimony. Two authorities will be sufficient: the first shewing that Spain, represented as the most rigid in her colonial monopoly, began to relax it as early as 1669, even during peace: the second, that France had adopted the same policy, in time of war, as early as the year 1705.

Writings of Madison, Volume 2: 1794-1815, p.258

The first is from Long's History of Jamaica, vol. 1, p. 598.

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"In 1669, Spain, for want of ships and sailors of her own, began openly to hire Dutch shipping to sail to the Indies, though formerly so careful to exclude all foreigners from thence. And so great was the supply of Dutch manufactures to Spain, &c., that all the merchandize brought from the Spanish West Indies was not sufficient to make returns for them; so that the Dutch carried home the balance in money." The date of this Spanish relaxation of the colonial monopoly was prior to the work of Pufendorf, which was published in 1672; and two-thirds of a century prior to that of Bynkershoeck, which was published in 1737; and which entered so systematically into the question of neutral rights of commerce.

Writings of Madison, Volume 2: 1794-1815, p.258

The other will be found in a Note of Robinson, in his Appendix to Vol. 4, page 17, of his Admiralty Reports. It is there stated, with his authority for the fact, that about the year 1705, it being then a time of war, friendly nations were admitted into the trade of the French Colonies, as a better mode of supplying their wants, and getting away their productions, than that of convoys. It is added, that the first vessels thus introduced having been captured, the French minister returned to the old, as the only efficacious, expedient.

Writings of Madison, Volume 2: 1794-1815, p.259

The reporter would conclude, from the capture of the neutral vessels, that a neutral trade with colonies was then held to be illegal. But it would be manifestly wrong to resort to an explanation not warranted by any ideas otherwise known to exist at that period; especially when it is so easy to suppose that the capture was directed against the French property on board the neutral vessels. That the property was French is the more to be presumed, as the Dutch, the only nation whose capital might have neutralized the property, were parties to the war. Had they indeed been neutral, their treaties with Great Britain would have protected the trade in their vessels, on the two-fold ground that it was lawful to trade, without restriction, with and between the ports of an enemy; and that the freedom of the ship protected the cargo. The true inference on the subject is, that the neutral carriers were Danes, or of some other nation who had no such treaties with Great Britain, and whose capitals did not neutralize the cargoes of French produce.

Treaties.

Writings of Madison, Volume 2: 1794-1815, p.259

All writers on the law of nations, as well didactic as polemic, avail themselves, whenever they can, of the authority of Treaties.

Writings of Madison, Volume 2: 1794-1815, p.259

Treaties may be considered under several relations to the law of nations, according to the several questions to be decided by them.

Writings of Madison, Volume 2: 1794-1815, p.259

They may be considered as simply repeating or affirming the general law: they may be considered as making exceptions to the general law, which are to be a particular law between the parties themselves: they may be considered as explanatory of the law of nations, on points where its meaning is otherwise obscure or unsettled; in which case they are, first, a law between the parties themselves, and next, a sanction to the general law, according to the reasonableness of the explanation, and the number and character of the parties to it: lastly, Treaties may be considered as constituting a voluntary or positive law of nations.

Writings of Madison, Volume 2: 1794-1815, p.259

Whether the stipulations in a treaty are to be considered as an affirmance, or an exception, or an explanation, may sometimes appear on the face of the treaty: sometimes being naked stipulations, their character must be determined by resorting to other evidences of the law of nations. In other words, the question concerning the treaty must be decided by the law, not the question concerning the law by the treaty?\*

Writings of Madison, Volume 2: 1794-1815, p.261

In the present case, it has been shewn, from the sources generally allowed to be the most authentic, that the law of nations is violated by the principle asserted by Great Britain. It is a just inference, therefore, that every article in treaties contradicting that principle, is an affirmance and direct proof of the general law; and that any stipulation of the principle would, as an exception to the general law, be an indirect proof of it.

Writings of Madison, Volume 2: 1794-1815, p.261

But supposing, for a moment, the present case to belong to that class, in which the great oracles of the law of nations are obscure, or at variance among themselves; and in which, moreover, the practice of nations, not being uniform, is an unsatisfactory guide; and consequently, that the evidence of treaties were necessary in order to ascertain the law; still, it will be found that the result of an appeal to that evidence is conclusive against the British pretension. It may be confidently affirmed, that on no point ever drawn into question, the evidence of Treaties was more uniform, more extensive, or more satisfactory.

Writings of Madison, Volume 2: 1794-1815, p.261

Nay more; it may be affirmed that the treaties applicable to this case may fairly be considered in their relation to the law of nations last noticed; that is, as constituting a law of themselves. If, in any case, Treaties can be sufficiently general, sufficiently uniform, and of sufficient duration, to attest that general and settled concurrence of nations in a principle or rule of conduct among themselves, which amounts to the establishment of a general law; such an effect cannot reasonably be refused to the number and character of the treaties which are applicable to the present case.

Writings of Madison, Volume 2: 1794-1815, p.261

That Treaties may amount to a law of nations, follows from the very definition of that law; which consists of those rules of conduct which reason deduces, as consonant to justice and common good, from the nature of the society existing among independent nations; with such definitions and modifications as may be established by general consent.

Writings of Madison, Volume 2: 1794-1815, p.262

One evidence of general consent is general usage, which implies general consent.

Writings of Madison, Volume 2: 1794-1815, p.262

Can treaties which express consent be an inferior evidence, where nothing on the face of the treaties, nor in any collateral authority on the law of nations is found to impair the evidence?

Writings of Madison, Volume 2: 1794-1815, p.262

Treaties may indeed in one point of view be considered as a higher authority than usage, when they have a generality and continuance, equal to the generality and continuance which give to usage the authority of law; because all treaties involve a usage commensurate with the sphere in which they are obligatory. Whilst usage, therefore, implies consent; treaties imply the usage, at the same time that they express the consent of the parties to them?\*

Writings of Madison, Volume 2: 1794-1815, p.262

But there is another point of view in which the influence of treaties, those at least of peace and of commerce, in modifying and defining the rules of public law applicable to periods of war, ought, in preference to the influence of mere practice, to be promoted by all governments which respect justice and humanity, and by all jurists who aspire to the authority of commentators on that subject.

Writings of Madison, Volume 2: 1794-1815, p.262

The law of nations, as derived from mere usage or practice during those periods, is evidenced for the most part by ex parte ordinances, issued by belligerent governments, in the midst of the passions or policy of war; and by judicial decisions, also ex parte, and biassed more or less by the same causes, if not by the interest also, which weighty individuals, or perhaps bodies of individuals have, in widening the field of predatory wealth.

Writings of Madison, Volume 2: 1794-1815, p.263

Treaties are formed under very different circumstances. Those of peace imply that the hostile passions and pursuits have spent their force, and that a mutual spirit of liberality and accommodation have taken their place: treaties of commerce again are necessarily founded in principles of reciprocal justice and interest, wholly at variance with the violent spirit of war: whilst in the negociation of treaties of both kinds the respective efforts and interests of the parties form those mutual checks, require those mutual concessions, and involve those mutual appeals to a moral standard of right, which are most likely to make both parties converge to a just and reasonable conclusion. Nor is a sense of character without its effect on such occasions. Nations would not stipulate in the face of the world things, which each of them would separately do, in pursuit of its selfish objects.

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It will accordingly be found, as might be expected, that the violent and cruel maxims of war, those still remaining, as well as those from time to time exploded, have had their origin and their continuance in the separate usages of belligerent nations, not in treaties; whilst on the other hand, it will be found that the reformation of those abuses has been the gradual work of treaties; that the spirit of treaties is, with few, if any exceptions, at all times more just, more rational, and more benevolent, than the spirit of the law derived from practice only; and consequently, that all further meliorations of the code of public law, are to expected from the former, not the latter source; and consequently, again, that all enlightened friends to the happiness of nations ought to favor the influence of treaties on the great code by which their intercourse is to be regulated.

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The authority of every treaty is to be considered as opposed to the principle asserted by Great Britain, where it either stipulates a general freedom of neutral commerce with a specification of exceptions to it, and an omission of this British exception; or where it stipulates not only a neutral right generally to a free trade with belligerent nations, but particularly a right to trade freely to and between the ports of such nations. These stipulations, by the force of the terms, necessarily comprehend the coasting and colonial trades, as well as other branches of commerce.

Writings of Madison, Volume 2: 1794-1815, p.264

It would be a waste of time to bestow it on the treaties of a remote period, partaking too little of the civilization and spirit of more modern times, to edify them by its examples. It will be sufficient to commence this review with the treaty of Westphalia in 1648, which forms an important epoch in the commercial and political history of Europe, and to remark as the result of some enquiry into antecedent treaties, that they contain nothing which can give the least countenance to the principle under examination.

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It will be sufficient also to limit the review of treaties, where Great Britain was not a party, to those of most importance, either for the tenor of the stipulations, or for the particular parties to them, with marginal references to others of analogous import; remarking again generally, that these others are all, either negatively or positively, authorities against Great Britain.

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As a more convenient distribution also, the first review will stop with the epoch of the armed neutrality. The relation, which the treaties subsequent to that event have to the subject, will be noticed by itself.

Examples to which Great Britain is not a party.

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By a treaty concerning navigation and commerce in 1650, preceded by a particular article on the same subject concluded in 1648, it is stipulated between the United Provinces and Spain, that the subjects and inhabitants of the United Provinces (and those of Spain reciprocally) may sail and trade with all freedom and safety in all the kingdoms, States, and countries which are or shall be in peace, amity, or neutrality, with the State of the said United Provinces; and that they shall not be disquieted or molested in this liberty by the ships or subjects of the King of Spain, upon the account of hostilities which may exist, or may happen afterwards, between the said King of Spain and the aforesaid kingdoms, countries, and States, or any of them that may be in amity or neutrality with the said lords the States as above."\*

Writings of Madison, Volume 2: 1794-1815, p.265

This liberty, in relation to France, was to extend to all sorts of merchandize which might be carried thither before she was at war with Spain; even contraband of war,\* not proceeding from the States of Spain herself, and capable of being used against the Spanish dominions.

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With respect to other countries at peace with the United Provinces, and at war with Spain, the enumerated articles of contraband were not to be carried to them by the United Provinces, but all articles not contraband were to be freely carried, with the exception only of cities and places invested or blockaded.

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The Pyrenean treaty, between France and Spain in 1659, established so close a friendship between the two nations, that they were mutually restrained from giving either of them to those attacking the other, any assistance in men, money, or victuals, or with passage through his dominions. Yet it is stipulated in Arts. X—XVI, which are reciprocal, that the French shall have liberty to trade to all parts whatsoever, though they should be in war with his Catholic Majesty, excepting Portugal,\* whilst it continued in the condition it then was in; all merchandize may be transported to other countries in war with Spain, as was allowed before the said war, excepting\* such as proceed from the Spanish dominions, and as may be serviceable against Catholic King or his dominions, and contraband goods. By contraband goods are understood all sorts of arms and warlike stores; but corn and all manner of provision and goods, not being arms and warlike stores, are not reputed contraband, and they may be carried to places in war with Spain, excepting to Portugal and blockaded places. The French vessels, passing from the ports of Spain to any port in enmity with that crown, shall not be in any way retarded or molested, after producing their passes, specifying their lading.\*

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It here appears, that the parties were at liberty, when neutral, to trade to all parts of a belligerent country, not blockaded, and in all merchandizes not contraband.

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The expression "as was allowed before the said war," in this and in the preceding examples, clearly falls within the observations made on the like expressions, used by the writers on the law of nations. They are merely a mode of describing the indefinite right to trade, as if no war had arisen, and consequently to enter into any new channels of trade which might be opened to them.

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In a treaty in 1662, between France and the United Provinces, it is stipulated, Arts. XXVI, XXVII, &c., that the parties reciprocally are to trade and navigate with all freedom and safety to countries respectively at war with one and at peace with the other, without any exceptions made by the treaty, other than a trade in contraband, or to a place blockaded.\*

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The treaty between France and the United Provinces, Arts. XXVII—XXIX, as incorporated with the treaty of Breda in 1667, between the latter power and England, declares that the subjects of either party may sail and traffic in all countries at any time, in peace with one and at war with the other, and this transportation and traffic shall extend to a// articles not contraband, and to all places not blockaded.\*

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In a treaty in 1672, between France and Sweden, Arts. XXIII—XXIX, are of corresponding import.\*

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A treaty in 1675, between Sweden and the United Provinces, contains like stipulations in the three first and following articles.\*

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A declaration made in 1676, by Spain and the United Provinces, confirming the treaty of 1650, stipulates the right of either party to trade with the enemy of the other, as well directly as between enemy's ports, whether the ports belong to the same or different enemies, contraband goods and places blockaded being excepted.\*

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In Art. XIII, &c. of another treaty in 1678, between France and the United Provinces, the same points are again stipulated.\*

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The 13th Art. of another treaty in 1679, between Sweden and the United Provinces, contains a like stipulation.\*

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So again the like stipulation is contained in Art. XIII of another treaty in 1679, between France and the United Provinces.\*

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In a treaty in 1701, between Denmark and the United Provinces, the stipulations import an uninterrupted commerce of the neutral with an enemy of the other party, with the usual exception of contraband.\*

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The like stipulation is found in a treaty of 1716, Art. VIII, between France and the Hanse Towns.\*

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A treaty, Art. VI, between the Emperor Charles VI, and Philip V, of Spain, May 1, 1725, is of like import.\*

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The same is the language of a treaty in 1752, between Naples and Holland.\*

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A treaty, Art. XVI, in 1767, between France and Hamburg, and another between France and the Duke of Mecklenburg in 1779, maintain the same doctrine.\*

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To these authorities derived from the conventional law of Europe, against the British principle under investigation,\* might be added, if it were necessary, references to other treaties of the like tenor.

Treaties to which England first, and then Great Britain, was a party.

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By a treaty with Sweden, in 1654, and another in 1656, confirming and explaining the former, it is stipulated, Art. II—IV, that it shall be lawful for the subjects of either of the confederates to trade with the enemies of the other; and, without impediment, to carry to them, except to places blockaded or besieged, any goods whatsoever not contraband, of which a specification is inserted. Provision is also made for the efficacy of passports in certain cases, and against the abuse of them for covering enemies' property.\*

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The weight of these examples is not diminished by the name of Cromwell, under whose authority the treaties were concluded in behalf of England. In foreign transactions, as well as at home, his character was distinguished by a vigor not likely to relinquish or impair rights, in which his country, as a warlike and maritime power, was interested.

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On the other hand, it adds weight to the examples, that they are treaties of alliance, containing mutual engagements of friendship and assistance; and, consequently, the less apt to indulge the parties in an intercourse with the enemies of each other, beyond the degree required by the law of nations. This observation is applicable to all the succeeding examples, where the treaties are of the same kind.

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On the restoration of Charles II, a treaty of alliance was concluded with Sweden in 1661, the 11th Article of which, in pursuance of those above copied from the treaties of 1654 and 1656, stipulates anew, that neither party shall be impeded in carrying to the enemies of the other, any merchandize whatever, with the exceptions only of articles of contraband, and of ports or places besieged.\*

Writings of Madison, Volume 2: 1794-1815, p.269

In a treaty with Spain, May 13, 1667, the Articles XXI—XXVI import, that the subjects of each shall trade freely in all kingdoms, estates, and countries at war with the other, in all merchandizes not contraband; with no other exception of places but those besieged or blockaded.\*

Writings of Madison, Volume 2: 1794-1815, p.269

In July, 1667, a treaty was concluded with the United Provinces, of which Art. III provisionally adopts certain articles from the treaty of Breda, between the United Provinces and France, on the subject of maritime commerce; until a fuller treaty could be perfected between the parties. The articles adopted, in relation to the trade between the subjects of one of the parties and the enemies of the other, declare that the trade shall extend, without impediment, to all articles not contraband, and to all places not besieged or blockaded.\*

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In February, 1667—8, the same parties, then under a perpetual defensive alliance by virtue of a treaty of 21st July, 1667, and in a league moreover with Sweden by the triple league of 1668, resumed the subject of maritime and commercial affairs, and repeated, in the first article of their treaty, the precise stipulations adopted provisionally from the treaty between France and the United Provinces.\*

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A treaty with Denmark, in 1669, stipulates, that they may trade each with the enemies of the other, in all articles not contraband, and to all places not blockaded, without any other exceptions.\*

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On the 11th July, 1670, another treaty of alliance was concluded with Denmark, the 16th Art. of which declares that "neither of the parties shall be impeded in furnishing to the enemies of the other any merchandizes whatever; excepting only articles of contraband, as described in the treaty, and ports and places besieged by the other."\*

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It is worthy of notice in this treaty, and the remark is applicable to others, that the 5th Art. having stipulated a right mutually to trade in the kingdoms, provinces, marts, towns, ports, and rivers of each other, it was immediately provided in the next article, that prohibited ports and colonies should be excepted. If it had been conceived that such ports or colonies of enemies were not to be traded with, under the general right to trade with enemies acknowledged in the 16th Article, it is manifest that they would have been as carefully excepted in this, as in the other case, out of the meaning of general terms equally comprehending them. This treaty proves also, that as early as 1670, colonies began to fall under attention in making treaties.

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In a marine treaty of December 1, 1674, with the United Provinces, stating in the title that it was "to be observed throughout all and every the countries and ports of the world by sea and land," it is stipulated again, in Art. I, to be "lawful for all and every the subjects of the most serene and mighty prince, the King of Great Britain, with all freedom and safety to sail, trade, and exercise any manner of traffic in all those kingdoms, countries, and estates, which are, or any time hereafter shall be in peace, amity, or neutrality with his said majesty; so that they shall not be any ways hindered or molested in their navigation or trade, by the military forces, nor by the ships of war, or any kind of vessels whatsoever, belonging either to the High and Mighty States General of the United Netherlands, or to their subjects, upon occasion or pretence of any hostility or difference which now is, or shall hereafter happen between the said Lords the States General, and any princes, or people whatsoever, in peace, amity, or neutrality with his said majesty;" and so reciprocally.

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Art. II. "Nor shall this freedom of navigation and commerce be infringed by occasion or cause of any war, in any kind of merchandizes, but shall extend to all commodities which may be carried in time of peace, those only excepted which follow in the next article, and are comprehended under the name of contraband."

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Art. III enumerates the articles of contraband.

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Art. IV contains a negative list, which, with all other articles not expressly included in the list of contraband, may be freely transported and carried to places under the obedience of enemies,\* except only towns or places besieged, environed, or invested.\*

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This recital has been made the more minute, because it is necessary, in order to understand the whole force of the explanatory declaration between the parties bearing the same date; a document so peculiarly important in the present discussion., that its contents will be recited with eqnal exactness.

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This document, after stating "that some diffculty had arisen concerning the interpretation of certain articles, as well in the treaty marine concluded this first day of December, 1674, as in that which was concluded the 17th February, 1667—8, between his majesty of Great Britain on the one part, and the States General, &c., on the other part," proceeds to state "that Sir William Temple, &c., on one part with eight commissioners on the other, have declared, and do by these presents declare, that the true meaning and intention of the said articles is, and ought to be, that ships and vessels belonging to the subjects of either of the parties, can and might, from the time that the said articles were concluded, not only pass, traffic and trade, from a neutral port or place, to a place in enmity with the other party, or from a place in enmity to a neutral place, but also from a port or place in enmity to a port or place in enmity with the other party, whether the said places belong to one and the same prince or State, or to several princes or States, with whom the ohter party is in war. And we declare that this is the true and genuine sense and meaning of the said articles; pursuant whereunto we understand that the said articles are to be observed and executed on all occasions, on the part of his said majesty, and the said States General, and their respective subjects; yet so that this declaration shall not be alleged by either party for matters which happened before the conclusion of the late peace in the month of February, 1673-4.\*

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Prior to the peace, neither of them could claim the rights of neutrality against the other.

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This declaratory stipulation has been said to be peculiarly important. It is so for several reasons:

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1st. Because it determines the right of the neutral party, so far as may depend on the belligerent party, to trade not only between its own ports and those of the enemies of the belligerent party, without any exception of colonies, but between any other neutral port and enemies' ports, without exception of colonial ports of the enemy; and moreover, not only between the ports, colonial as well as others, of one enemy and another enemy, but between the different ports of the same enemy; and consequently between one port and another of the principal country; between these and the ports of its colonies; between the ports of one colony and another; and even to carry on the coasting trade of any particular colony.

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2d. Because it fixes the meaning not only of the articles in the two specified treaties; but has the same effect on all other stipulations by Great Britain, expressed in the same or equivalent terms; one or other of which are used in most, if not all her treaties on this subject.

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3d. Because it made a part of the treaties explained, that free ships should make free goods; and consequently, the coasting and colonial trade, when combined with that neutral advantage, was the less likely to be acknowledged, if not considered as clearly belonging to the neutral party.

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4th. Because the explanatory article was the result of the\* solicitation of England herself, and she actually claimed and enjoyed the benefit of the article, she being at the time in peace, and the Dutch in war with France.\*

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In the treaty with France, February 24, 1677, Articles I, II, and III, import that each party may trade freely with the enemies of the other, with the same merchandize as in time of peace, contraband goods only excepted, and that all merchandizes not contraband "are free to be carried from any port in neutrality, to the port of an enemy, and from one port of an enemy to another; towns besieged, blocked up or invested, only excepted."\*

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In 1689, England entered into the convention with Holland, prohibiting all neutral commerce with France, then the enemy of both.\* In consequence of the counter treaty of Sweden and Denmark, for defending their neutral rights against this violent measure, satisfaction was made, according to Vattel, for the ships taken from them; without the slightest evidence, as far as can be traced, that any attempt was made by either of the belligerent parties, to introduce the distinction between such part of the trade interrupted, as might not have been allowed before the war, and as was therefore unlawful, and such part as having been allowed before the war, might not lawfully be subject to capture.

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We are now arrived at the treaties of Utrecht, an epoch so important in the history of Europe, and so essentially influencing the conventional law of nations, on the subject of neutral commerce.

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The treaty of navigation and commerce, March 31, 1713, between Great Britain and France, Article XVII, imports, that all the subjects of each party shall sail with their ships with all manner of liberty and security, no distinction being made who are the proprietors of the merchandizes laden thereon, from any port, to the places of those who now are, or shall hereafter be, at enmity with the queen of Great Britain and the Christian king," and "to trade with the same liberty and security from the places, ports and havens of those who are enemies of both or of either party, without any opposition or disturbance whatsoever, not only directly from the places of the enemy aforementioned to neutral places, but also from one place belonging to an enemy, to another place belonging to an enemy, whether they be under the jurisdiction of the same prince or under several."

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Art. XVIII. "This liberty of navigation and commerce, shall extend to all kind of merchandizes, excepting those only which follow in the next article, and which are specified by the name of contraband."

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Art. XIX gives a list of contraband, which is limited to warlike instruments.

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Art. XX specifies others, many of which are in other treaties on the list of contraband, declaring that these with all other goods, not in the list of contraband in the preceding article, "may be carried and transported in the freest manner by the subjects of both confederates, even to places belonging to an enemy, such towns or places being only excepted as are at that time, besieged, blocked up round about, or invested."\*

Writings of Madison, Volume 2: 1794-1815, p.274

Could the principle maintained against Great Britain be more clearly laid down, or more strongly fortified by her sanction?

Writings of Madison, Volume 2: 1794-1815, p.274

To give to this example the complete effect which it ought to have, several remarks are proper.

Writings of Madison, Volume 2: 1794-1815, p.274-p.275

In the first place, on comparing the description given of the free trade, which might be carried on between the neutral party and an enemy of the other party, with the description of the free trade allowed between the parties themselves, by the 1st article of the treaty, it appears that in order to except the colonial trade in the latter case, the freedom stipulated in Article I, is expressly limited to Europe. The terms are, "that there shall be a reciprocal and entirely perfect liberty of navigation and commerce between the subjects on each part, through all and every the kingdoms, States, dominions of their royal majesties in Europe." In the stipulation relating to the neutral commerce of either with the enemy of the other (who, if a maritime enemy, could not fail to possess colonies out of Europe) the terms are, "that all merchandizes, not contraband, may be carried in the freest manner to places belonging to an enemy, such towns or places only being excepted, as are at that time besieged or blockaded, &c.," without any limitation to Europe, or exception of colonies any where. It is obvious, that the terms here used comprehend all colonies, as much as the terms in the first article would have done, if colonies had not been excepted by limiting the freedom of trade to places "in Europe;" and consequently that if any distinction between the colonial and other places of an enemy, had been contemplated in the neutral trade of either party with him, as it was contemplated between the colonies and European possessions of the parties in their commerce to be carried on between themselves, the distinction would have been expressed in the latter case, as it was in the former; and not being so expressed, the trade in the latter case was to be as free to the colonies, as it would have been in the former, if the colonies had not been excepted by the limitation of the trade to Europe.\*

Writings of Madison, Volume 2: 1794-1815, p.275

Secondly. But the treaty not content with this necessary construction, in favor of a neutral commerce with the colonies of an enemy, proceeds, in conformity to the example in the declaratory convention between England and Holland in 1674, explicitly to declare the freedom of the neutral party, to trade not only from any port, to the places of an enemy, and from the places of an enemy to neutral places, but also from one place to another place belonging to an enemy, whether the places be under the same or different sovereigns. Here both the coasting trade and the colonial trade, which, in relation to the parent country, is in the nature of a coasting trade, are both placed on the same footing with every other branch of commerce between neutral and belligerent parties, although it must have been well known, that both those branches are generally shut to foreigners in time of peace, and if opened at all, would be opened in time of war, and for the most part, on account of the war.

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Thirdly. It is well known, that this particular treaty underwent great opposition and discussion, both without and within the British Parliament; and that it was for some time, under a legislative negative. Yet it does not appear, either from the public debates, or from the discussions of the press, as far as there has been an opportunity of consulting them, that the difficulty arose in the least from this part of the treaty. The contest seems to have turned wholly on other parts, and principally on the regulations of the immediate commerce between the two nations. This part of the treaty may be considered, therefore, as having received the complete sanction of Great Britain. Had it indeed been otherwise, the repeated sanctions given to it on subsequent occasions, would preclude her from making the least use of any repugnance shewn to it on this.

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On the 28th November, 1713, a treaty of peace and another of commerce and navigation, were concluded at Utrecht with Spain, renewing and inserting the treaty of May 13th, 1667, the 21st and 26th Articles of which have been seen to coincide with the rules of neutral commerce, established by the treaty at Utrecht, between Great Britain and France.\*

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Genoa and Venice were comprehended in the treaty of Utrecht, between Great Britain and Spain.\*

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The above treaty of 1713, was confirmed by Article XII, of a treaty of December 3, 1715, between Great Britain and Spain.\*

Writings of Madison, Volume 2: 1794-1815, p.276

From the above date to the treaty of 1748, at Aix la Chapelle, the following treaties between England and other powers took place; in each of which, the principles established by her treaties at Utrecht, are reiterated:

Writings of Madison, Volume 2: 1794-1815, p.277

With Sweden, January 21, 1720, Article XVIII.\*

Writings of Madison, Volume 2: 1794-1815, p.277

With Spain, June 13, 1721, Article II.—Confirming the treaty of 1667 and 1713.\*

Writings of Madison, Volume 2: 1794-1815, p.277

With France and Spain, November, 9, 1729, Article I.—Renewing all treaties of peace, of friendship, and of commerce, and consequently those of Utrecht.\*

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With the Emperor of Germany and the United Netherlands, March 16, 1731, Article I.—Renewing all former treaties of peace, friendship, and alliance.\*

Writings of Madison, Volume 2: 1794-1815, p.277

With Russia, December 2, 1734.—Stipulating in Article II, a free trade between either party and the enemy of the other, in all articles except munitions of war; and consequently articles permitted after, though not permitted before, the war.\*

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With Spain, (a convention,) January 14, 1739, Article I.—Reiterating among former treaties, those of 1667 and 1713, above cited.\*

Writings of Madison, Volume 2: 1794-1815, p.277

The treaty of Aix la Chapelle concluded in 1748, forms another memorable epoch in the political system of Europe. The immediate parties to it were Great Britain, France, and the United Provinces.

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The 3d\* Art. of this treaty renews and confirms, among others, the treaties of Utrecht.\*

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This treaty was acceded to by Spain, Austria, Sardinia, Genoa, and Modena.

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In 1763,\* in the treaty between Great Britain, France, and Spain, to which Portugal acceded, the 1st Art. expressly renews and confirms, among other treaties, the treaties of peace and commerce at Utrecht.\*

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The treaty with Russia in 1766, Art. X, stipulates a free trade between either party, being neutral, and an enemy of the other, with the sole exception of military stores, and places actually blockaded.\*

Writings of Madison, Volume 2: 1794-1815, p.278

In a convention with Denmark, July 4, 1780, explanatory of a list of contraband settled in a former treaty, it is expressly determined that merchandize not contraband, may be transported to places in possession of enemies, without any other exception than those besieged or blockaded.\*

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The treaty of peace in 1783 with France, by Art. II, renews and confirms, among others, the treaties of Westphalia in 1648, of Utrecht in 1713, of Aix la Chapelle in 1748, and of Paris, 1763; in all of which the neutral right, now denied by Great Britain, was formally sanctioned by her stipulations.\*

Writings of Madison, Volume 2: 1794-1815, p.278

In her treaty of the same date, with Spain, the same confirmation is repeated.\*

Writings of Madison, Volume 2: 1794-1815, p.278

In the treaty of commerce again with France in 1786, deliberately undertaken in pursuance of Art. XVIII, of the treaty of 1783, the articles above recited from the treaty of Utrecht are inserted word for word; and thus received anew the most deliberate and formal sanction.—Chalm., vol. 1, p. 350.

Writings of Madison, Volume 2: 1794-1815, p.278

It may be here again remarked, that although this treaty underwent the most violent opposition in Great Britain, it does not appear that the opposition was at all directed against the articles on the subject of neutral commerce.

Writings of Madison, Volume 2: 1794-1815, p.278

The treaty of 1786 was explained and altered in several particulars, by a convention bearing date August 31, 1787; without any appearance of dissatisfaction, on either side, with the articles on neutral commerce.

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In the negotiations at Lisle, in 1797, it was proposed on the part of Great Britain, by her ambassador, Lord Malmesbury, to insert, as heretofore usual in the articles of peace, a confirmation of the treaties of Utrecht, Aix la Chapelle, &c., which was opposed by the French negotiators, for reasons foreign to the articles of those treaties in question.

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On this occasion, Lord Malmesbury, in urging the proposed insertion, observed, "that those treaties had become the law of nations, and that if they were omitted\* it might produce confusion." This fact is attested by the negotiations, as published by the British Government.\*

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If the treaties had become, or were founded in, the law of nations, such an omission, although it might be made a pretext for cavil between the parties, could certainly have no effect on the law of nations; and if the treaties expressed the law of nations on any subject at all, on what subject, it might be asked, have they been more explicit than on that of the maritime rights of neutrals ?

Writings of Madison, Volume 2: 1794-1815, p.279

This series of treaties, to which Great Britain is an immediate party, lengthy and strong as it is, has not exhausted the examples by which she stands self-condemned. One, in particular, remains for consideration; which, if it stood alone, ought forever to silence her pretensions. It is the treaty with Russia on the 5-17 of June, 1801.

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A very important part of the treaty is the preamble:

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"The mutual desire of his majesty the King of the United Kingdoms, &c., and his majesty the Emperor of all the Russias, being not only to come to an understanding between themselves with respect to the differences which have lately interrupted the good understanding and friendly relations which subsist between the two States; but also to prevent, by frank and precise explanations upon the navigation of their respective subjects, the renewal of similar altercations and troubles which might be the consequence of them; and the common object of the solicitude of their said majesties being to settle, as soon as can be done, an equitable arrangement of those differences, and an invariable determination of their principles upon the rights of neutrality, in their application to their respective monarchies, in order to unite more closely the ties of friendship and good intercourse, &c., have named for their plenipotentiaries, &c., who have agreed," &c.

Writings of Madison, Volume 2: 1794-1815, p.280

With this declaratory preamble in view, attend to the following sections in Article III:

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"His Britannic majesty and his Imperial majesty of all the Russias having resolved to place under a sufficient safeguard the freedom of commerce and navigation of their subjects, in case one of them shall be at war while the other shall be neuter, have agreed;

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"1st. That the ships of the neutral power may navigate freely to the ports and upon the coasts of the nations at war.

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"2d. That the effects embarked on board neutral ships shall be free, with the exception of contraband of war and of enemy's property; and it is agreed not to comprize under the denomination of the latter, the merchandize of the produce, growth, or manufactures of the countries at war which should have been acquired by the subjects of the neutral power, and should be transported on their account; which merchandize cannot be excepted in any case from the freedom granted to the flag of the said power," &c., &c.

Writings of Madison, Volume 2: 1794-1815, p.280

These extracts will receive additional weight from the following considerations:

Writings of Madison, Volume 2: 1794-1815, p.280

First. This treaty, made with Russia, the power that took the lead in asserting the principles of the armed neutrality, was, with exceptions not affecting the point in question, acceded to by Sweden and Denmark, the two other European powers most deeply interested in, and attached to, those principles. It is a treaty, therefore, of Great Britain, as to this particular point, as well as to most of the others, with Russia, Sweden, and Denmark.

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Secondly. The treaty had for its great object, as appears by its adoption of so many of the definitions of the armed neutrality, to fix the law of nations on the several points therein, which had been so much contested; the three northern powers yielding the point of free ships, free goods; and Great Britain yielding to all of them, those relating to the coasting, as well as every other branch of neutral trade; to blockades, and to the mode of search; and yielding to Russia, moreover, the point relating to the limitation of contraband. With respect to the case of convoys, a case not comprehended in the armed neutrality of 1780, but of much subsequent litigation, and inserted in that of 1800; a modification, satisfactory to the northern Powers, was yielded by Great Britain; with a joint agreement that the subjects on both sides should be prohibited from carrying contraband or prohibited goods, according to an article in the armed neutrality of both dates.

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Thirdly. The treaty is expressly declared to be an invariable determination [fixation] of their principles upon the rights of neutrality, in their application to their respective monarchies."

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It cannot be pretended that this stipulated application of the rights of neutrality to the contracting parties, limits the declaratory effect, which is equally applicable to all neutral nations. Principles and rights must be the same in all cases, and in relation to all nations; and it would not be less absurd than it would be dishonorable, to profess one set of principles or rights in the law of nations towards one nation, and another set towards another nation.

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If there be any parts of the treaty, to which this declaratory character is regarded as not applicable, it cannot be pretended that they are the parts relating to the rights of neutrals to trade freely to the ports and on the coasts of nations at war; because, as already observed, the main object of the treaty was to settle the questions involved in the armed neutrality; of which this was a primary one, and is here placed by the structure of the article under the same precise stipulation, with the liability to confiscation, of enemy's property in neutral ships; a point above all others which Great Britain must have wished to consecrate as the law of nations, by declaratory acts for that purpose.

Writings of Madison, Volume 2: 1794-1815, p.282

It cannot be pretended that the neutral rights here declared, do not extend to the colonial as well as coasting trade of belligerent nations, because the colonial trade is not only included in a "free trade to the ports and on the coasts" of such nations, but because it is expressly declared that the effects belonging to neutrals, and transported on their account from countries at war, cannot be excepted from the freedom of the neutral flag in any case, and consequently not in the case of colonies, more than any other portion of such countries. It is not improper to remark that this declaratory stipulation is not only included in the same article, which recognised the principle that enemy's property is excepted from the freedom of the neutral flag, but is associated with that recognition in the same section of the article, and even in the same sentence.\*

Writings of Madison, Volume 2: 1794-1815, p.282-p.283

If it were possible to controvert the construction here given to the treaty, a reference might be made to a very able speech delivered by Lord Grenville in the British House of Lords in November 1801, in which this very construction is fully demonstrated. The demonstration is rendered the more striking by the embarrassed and feeble opposition made to it by the ingenuity of the very able speakers who entered the list against him.\*

Writings of Madison, Volume 2: 1794-1815, p.284

Such is the accumulated and irresistible testimony borne by Great Britain, in her own treaties, against the doctrine asserted by her.

Writings of Madison, Volume 2: 1794-1815, p.284

It will be in order now to resume the notice of treaties to which she was not a party, but which authorize some inferences and observations contributing still further, if possible, to invalidate her novel pretensions.

Writings of Madison, Volume 2: 1794-1815, p.285

The review heretofore taken of this class of treaties was limited to such as preceded the armed neutrality. Those now to be added, are principally the treaties and conventions entered into in the years 1780 and 1800.

Writings of Madison, Volume 2: 1794-1815, p.285

The treaties of 1780 declare the right of neutrals in the case under discussion, in the following terms: "that all vessels shall be permitted to navigate from port to port, and on the coasts of the belligerent powers." Those of 1800 are in terms too little varied to require recital.

Writings of Madison, Volume 2: 1794-1815, p.285

It has never been questioned, that these definitions of the neutral right were as applicable to colonies as to any other of the territories belonging to a belligerent nation. All the British writers have so understood the text, and in that sense, have employed their pens against it.

Writings of Madison, Volume 2: 1794-1815, p.285

It need scarcely be remarked that the treaties in question were framed with a view, not of making a new law of nations, but of declaring and asserting the law as it actually stood. The preamble to the convention of 1800, for the re-establishment of an armed neutrality between Russia and Sweden, explains the object in the terms following: "In order that the freedom of navigation and the security of merchandize of the neutral powers may be established, and the principles of the law of nations be fully ascertained, &c."

Writings of Madison, Volume 2: 1794-1815, p.285

The preamble to the convention of 1780, states the principles avowed by the parties to be the principles derived from the primitive rights of nations."

Writings of Madison, Volume 2: 1794-1815, p.285

The treaty of 1780 was originally concluded between Russia and Denmark. But it was acceded to by Sweden, Prussia, the United Provinces, Austria, Portugal and Naples; and in effect, by France and Spain. The principles of the treaty had the sanction also of the United States of America in their cruising ordinances. Thus it is seen, that with the exception of Great Britain alone, all the powers of Europe, materially interested in the maritime law of nations, have given a recent and repeated sanction to the right of neutrals to trade freely with every part of the countries at war. And although several of those nations have, on some of the points contained in these treaties, as on the points of contraband and enemy's property under neutral flags, entered since into adverse stipulations; not one of them has by treaty or otherwise relinquished the particular right under consideration,\* whilst Great Britain, as we have seen in her treaty with Russia, has herself, expressly acceded to the right.

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The importance of treaties in deciding the law of nations, or that portion of it, which is founded in the consent of nations will justify the extent which has been given to this review of them; and the conclusion which this review justifies is, that the tenor of treaties, throughout the whole period deserving attention, confirms the neutral right contended for; that for more than one and a half centuries, Great Britain has, without any other interruptions that those produced by her wars with particular nations, been at all times bound by her treaties with the principal maritime nations of the world, to respect this right; and what is truly remarkable, that throughout the long period of time, and the voluminous collection of treaties, through which the research has been carried, a single treaty only (putting aside the explanatory article between Great Britain and Russia, noted above) has occurred, which forms an exception to the general mass.

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The exception will be found in an article of a Danish treaty of June, 1691,\* with England and Holland. In that article (the 3d) though somewhat obscure, either from inaccuracy in the original text, or in the printed copy, it seems that Denmark relinquished her neutral right of commerce between the ports of France, then at war with the other parties. But this exception, instead of availing in any respect the belligerent claim in question, corroborates the testimony furnished by treaties against it; as will appear from the following observations:

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1st. In other parts of the treaty, there are stipulations favorable to Denmark, which may have been regarded as some compensation for the restriction imposed on herself.

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2d. Admitting, however, the restriction to have been made without any compensating advantages; the sacrifice might fairly be ascribed to the dreadful oppressions on the Danish commerce, practised by England and Holland, and to the desire of Denmark, as a weaker power, to effect some mitigation of her sufferings. These sufferings cannot be better explained, than by an extract from the preamble to a treaty concluded in 1693, between Denmark and Sweden, for the purpose of putting in force a preconcerted plan of reprisals. "Although their majesties, the kings of Sweden and Denmark had hoped, that after they had concluded their treaty of March, 1691, for maintaining their navigation and commerce, the many unjust piracies exercised on their subjects, would at length have ceased; they have nevertheless been grieved to find that, notwithstanding the reclamations and remonstrances which they have from time to time made to the parties engaged in the war, in order that an end might be put to them, they have rather increased and augmented, even to a point that it is in a manner impossible to express, the pretexts, the artifices, the inventions, the violences, the chicaneries, the processes which have been practised, not only against the vessels and goods of the subjects of their majesties, but also against their public convoys, to the prejudice of the customs and tolls of their majesties, to the considerable diminution of their duties and imports, and to the irreparable injury of their kingdoms and provinces, the subjects of which have suffered and lost infinitely, in their persons, their crews, their vessels, goods and merchandizes. Hence it is that their majesties have been obliged, &c."

Writings of Madison, Volume 2: 1794-1815, p.288

Distresses, such as are here painted, might sufficiently account for concessions on the part of a sufferer, without supposing them to flow from a deliberate or voluntary acquiescence in the principle on which they were founded.

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3. But admitting the stipulation to have been both gratuitous and deliberate, and to form a fair exception to the general rule of treaties, still being but a single exception to stipulations as numerous and as uniform as have been brought into view, the exception must be considered as having all the effect in confirming the general rule, which can be ascribed, in any case, to a confirmation of that sort.

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4. The exception is limited to a trade between one French port and another. It implies, therefore, and recognizes a freedom of trade between foreign and French ports, as well colonial as others.

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To this ample sanction, drawn from the conventional monuments of Europe, it will be allowable to add the testimony of the only nation at once civilized and independent, in the American hemisphere. The United States have, or have had, treaties with France, Holland, Sweden, Russia, Spain, and Great Britain.\* In all of these, except the treaty with Great Britain, they have positively maintained the principle that neutrals may trade freely between neutral and belligerent ports, and between one belligerent port and another, whether under the same or different jurisdictions; and the treaty with Great Britain contained not even an implication against the principle. It merely omitted a stipulation on the subject, as it did on many others, contained in other treaties.\*

the Conduct of other Nations.

Writings of Madison, Volume 2: 1794-1815, p.289-p.290

The evidence from this source is merely negative; but is not on that account without a convincing effect. If the doctrine advanced by Great Britain had been entertained by other nations, it would have been seen in the documents, corresponding with those which contain the British doctrine. Yet, with all the research which could be employed, no indication has been met with, that a single nation, besides herself, has founded on the distinction between a trade permitted and a trade not permitted in time of peace, a belligerent right to interrupt the trade in time of war. The distinction can be traced neither in their diplomatic discussions, nor their manifestoes, nor their prize ordinances, nor their instructions to their cruizers, nor in the decisions of their maritime courts. If the distinction had been asserted or recognized, it could not fail to have exhibited itself, in some or other of those documents. Having done so in none of them, the inference cannot be contested, that Great Britain is the only nation that has ever attempted this momentous innovation on the law of nations.

Conduct of Great Britain.

Writings of Madison, Volume 2: 1794-1815, p.290

If it be not enough to have shewn, that the belligerent claim asserted by Great Britain is condemned by all the highest authorities on the law of nations, by the clearest testimony of treaties among all the principal maritime nations of the world, herself included, and by the practice of all other nations; she cannot surely demur to the example of her own proceedings. And it is here, perhaps, more than any where else, that the claim ought to shrink from examination. It will be seen, in the course of the following observations, that Great Britain is compelled, under every appeal that can be made to herself, to pronounce her own condemnation; and what is much worse, that the innovation, which she endeavors to enforce as a right of war, is under that name a mere project for extending the field of maritime capture, and multiplying the sources of commercial aggrandizement; a warfare, in fact, against the commerce of her friends, and a monopolizing grasp at that of her enemies.

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1st. Whilst Great Britain denies to her enemies a right to relax their laws in favor of neutral commerce, she relaxes her own, those relating as well to her colonial trade, as to other branches.

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2d. Whilst she denies to neutrals the right to trade with the colonies of her enemies, she trades herself with her enemies, and invites them to trade with her colonies.

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1st. That Great Britain relaxes in time of war her trade laws, both with respect to her colonies and to herself, is a fact which need not be proved, because it is not denied. A review of the progress and modifications of these relaxations will be found in Reeves' \*/\*\* Law of Shipping and Navigation; and in the successive orders of the British council, admitting in time of war neutral vessels, as well as neutral supplies, into her West India colonies. It will not be improper, however, to shew, that in these relaxations of her peace system, she has been governed by the same policy of eluding the pressures of war, and of transferring her merchant ships and mariners from the pursuits of commerce to the operations of war, which she represents as rendering unlawful the like relaxations of her enemies.

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The object of dispensing, in time of war, with the navigation act, was avowed by the legislature itself, in the preamble to one of its acts, which was passed not long after the navigation act was adopted. The preamble recites, "And whereas by the laws now in force, the navigating of ships or vessels in divers cases, is required to be, the master and three-fourth parts of the mariners being English, under divers penalties and forfeitures therein contained: And whereas great numbers of seamen are employed in her majesty's service for the manning of the Royal Navy, so that it is become necessary, during the present war, to dispense with the said laws, and to allow a greater number of foreign mariners for the carrying on of trade and commerce: Be it enacted, &c., that during the present war," &c.

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Without pursuing the series of similar recitals during successive wars, one other example of later date will be given, in which the same object is avowed. The preamble of 13 G. 2, Ch. 3, is in the following words: "For the better supply of mariners and seamen to serve in his majesty's ships of war, and on board merchant ships and other trading vessels and privateers, and for the better carrying on the present or any future war, and the trade of Great Britain during the continuance thereof," &c.

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The British orders of council, and proclamations of governors, issued from time to time during war, and opening, on account of war, the colonial trade to neutrals, in cases where it was shut to them in times of peace, are too well known to require particular recital or reference. Orders to that effect are now in operation; and fully justify the position, that, as well in the case of the colonial trade as of the trade with the parent country, the same thing is done by Great Britain herself, which she denies the right of doing to her enemies.

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2d. That she trades with her enemies, and invites them to trade with herself, during war, are facts equally certain and notorious.

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The efforts of Great Britain to maintain a trade at all times with the colonies of other nations, particularly of Spain, both in peace and in war, and both by force, and clandestinely, are abundantly attested by her own, as well as other historians. The two historians of Jamaica, Long and Edwards, are alone sufficient authorities on the subject.

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It has been already noticed, that, in the infancy of her belligerent pretension against the trade of neutrals with the colonies of her enemies, she favored, by special licences, a trade of her own subjects with the same colonies.

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The like inconsistency might be verified by a train of examples since the pretension was, during the war of 1793, brought again into action. But it would be a waste of time to multiply proofs of what is avowed and proclaimed to all the world by her acts of parliament; particularly by the act of June 27, 1805, "to consolidate and extend the provisions respecting the free ports in the West Indies."

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This act establishes certain free ports in Jamaica, Grenada, Dominica, Antigun, Trinidad, Tobago, Tortola, New Providence, Crooked Island, St. Vincent's, and Bermuda. These ports, distributed throughout the West Indies, with a view to the most convenient intercourse with the colonies, and settlements of her enemies in that quarter, are laid open to all the valuable productions thereof, and to small vessels with single decks, belonging to, and navigated by, inhabitants of such colonies and settlements. In like manner, the enemies of Great Britain are allowed to export from the enumerated ports, rum, negroes, and all goods, wares, and merchandizes, excepting naval stores, which shall have been imported thither in British vessels. Provision is, at the same time, made for the re-exportation, in British vessels, of the enumerated productions imported from the colonies and settlements of her enemies, to Great Britain and her possessions, according to the regulations prescribed by her navigation act.

Writings of Madison, Volume 2: 1794-1815, p.294

In pursuance of the same principle exercised in her laws, we find her entering into a treaty in time of war, which, in one of its articles, opened a branch of colonial trade to neutrals not open to them in time of peace, and which being to continue in force only two years after the end of the war, may be considered as made in effect for the war.

Writings of Madison, Volume 2: 1794-1815, p.294

The 12th Article of the treaty with the United States in 1794, stipulated that American vessels not exceeding a given size, may trade between the ports of the United States and the British West Indies, in cases prohibited to them by the colonial system in times of peace. This article, it is true, was frustrated by the refusal of the United States to ratify it; but the refusal did not proceed from any supposed illegality of the stipulation. On the part of Great Britain the article had a deliberate and regular sanction; and as it would not have been a lawful stipulation, but on the supposition that a trade not open in peace may be opened in war, the conduct of Great Britain, in this case also, is at variance with the rule she lays down for others.

Writings of Madison, Volume 2: 1794-1815, p.294

But a most interesting view of the conduct of Great Britain will be presented by a history of the novel principle which she is endeavoring to interpolate into the code of public law, and by an examination of the fallacies and inconsistencies to which her Government and her courts have resorted, in maintaining the principle.

Writings of Madison, Volume 2: 1794-1815, p.294

It is a material fact that the principle was never asserted or enforced by her against other nations, before the war of 1756. That at the commencement of the preceding war of 1739, it did not occur, even to the ingenuity of British statesmen labouring for parliamentary topics of argument, is proved by the debate which, on that occasion, took place in the House of Lords.

Writings of Madison, Volume 2: 1794-1815, p.295

In the course of the debate on the expediency of the war, this particular point having fallen under consideration, the following observations were made by Lord Hervey against the war:

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"Some people may perhaps imagine that great advantages might be made by our intercepting the Spanish plate fleets, or the ships that are employed in the trade with their settlements in America, because no Spanish ships can be employed in that trade; but even this would be precarious, and might in several shapes be entirely prevented; for if they should open that trade to the French and Dutch, it is what those two nations would be glad to accept of, and we could not pretend to make prize of a French or Dutch ship on account of her being bound to or from the SPANISH SETTLEMENTS IN AMERICA, no more than we could make prize of her on account of her being bound to or from any port IN SPAIN. We could not so much as pretend to seize any treasure or goods (except contraband she had on board) unless we could prove that those goods or treasure actually belonged to the King or subjects of Spain. Thus the Spanish treasure and effects might safely be brought, &c."

Writings of Madison, Volume 2: 1794-1815, p.295

Lord Bathurst in answer:

Writings of Madison, Volume 2: 1794-1815, p.295

"We may do the Spaniards much damage by privateering, &c. If they bring their treasure home in flotas, we intercept them by our squadrons; if in single ships our privateers take them. They cannot bring it home either in French or Dutch ships,\* because by the 6th Article of the treaty of Utrecht, the King of France is expressly obliged not to accept of any other usage of navigation to Spain and the Spanish Indies, than what was practised in the reign of Charles II, of Spain, or than what shall likewise be fully given and granted at the same time to other nations and people concerned in trade. Therefore, the Spaniards could not lay the trade in America open to the French, or at least the French could not accept of it; and if the Dutch should, they would be opposed by France as well as by us; an opposition they would not, I believe, chuse to struggle with."\*

Writings of Madison, Volume 2: 1794-1815, p.296

Through the whole of the debate the subject is taken up, not on the ground of a belligerent right, or of a neutral duty, but merely on that of commercial jealousy and policy. Had the distinction between a trade allowed in peace as well as war, and a trade allowed in war only, been maintained by British statesmen then, as it is maintained by them now, the same ready answer would have been given then, as in a like discussion, would be given now, viz: that neither France nor Holland could enter into a trade with the Spanish colonies, because, being a trade not open in time of peace, it could not be laid open in time of war.

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In the debates also, which took place in the House of Lords, concerning the Spanish captures in America, and the war which followed, several of the Lords in their speeches lay down in detail, the cases in which belligerent nations may search, capture, and confiscate neutral vessels in time of war; yet, although colonial trade was the immediate subject of discussion, the distinction now employed, seems never to have entered into the thoughts of the speakers.

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Again, in the course of this war to which France became a party on the side of Spain in 1744, it appears that the tribunals of Great Britain proceeded on the same principle, that the trade of neutrals with the colonies of her enemies, though not open in time of peace, might be a lawful trade in time of war. For this there is the testimony of Robinson's reports, in which it is stated, that ships taken on a voyage from the French colonies, were released before the Lords of Appeal.\*

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We find then, that prior to the war of 1756, this belligerent claim of attacking all neutral commerce not permitted in time of peace, a claim so broad in its principle and so baneful in its operation, never had a place among the multiplied pretensions enforced by power, or suggested by avarice. At some times nations have been seen engaged in attempts to prevent all commerce whatever with their enemies; at others to extend the list of contraband to the most innocent and necessary articles of common interchange; at others to subject to condemnation both vessel and cargo, where either the one or the other was the property of an enemy; at others to make the hostility of the country producing the cargo, a cause of its confiscation. But at no time, as seems to be admitted by Sir William Scott himself,\* was this encroachment on the rights of neutrality devised by any nation until the war of 1756. Then it was that the naval resources of Great Britain augmented by her prosperous commerce, more especially that of her then colonies, now the United States of America, gave her an ascendancy over all her rivals and enemies, and prompted those abuses which raised the voice of all Europe against her.

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The first effect of this overgrown power was seen in the bold enterprize of seizing on the whole trade of France within her grasp, in contempt of all forms of commencing hostilities, required by the usage of nations. It was next seen in the extensive depredations on the trade of neutrals, particularly of the Dutch, in defiance not only of the law of nations, but of the most explicit stipulations of treaty. The losses of that single nation, within the first two years of the war, amounted to several millions sterling.\* The Dutch, by their ambassador at London, remonstrated. The British ambassador at the Hague was instructed to enter into explanations. Among these it came out,\* for the first time, that Great Britain meant, notwithstanding the admonitions of prudence as well as of justice, to deny the right of neutrals to carry on with her enemies any trade beyond the precise trade usually carried on in time of peace.

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The origin of this novel principle deserves a more particular developement. The English Government had no sooner made war on the French commerce, than the Dutch began to avail themselves of their neutral and stipulated rights to enter into it; particularly the commerce of the colonies, both to their own ports, and to French ports. The English immediately made war on this commerce, as indeed they did on the commerce to Spain, Portugal, and other countries. The Dutch vessels were even pillaged on the high seas, and their seamen very badly treated. In the years 1757 and 1758 alone, the number of vessels captured and pillaged amounted to no less than three hundred; and the damages were estimated at eleven millions of florins, between five and six millions of dollars. The Dutch appealed to their treaties with England [those in 1674 and 1675] which made enemy's goods free in their ships, contraband only excepted, and the Dutch trade free from and to the enemy's ports, and from one enemy's port to another. The English were driven to the pretext, that the treaty of 1674 said only that the liberty of trade should extend to all merchandizes which were transported in time of peace, those of contraband excepted; and was, therefore, not applicable to the colonial trade in time of war. Besides that the time of peace, if it had been any thing more than a mode of expressing the entire freedom of commerce, could refer only to the kind of merchandizes, not to the ports or channels of trade, the Dutch were able to appeal to the declaratory treaty of 1675, which stipulated an unlimited freedom of trade from and to ports of enemies, without saying any thing as to times of peace. This admitting no reply, the English found no refuge but in the pretext, that the Dutch vessels, being engaged in the colonial trade, were to be considered as French vessels. This lucky thought eluded the stipulation that free ships make free goods, as well as that which embraced the right of trade on the coasts and with the colonies of enemies. It was alledged also, but with little seeming reliance on such an argument, that the commerce with the French islands was not known in 1674, and therefore could not be comprised in that treaty. These pretexts being very little satisfactory to the Dutch, the Province of Holland, the chief sufferer, talked of reprisals. The English answer is in Tindal's Cent., vol. 9, p. 577-8. Undertaking to decide on a constitutional question within an independent nation, they said, if the Province of Holland, which had no authority, should fit out ships, they would be treated as pirates; and if the States General should do it, it would be taken as a declaration of war. Such was the birth of this spurious principle.

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Being avowed, however, on the part of the Government, it was to be expected that it would have its effect on the courts of admiralty. As the decisions of these, during that period, were never reported, the best knowledge of them is to be gathered from references incidentally made to them, in the proceedings of other British courts, and in the proceedings of the high court of admiralty, since the reports of them have been published. The most precise information which has been obtained through the first channel, appears in the case of Berens vs. Rucker, before the court of King's bench, reported in 1 Blackstone, p. 313. This was the case of a Dutch ship which had taken in sugars at sea, off the Island of St. Eustatius, brought along side of her by French boats from a French island; which ship was captured in 1758, on her return with that cargo to Amsterdam. Lord Mansfield in pronouncing on the case in 1760, expressed himself as follows:

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"This capture was certainly unjust. The pretence was that part of this cargo was put on board off Saint Eustatius by French boats from a French island. This is now a settled point by the lords of appeals to be the same thing as if they had been landed on the Dutch shore, and then put on board afterwards, in which case there is no color for seizure. The rule is, that if a neutral ship trades to a French colony with all the privileges of a French ship, and is thus adopted and naturalized, it must be looked upon as a French ship, and is liable to be taken—not so, if she has only French produce on board, without taking it at a French port, for it may be purchased of neutrals."

Writings of Madison, Volume 2: 1794-1815, p.300

Here the ground of capture must be distinctly noted. It is not that the trade, as a trade allowed in war only, was unlawful, and thence incurred a forfeiture of both ship and cargo; the ground and measure of forfeiture, which are now alleged. The vessel is condemned on the ground, or presumption, that it had, by adoption, been made the property of the enemy; whilst the cargo is not liable to condemnation, if not proved to be enemy's property. In other words, the vessel is, in spite of the fact, presumed from the mere circumstance of navigating in a French channel, to be French property; and the cargo, although of French production, and found in a vessel looked upon as French, is notwithstanding these considerations, open to the presumption that it might be neutral property.

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This shews only that the Herculean principle was at that time in its cradle; and that neither the extent of its powers, nor the wonders which it was to be called to perform, were at first understood. Its capacities were to be learnt and applied, as they might be unfolded by time and occasions. At that time, neutral vessels being admitted into new channels of French trade by grants of special licences to the vessels, the occasion was thought to be best answered with respect to the vessels, by the presumption, or rather the fiction, that they were French vessels; and with respect to the neutral cargo, as it did not fall precisely under the presumption applied to the vessels, it was left to escape until further time and occasions should teach the other shapes and uses, of which the innovation was susceptible.

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These shapes and uses soon began to disclose themselves: for it appears from the references made in the case of the Providentin,\* tried before Sir W. Scott in 1799, that French West India produce, conveyed by neutrals from Monte Christi, a Spanish neutral port, was, in the progress of the war of 1756, condemned, on the pretext that the intervention of a neutral port, was a fraudulent evasion of the rule which condemned the trade with a French port; notwithstanding the previous rule of the Lords of appeal, according to which the landing or even trans-shipment of such produce, at a neutral port, neutralized the trade, and made it lawful.

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There is some obscurity, it must be owned, as to the principle on which a neutral trade with the French colonies was condemned, after the discontinuance of special licences; it being sometimes stated in the arguments referring to that period, that the condemnation was founded on the principle, that the trade was virtually or adoptively, a French trade; and sometimes, that it was founded on the general principle that it was a trade not open in time of peace. Certain it is, that the original principle was that of a virtual adoption, this principle being commensurate with the original occasion; and that, as soon as this original principle was found insufficient to reach the new occasions; a strong tendency was seen towards a variation of the principle, in order to bring the new occasions within its reach.

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It is remarkable that, notwithstanding the broad principle asserted by the cabinet through its diplomatic organ at the Hague, which interdicted to neutrals every trade not allowed to them in time of peace, the courts of Admiralty not only limited the principle at first, and hesitated afterwards to extend it, in the manner which has been seen; but never undertook to apply it to the coasting trade; though so strongly marked as a peace monopoly, and therefore so clearly within the range of the principle; nor does it appear, even, that the principle was applied to the trade with the Spanish colonies, after Spain joined in the war, notwithstanding the rigorous monopoly under which they are known to be generally kept, in time of peace.

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It is still more important to remark, as a proof of the inconsistency always resulting from false principles, and the indulgence of unjustifiable views, that the English themselves, if the Annual Register is to be believed, were actually trading, by means of flags of truce equivalent to licences, both directly with the French islands, and indirectly through Monte Christi, during the very period when they were confiscating the property of neutrals carrying on precisely the same trade, in the same manner.

Writings of Madison, Volume 2: 1794-1815, p.301

Such is the state of the question as presented during the war of 1756. The next enquiry relates to the war of the American Revolution, or the French war of 1778.

Writings of Madison, Volume 2: 1794-1815, p.302

Here it is conceded on the British side, that the new principle was, throughout that period, entirely suspended. On the other side, it may be affirmed, that it was absolutely abandoned.

Writings of Madison, Volume 2: 1794-1815, p.302

One proof is drawn from the course of decisions, in the British high court of Admiralty, by Sir James Marriott, the predecessor of Sir Wm. Scott.

Writings of Madison, Volume 2: 1794-1815, p.302

The first volume only of his decisions has yet found its way to this country. In that are contained the cases referred to below;\* all of which are adjudged on the principle, that the coasting trade, and of course every other branch of trade, not allowed to foreigners by a nation at peace, and which may be opened to neutral foreigners by such nation when at war, are lawful trades.

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Although some of the ships, in these cases, were Danish, and others Dutch, and consequently within the stipulations of treaties which have been heretofore cited; yet there is no appearance that the Judge was guided in his decisions by that authority; nor is it in the least probable, that they will now be explained by a resort to it. But should such an attempt be made, it could be of no avail; because, among the cases, there are two, one of a Lubeck and the other of a Prussian vessel, which could be decided by no other rule than the general law of nations; there being no British treaty, with either Prussia or Lubeck, applicable to the question. There is another case, a colonial one too, decided 21st January, 1779, in which the law of nations must of necessity have been the sole guide. It was that of a French ship, bound from St. Domingo to Nantz. The general cargo, as well as the vessel, were condemned as enemies' property; reserving the question concerning the claims of considerable value, made by two passengers as neutrals, the one asserting himself to be a subject of Bohemia, the other of Tuscany. The articles claimed were ultimately condemned as enemies' property; without the slightest allusion to the illegality of a neutral trade between a belligerent country and its colonies; which, if then maintained, as it is now, would at once have put an end to the claims.

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It is strictly and incontrovertibly just, then, to say, that these decisions maintain the law of nations as asserted in this investigation; and abandon and renounce it, as asserted in the decisions of the same court, under its present Judge. During the war of 1778, the Judge had no guide whatever in prize cases, turning on this question, but the law of nations. Neither treaties, nor acts of parliament, nor any known orders of council, interposed any special rule controuling the operation of that law. That law, consequently, was the sole rule of the decisions; and these decisions, consequently, complete evidence of the law, as then understood and maintained by the court: and let it be repeated, that if such was the law in the case of the coasting trade, it was equally the law as to every other channel of trade, shut in peace, and laid open in war.

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These decisions were, indeed, made by the high court of Admiralty, and not by the Lords Commissioners of Appeal, the authority in the last resort, on such subjects. But this consideration does not impeach the inference drawn from the decisions; which having not been reversed, nor appealed from, are fair evidence for the purpose to which they are applied. It is impossible to account for an omission to enter appeals, where the captors were in their own country, and must have had the best counsel, without supposing that the appeals afforded not the smallest chance of a more favorable decision.

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But as a further and more unexceptionable proof that the principle was abandoned, it is stated by Sir Win. Scott himself, that "in the case of the Verwagtig,\* (a vessel trading between France and Martinique during the war of 1778) and in many other succeeding cases, the Lords of Appeal decreed payment of, freight to the neutral ship owner." This, it must be observed, is a case of colonial trade; and a colonial trade of the most exclusive kind in time of peace; a trade between the colony and the parent country.

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To these authorities, an explanation equally singular and unsatisfactory is opposed. It was understood, says Sir William Scott, that "France in opening her colonies, during the war [of 1778] declared that this was not done with a temporary view relative to the war, but on a general and permanent purpose of altering her colonial system, and of admitting foreign vessels, universally and at all times, to a participation of that commerce. Taking that to be the fact, (however suspicious its commencement might be, during the actual existence of the war,) there was no ground to say that neutrals were not carrying on a commerce, as ordinary as any other in which they could be engaged; and therefore, in the case of the Vetwagtig, and many other succeeding cases, the lords decreed payment of freight to the neutral ship owner."

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At what particular time, and in what particular terms, this important declaration by France was made, is not mentioned; nor has any such declaration been discovered by a search which has been carried through all the French codes, and such of the annals of the time, as were most likely to contain it; and without some further account of this "declaration," or this "profession" on the part of France, as it is elsewhere called in Rob. Reports, it is impossible to decide on the precise character and import of it.

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But supposing the fact, as it was taken to be, how account for so unexampled an instance of blind confidence by Great Britain, in the sincerity of an enemy, always reproached by her with the want of sincerity; and on an occasion too, so peculiarly suspicious, as that of a profession at the commencement of war, calculated to disarm Great Britain of a most precious branch of her rights of war?

Writings of Madison, Volume 2: 1794-1815, p.304

If her suspension of the new principle is not to be explained by an intentional return to the established law of nations; and the explanation of the fact lies in the alternative between her respect for a suspicious declaration of France, made in the suspicious crisis of a war, more than any other charged by her on the perfidious ambition of France; and her respect for those prudential motives which her own situation may have suggested for abandoning, rather than renewing, the attempt to maintain such a principle; it will not be easy to avoid preferring the explanation drawn from the following review of her situation.

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However bold it may have been in Great Britain to advance and act upon the new principle in the war of 1756, it has been seen that she went but a small part of the length of it; and with an evident desire to make the innovation as little conspicuous and obnoxious as was consistent with her object. In this caution she was probably influenced by a regard, not only to the progress of opinion in Europe in favor of neutral rights; but particularly to the king of Prussia, whose friendship she courted, and who was known to be a patron of those rights. His dispute with Great Britain, produced by her seizure of Prussian vessels in the preceding war, and by his seizing in return, the Silesian funds mortgaged to Great Britain, is well known. The issue of this dispute has been represented as a complete triumph of the belligerent claims of Great Britain, over the pretensions of the neutral flag. The fact, however, is, that she was obliged to redeem the Silesian debt from the attachment laid on it, by paying to Prussia the sum of 20,000 pounds sterling, as an indemnity for the prizes made of Prussian ships.\*

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At the commencement of the war of 1778, the public opinion had become still more enlightened and animated on the subject of neutral rights. The maritime success of Great Britain in the war of 1756, had alarmed, and the abuses of her power had sharpened the feelings of every commercial nation. Champions had started up all over Europe, maintaining with great learning and strong reasoning, the freedom of the seas, and the rights of the neutral flag. The principle that free ships make free goods, more especially employed a variety of very able pens; and had made a rapid progress. Other principles, the offspring or auxiliaries of this, and equally adverse to the maritime claims of Great Britain, were also gaining partizans. In a word, that state of fermentation in the public mind was prepared, which being nourished by the example and the policy of France, enabled Russia, in concert with France, to unite and arm all the maritime nations of Europe, against the principles maintained by Great Britain. To these discouraging circumstances in the situation of Great Britain, it must be added, that the cause in which she was fighting against her colonies, who had separated from her, was unpopular; that their coalition with her enemies, weakening her and strengthening them, had a double effect in depressing her; and that it happened, as was to be foreseen, that the fleets and cruisers brought against her, and the distress to which her own West Indies were reduced by her inability to supply their wants, made it questionable,. whether she might not lose, rather than gain, by renewing the principle which she had formerly asserted. Early in that war, Mr. Burke, in the House of Commons, exclaimed, "we are masters of the sea, no farther than it pleases the house of Bourbon to permit."

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The effect of this state of things, in tempering the policy and pretensions of Great Britain during the war of 1778, is attested by a series of her public acts too tedious to be here inserted, but which may be seen in Hennings' collection.

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But to whatever causes, the relinquishment by Great Britain of the new principle, is to be ascribed, the fact of the relinquishment remains the same; and that it did not proceed from any declaration made by France, that she had permanently abolished her colonial monopoly, is fully demonstrated by the following considerations.

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The first is, that such a declaration, or such an abolition by France, however satisfactory the evidence of it might be to the British Cabinet, could have no legal effect on the decisions of a Court, without some notification or instruction which is not pretended; and which is sufficiently contradicted, by the guarded terms used by Sir William Scott in speaking of the declaration. And that the then judge of the court, Sir James Mariott, was not in fact influenced in his decisions, either by the declaration of France itself, or by any instruction of his own government founded on such a declaration, is put beyond the possibility of doubt, not only by the want of reference thereto in the decisions, but by an acknowledgment made by Sir William Scott, in the case of the Emanuel in 1799, (1 Rob., p. 253;) the case of a neutral vessel carrying from one Spanish port to another, salt owned by the king of Spain, then at war with Great Britain. "With respect to authorities (says he) it has been much urged, that in three cases, this war, the Court of Admiralty has decreed payment of freight to vessels so employed: and I believe that such cases did pass, under an intimation of the opinion of the very learned person who preceded me, in which the parties acquiesced, without resorting to the authority of a higher tribunal." If the decisions of Sir James Mariott in the war of 1778, had been guided by the declaration of France, and not by the law of nations, it is evident, as that declaration was inapplicable to the war of 1793, and had even been falsified on the return of peace in 1783, as stated by Sir William Scott himself, that the opinion intimated by Sir James Mariott with respect to cases, Spanish too, and not French cases, in the beginning of the war of 1793, could have no other basis than the principle, that according to the law of nations taken by itself, the trade of neutrals on belligerent coasts was a rightful trade.

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Secondly. Were it admitted that a declaration by France had been so made and communicated, as to become a rule binding on the admiralty court, it is clear that the rule must have been restricted to cases of trade with the French colonies, and could have no effect on those of a trade with Spanish or Dutch colonies, whose governments had made no such declaration as is attributed to France: yet it is not pretended, nor is it known, that any distinction was made by the British courts, between the former and latter cases. The principle in question seems to have been equally renounced in all.\*

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Thirdly. The alleged change in the system of France was restricted to her colonies. It is not pretended that any permanent change was either made, or declared in the system of her coasting trade. But the decisions of the British court above cited, relate principally to the coasting trade. The principle then must have been drawn, not from the alleged change of France, but from the law of nations: and if the law of nations authorized in the judgment of the court, a coasting trade shut in peace and opened in war, it must have authorized, in the same judgment, the colonial and any other trade shut in peace and opened in war.

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It is an inevitable conclusion, therefore, not only that the trade of neutrals to belligerent coasts and colonies, was sanctioned by the British courts, throughout the war of 1778, but that the sanction was derived from the law of nations; and, consequently, that the new principle, condemning such a trade, was not merely suspended under the influence of a particular consideration which ceased with that war, but was, in pursuance of the true principle of the law of nations, judicially abandoned and renounced.

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Passing on to the war of 1793, it appears, however, that the policy of the British government, yielding to the temptations of the crisis, relapsed into the spirit and principle of her conduct towards neutral commerce, which had been introduced, in the war of 1756.

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The French revolution which began to unfold itself in 1789, had spread alarm through the monarchies and hierarchies of Europe. Forgetting former animosities, and rival interests, all the great powers on the continent were united, either in arms or in enmity, against its principles and its examples: some of them, doubtless were stimulated, also, by hopes of acquisition and aggrandizement. It was not long before the British government began to calculate the influence of such a revolution, on her own political institutions; as well as the advantages to which the disposition of Europe, and the difficult situation of her ancient rival and enemy might be turned. War was, indeed, first declared by the French government; but the British government was, certainly, the first that wished it, and never perhaps entered into a war against France, with greater eagerness, or more sanguine hopes. With all Europe on her side, against an enemy in the pangs of a revolution, no measure seemed too bold to be tried; no success, too great to be expected.

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One of her earliest measures was accordingly that of interdicting all neutral supplies of provisions to France, with a view to produce submission by famine.\*

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The project, however, had little other effect, than to disgust those most interested in neutral commerce, and least hostile to France. This was particularly the case with the United States, who did not fail to make the most strenuous remonstrances against so extraordinary a proceeding. The correspondence of their Secretary of State with the British plenipotentiary, (Mr. Hammond,) and of Mr. Pinckney the American plenipotentiary with Lord Grenville, the British Secretary of State, are proofs of the energy with which the innovation was combated, and of the feebleness and fallacy with which it was defended. The defence was rested on a loose expression of Vattel. Bynker-shoeck, who had not altogether got rid of the ideas of the former century, and by whom Vattel probably was misled, could have furnished a still stronger authority.\*

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The next experiment of depredation on neutral commerce was directed, notwithstanding the former abandonment of the principle, and the continuance of the abandonment into the early cases of the war\* of 1793, against that carried on with the possessions of France in the West Indies. This experiment too fell with peculiar weight on the United States. For some time the irregularities went on, without any known instructions from the government reviving the abandoned principle; but without the licentious excesses which followed.

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As early, however, as November 6, 1793, instructions were issued, which struck generally at the neutral commerce with the French West Indies. That of the United States was the principal victim. The havoc was the greater, because the instructions being carried into operation before they were promulged, took the commerce by surprize.

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This instruction of November 6th, 1793, was addressed to the commanders of ships of war, and to privateers having letters of Marque against France, in the following terms:

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"That they shall stop and detain all ships laden with goods the produce of any colony belonging to France, or carrying provisions or other supplies for the use of any such colony, and shall bring the same with their cargoes to legal adjudication in our courts or admiralty."

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In some respects this instruction went farther than the new principle asserted by Great Britain; in others it fell short of that principle.

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It exceeded the principle in making the produce of a French colony, although owned by neutrals, and going from a neutral port where it might have been regularly naturalized, the criterion of the trade. The principle would have extended only to produce exported immediately from the colony, in a trade not permitted in time of peace.

Writings of Madison, Volume 2: 1794-1815, p.311

Again, the principle was not applicable to an immediate trade from certain ports\* and places in the colonies, authorized by permanent regulations antecedent to the war. The instruction extends to any colony, and consequently violates a trade where it was permitted and customary before the war.

Writings of Madison, Volume 2: 1794-1815, p.311

On the other hand it falls short of the principle, in as much—1, as it spares articles directly exported from, though not the produce of, the colonies—2, as it does not affect the coasting trade of France, and other branches of French trade, laid open in time of war, on account of the war.

Writings of Madison, Volume 2: 1794-1815, p.311

With these mitigations, however, the instruction had a sweeping operation on the neutral commerce with the French colonies, carried on chiefly from the United States.

Writings of Madison, Volume 2: 1794-1815, p.311

The resentment produced by it, and which was doubled by the ensnaring concealment of the instruction, appeared not only in the outcry of the suffering merchants, but in the discussions and proceedings of the government. Important restrictions on the commerce of Great Britain were agreed to by one branch of the Congress, and negatived by a single vote in the other. A sequestration of British funds and effects in the United States was proposed and strongly supported. And an embargo withholding supplies essential to the subsistence of the British West Indies, actually passed into a law, and remained in force for some time. These measures, at length, gave way to the mission of a plenipotentiary extraordinary to the British court, which terminated in the treaty of 1794.

Writings of Madison, Volume 2: 1794-1815, p.312

The British government, in the mean time, aware of the powerful tendency of such depredations, to drive the United States into a commercial, if no other warfare, against her, prudently retreated from the ground taken by this instruction, as early as the 8th of January, 1794, when she revoked the instruction to her cruisers, of November 6th, 1793, and substituted the following:

Writings of Madison, Volume 2: 1794-1815, p.312

"1. That they shall bring in for lawful adjudication all vessels with their cargoes, that are loaded with goods the produce of the French West India Islands, and coming directly from any port of the said islands to any port in Europe."

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"2. That they shall bring in for lawful adjudication, all ships with their cargoes, that are loaded with goods the produce of the said islands, the property of which goods shall belong to subjects of France, to whatsoever ports the same may be bound."

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"3d. That they shall seize all ships that shall be found attempting to enter any port of the said islands that is, or shall be, blockaded by the arms of his majesty or his allies, and shall send them in with their cargoes for adjudication, according to the terms of the 2d article of the former instructions, bearing date the 8th day of June, 1793."

Writings of Madison, Volume 2: 1794-1815, p.312

"4th. That they shall seize all vessels laden wholly or in part with naval or military stores, bound to any port of the said islands, and shall send them into some convenient port belonging to his majesty, in order that they, together with their cargoes, may be proceeded against according to the rules of the law of nations."

Writings of Madison, Volume 2: 1794-1815, p.312

As the three last articles cannot be regarded as any relaxation or re-modification of the instructions of November, 1793, since they relate only to principles well known to have been long enforced by Great Britain, as a part of the law of nations, it is not easy to discern the motive to them. The only effect of the articles, as an enumeration and definition of belligerent rights, in certain branches of trade, seems to be, to beget perplexing questions with respect to these rights, in the branches of trade pretermitted.

Writings of Madison, Volume 2: 1794-1815, p.313

The material article is the first. It varies the preceding instructions in three respects: 1st, in substituting "the French West India islands" for "any colony of France;" of which there are some not islands, and others not West India islands: 2d, in limiting the seizure, to produce "coming directly" from any port of the said islands: 3d, in the very important limitation of the seizure, to vessels bound from those islands to any port in Europe.

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By these limitations it was, apparently, intended to. take the direct trade from the French West Indies to the United States, out of the operation of the order of 1793: and, probably also, the trade from the United States to the West Indies; leaving the trade to Europe, from the French West Indies, a prey to British cruisers. Whether it was also meant, as seems to be implied, that the neutral trade from Europe to the French West Indies was to be undisturbed, is a distinct question. This question was actually raised under the ambiguity of the instruction, and decided, not without some marks of self distrust, by Sir Wm. Scott, in the case of a trade from France herself to a West India colony.\*

Writings of Madison, Volume 2: 1794-1815, p.313

The explanation of this change in the instructions of the British Government is given, by the Reporter of Sir Win. Scott's decisions, in the following passage extracted from the appendix to 4 Rob., p. 4: "The relaxations that have since [the instructions of November 6, 1793] been adopted, have originated chiefly in the change that has taken place in the trade of that part of the world, since the establishment of an independent Government on the continent of America. In consequence of that event, American vessels had been admitted to trade in some articles, and on certain conditions, with the colonies both of this country and of France. Such a permission had become a part of the general commercial arrangements, as the ordinary state of their trade in time of peace. The commerce of America was therefore abridged by the foregoing instructions, and debarred of the right generally ascribed to neutral trade in time of war, that it may be continued, with particular exceptions, on the basis of its ordinary establishment. In consequence of representations made by the American Government, to this effect, new instructions to our cruizers were issued, 8th January, 1794, apparently designed to exempt American ships trading between their own country and the colonies of France."

Writings of Madison, Volume 2: 1794-1815, p.314

One remark suggested by this explanation is, that if it be a just defence of the orders of January, 1794, it is a severe imputation on those of November, 1793; for the sole reason which is stated, as requiring this revocation of the orders of 1793, was in existence at the date of those rigorous orders; and ought, therefore, to have prevented them. Yet they were not only not prevented, but were permitted to have a secret and extensive operation on the American commerce. Nor does it appear, that in any of the decisions on the captures made within that period, conformably to the instructions, but contrary, as is here admitted, to the law of nations, which, on the British principle, authorized the American commerce, at least as far as it had been actually enjoyed with the French, in time of peace, the court ever undertook to modify the instructions; as is alledged to have been done, in the war of 1778, in consequence of the professions of France that she had opened her colonial ports, generally, to the permanent trade of other nations.

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The explanation calls for two other remarks. The first is, that the instruction goes beyond the reason assigned for it. The reason assigned is, that the trade between the United States and the French islands had, by the permission of France, become "the ordinary state of their trade in time of peace." Now so far as this was the fact, the trade is expressly and truly stated, in the explanation itself, to have been limited to "some articles," and "on certain conditions." But the instruction is admitted to have been designed to exempt, without any such limitations, American ships trading between their own country and the colonies of France.

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The second remark is, that it is not a fact, that the representations of the American Government were made to the effect here stated; namely, that the instructions of 1793 debarred them of the right of trading with the French colonies in time of war, according to the ordinary state of the trade permitted to them in time of peace. The representations of the American Government recognized no such principle, nor included any such complaint; as is proved by official documents\* on the subject.

Writings of Madison, Volume 2: 1794-1815, p.315

A third remark might be added. If the ordinary permissions of France to trade with her colonies, was a good reason for exempting the trade of the United States from the orders of November, 1793, the exemption ought to have been co-extensive with the permissions; and, consequently, to have embraced the neutrals of Europe, who enjoyed the same permissions as the United States; instead of being restricted to the latter.

Writings of Madison, Volume 2: 1794-1815, p.315

One is really at a loss, which most to admire, the hasty and careless facility with which orders proceed from the Government of a great and an enlightened nation, laying prostrate the commerce and rights of its friends; or the defective and preposterous explanations given of such orders, by those who undertake to vindicate or apologize for them.

Writings of Madison, Volume 2: 1794-1815, p.315

But whatever may have been the origin, or the intention of the second orders of 1794, revoking the restraints imposed by those of 1793, on the United States; whilst they suffered those restraints to continue, in great part at least, on other nations; two consequences resulted, which seem not to have been taken sufficiently into foresight.

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One of them was, that the nations of Europe, excluded from the trade not forbidden to the United States, were not a little soured by the distinction; and which, very possibly, may have contributed to the revival of the sympathies which brought about the armed neutrality of 1800.

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The other was, the vast growth of the carrying trade of the United States, which supplied all parts of Europe, with the produce of the West Indies, and without affording to Great Britain any of the profits of an entrepot.

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The developement of these consequences could not fail to awaken the attention of the British Government, and is the best key to the instruction which was issued January 25, 1798; and which was extended to the possessions of Spain and Holland, then united with France against Great Britain.

Writings of Madison, Volume 2: 1794-1815, p.316

It revoked the instructions of January, 1794, reciting as the consideration which rendered the alteration expedient, "the present state of the commerce of Great Britain, as well as that of neutral countries;" and in lieu thereof, the following was issued:

Writings of Madison, Volume 2: 1794-1815, p.316

"That they should bring in for lawful adjudication, all vessels with their cargoes, that are laden with goods, the produce of any island or settlement belonging to France, Spain, or the United Provinces, and coming directly from any port of the said islands or settlements, to any port in Europe, not being a port of this kingdom, nor a port of that country, to which such ships, being neutral ships, shall belong." The residue of the articles merely extend to the islands and settlements of France, Spain, and Holland, the three last articles in the instructions of January, 1794.

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The effect of this new change in the instructions was, to sanction a direct trade from all the French islands, as well as from those in the West Indies, and also from the French settlements which were not islands, with a like sanction, to a like trade, from the islands and settlements of the other enemies of Great Britain; to extend to neutrals in Europe, the enjoyment of this trade, with a refusal to the American States, of the direct trade, from those islands and settlements to such European neutrals; and finally, to permit to these States, as well as to the neutrals of Europe, a direct trade from the hostile islands and settlements to Great Britain herself.

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The explanation attempted by the reporter, Dr. Robinson, in his appendix to the 4th vol., p. 4-5, is, that "In consequence of the relaxation [in 1794] of the general principle in favor of American vessels; a similar liberty of resorting to the colonial market, for the supply of their own consumption, was conceded to the neutral States of Europe, a concession rendered more reasonable by the events of war, which, by annihilating the trade of France, Spain, and Holland, had entirely deprived the States of Europe of the opportunity of supplying themselves with the articles of colonial produce in those markets."

Writings of Madison, Volume 2: 1794-1815, p.317

With regard to the permission to all neutrals to convey the produce of the enemies' colonies, directly to British ports, he is silent.

Writings of Madison, Volume 2: 1794-1815, p.317

From a summary, however, of the discussions which had taken place on cases before the Lords of Appeal, as it is given in the appendix to 4 Rob., p. 6, an explanation of this part of the regulation, might be easily collected, if it were not otherwise sufficiently obvious. Among the arguments used for so construing the last order of 1798, as to justify a Danish vessel in trading from a Spanish colony, to a neutral country, to which the vessel did not belong; it is observed, "that, originally, the pretension to exclude all neutrals, was uniformly applied on the part of the belligerent; by which the effect of reducing such settlements .for want of supplies, became a probable issue of the war; now, since the relaxations have conceded to neutral merchants the liberty of carrying thither cargoes of innoxious articles, and also of withdrawing the produce of the colony, for the purpose of carrying it to their own ports; now, to restrict them from carrying such cargoes directly to the ports of other neutral States, becomes a rule apparently capricious in its operation, and one, of which the policy is not evident. From the northern nations of Europe, no apprehensions are to be entertained of a competition injurious to the commercial interests of our own country. To exclude them from this mode of traffic [that is of trafficking directly from such colonies to other neutral countries] in the produce of the enemy's colonies, is to throw a farther advantage into the hands of American merchants, who can, with greater ease, import it first into their own country, and then, by re-exportation, "send it on" to the neutral nations of Europe.

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No other key is wanted to let us into the real policy of the orders of' 1798; which placed the neutral nations of Europe, and the United States on the same footing, by extending the rights of the former, and thereby abridging the advantages of the latter. This change of "the actual state of the commerce of this country (G. B.) as well as that of neutral countries" was expedient for two purposes: It conciliated the Northern nations, then perhaps listening to a revival of the armed neutrality, and from whom "no apprehensions were to be entertained of an injurious competition with the commercial interests of Great Britain; and at the same time, it so far took the advantages of re-exportation out of the hands of the American merchants, from whom such a competition, probably was apprehended.

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But a mere adjustment of the balance between neutrals in their advantageous trade with the enemy colonies, did not answer all the purposes which were to be consulted. It gave Great Britain herself, no share of the forbidden fruit. She took at once, therefore, the determination, whilst she would permit none of the neutral merchants of any country to carry on this colonial trade of her enemies with another neutral country, to authorize them all to carry it on with herself; disguising, as well as she could, the policy of making herself the centre and thoroughfare of so extensive a branch of profit, under the general expediency of changing "the state of commerce both British and neutral" as it had resulted from her regulations of 1794; and avoiding, as much as she could, to present to notice, the palpable inconsistency of making herself a party to a trade with her colonial enemies, at the very moment when she was exerting a belligerent pretension, having no other basis, than the probable reduction of them, by suppressing all trade whatever with them.

Writings of Madison, Volume 2: 1794-1815, p.319

This subject is too important not to be a little further pursued. Unpleasant as the task is, to trace into consequences, so selfish and so abounding in contradictions, the use made by Great Britain of the principle assumed by her, the developement is due to truth and to the occasion. It will have the important effect, at the same time, of throwing further light on the checkered scene exhibited by the admiralty jurisprudence of Great Britain.

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It must be added then, that the commercial policy for which she employs her new belligerent principle, is the more apparent from two subsidiary pretensions, as new, as they are at variance with the maritime rights of neutral nations.

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The object of drawing through her own warehouses and counting-houses, the colonial trade of her enemies, on its way from the West Indies to the other countries of Europe, being counteracted by the extensive intercourse between the United States and those colonies, and by the re-exportation from the United States, of the imported surplus of colonial produce, the project was adopted, of forcing this trade directly from the West Indies to, and through Great Britain; 1st, by checking the West India importations into the United States, and thereby lessening the surplus for re-exportation; 2d, by embarrassing the re-exportation from the United States; both considerations seconded, no doubt, by the avidity of her cruizers and by the public interest, supposed to be incorporated with their success in making prizes; and the first consideration, seconded also, perhaps, by a desire to give an indirect check to the exportation of contraband of war from the United States.

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In order to check importations, the principle is advanced, that the outward and the return voyage are to be regarded, as forming but a single voyage; and consequently, if a vessel is found with an innocent cargo on board, but on her return from a hostile port, her outward cargo to which, was as contraband of war subject to capture, the vessel is thereby rendered liable to capture, and the chance for capture, by that means, doubled.

Writings of Madison, Volume 2: 1794-1815, p.320

That this principle is of modern date, can be shewn by more than negative evidence; and from a source highly respectable. When Sir L. Jenkins was judge of the high court of admiralty, in the latter period of the 17th century, it was the practice, sometimes for the king, at others for the commissioners of appeal, to call for his official opinions in writing, on cases depending in other courts, or diplomatically represented to the government. These rescripts are valuable, not only as one of the scattered and scanty materials composing the printed stock of admiralty precedents in Great Britain; but as the testimony of a man, who appears to have been not undeservedly regarded as an oracle in his department of law; and to have delivered his opinions with a candor and rectitude, the more meritorious as he served a sovereign who gave little encouragement to these virtues, and as he was himself of a temper and principles sufficiently courtly.

Writings of Madison, Volume 2: 1794-1815, p.320

The case of a Swedish vessel, which had conveyed enemy's goods, having been seized on her return, with neutral goods, was represented to the government by the Swedish Resident; and by the Government referred to Sir L. Jenkins, the judge of the high court of admiralty. His report is so interesting in another respect, as well at that for which it was required, that it shall be given in his own words:

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"The question which I am (in obedience to his Majesty's most gracious pleasure) to answer unto, being a matter of fact, I thought it my duty not to rely wholly on my own memory or observation, but further to inquire of Sir Robert Wiseman, his majesty's advocate general; Sir William Turner, his royal highness, the lord high admiral's advocate; Mr. Alexander Check, his majesty's proctor; Mr. Roger How, principal actuary and register in the high court of admiralty in England; whether they, or any of them, had observed, or could call to mind, that in the late war against the Dutch, any one ship, otherwise free, (as belonging to some of his majesty's allies,) having carried goods belonging to his majesty's enemies, from one enemies port to another, and being seized (after it had discharged the said goods) laden with the proceed of that freight which it had carried and received of the enemy upon the account of the ship's owners, had been adjudged prize to his majesty; they all unanimously resolved that they had not observed, nor could call to mind that any such judgment or condemnation ever passed in the said court; and to this their testimony I must (as far as my experience reaches) concur: and if my opinion be (as it seems to be) required, I do not (with submission to better judgment) know any thing, either in the statutes of this realm, or in his majesty's declarations upon occasion of the late war, nor yet in the laws and customs of the seas, that can (supposing the property of the said proceed to be bona fide vested in the ship owners his majesty's allies) give sufficient ground for a condemnation in this case. And the said advocates (upon the debate I had with them) did declare themselves positively of the same opinion. Written with my hand this 6th day of February, 1667."\* Sir L. Jenkins' works, 2 vol., p. 741.

Writings of Madison, Volume 2: 1794-1815, p.321

Here the point is clearly established, that a vessel found with a lawful cargo, on a return voyage, cannot be affected by the unlawfulness of the cargo immediately preceding it; and, consequently, that an outward and return voyage, cannot be considered as but one voyage, or the character of one as transfused into the other.

Writings of Madison, Volume 2: 1794-1815, p.322

It is true that, in this case, the cargo in question was not contraband of war, but enemy's property. But there is no room for a distinction in the principle applicable to the two cases. If the two voyages in fact make one and the same voyage in law, an outward cargo of enemy's property must authorise capture in the returned voyage as much as an outward cargo of contraband would authorise it. If the two voyages do not make one and the same; the contraband of war, in one voyage, can no more affect another voyage, than enemy's property, in one voyage, can affect another voyage.

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It will not have escaped attention that, in the case stated in the report of Jenkins, the voyage in which enemy's property had been carried, and which it was imagined might thence have vitiated the return voyage, was a coasting voyage from one enemy's port to another. Yet so immaterial was that circumstance, at that time, that it appears not even to have been taken into his consideration, much less to have influenced his opinion. Had it been otherwise, it would indeed have made his decision so much the stronger against the amalgamation of two voyages, on account of the unlawfulness of one of them: for on that supposition the first of the two voyages would have been doubly unlawful, as engaged both in carrying enemy's property, and in carrying it from one enemy's port to another.

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But this particular principle is not only of modern date, but of very recent date indeed. Its history, like that of many other belligerent innovations by Great Britain, is not unworthy of attention.

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In December, 1798, in the case of the Frederick Molke, a Danish vessel that had got into Havre, then deemed in a state of blockade, and was taken on her way out, August 18th, 1798, it was urged to be like the case of a return voyage, where the cargo of the outward voyage had been contraband. Sir William Scott admitted that, in the latter case, "the penalty does not attach on the returned voyage," but denied the affinity between the cases: "there is this essential difference," said he, "that in contraband the offence is deposited with the cargo, whilst in such a case as this, it is continued and renewed in the subsequent conduct of the ship;"\* the act of egress being, according to him, as culpable as the act of ingress.

Writings of Madison, Volume 2: 1794-1815, p.323

In August, 1799, in the case of the Margaretha Magdalena; a vessel returning to Copenhagen from Batavia, her outward cargo having consisted of contraband goods, was seized at St. Helena, September, 1798. On the ground, however, that the ship and cargo were neutral, and that the outward shipment from Copenhagen was contingent and not absolutely for Batavia, but sent under the management of the master to invest the proceeds in the produce of Batavia, restitution was decreed by Sir William Scott, notwithstanding the fact that the contraband "articles were actually sold at Batavia," with a remark only, that there was great reason to bring this case to adjudication, as a case very proper for enquiry. On this occasion the judge made the following observations: "It is certainly an alarming circumstance in this case, that although the outward cargo appears to have consisted of contraband goods, yet the principal owner appears publicly at Copenhagen, and makes oath, "that there were no prohibited goods on board, destined to the ports of any party now at war." The master himself describes the cargo that he carried out as naval stores, and in looking into the invoice I find that they are there represented as goods to be sold. That being so, I must hold that it was a most noxious exportation, and an act of very hostile character, to send out articles of this description to the enemy, in direct violation of public treaties, and of the duty which the owners owe to their own government. I should consider it as an act that would affect the neutral in some degree on this returned voyage, for although a ship on her return is not liable to confiscation for having carried a cargo of contraband on her outward voyage, yet it would be a little too much to say, that all impression is done away; because if it appears that the owner had sent such a cargo, under a certificate obtained on a false oath, that there was no contraband on board, it could not but affect his credit at least, and induce the court to look very scrupulously into all the actions and representations of such a person."\*

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That the judge was beginning to be a little unquiet under the rule imposed on himself, not to consider a ship on her return voyage as liable to confiscation for having carried a cargo of contraband on her outward voyage, is sufficiently visible. He is found, nevertheless, still submitting to the restriction.

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The case of the Immanuel succeeded November 7th, 1799. It is the case of a Hamburg ship, taken 14th August, 1799, on a voyage from Hamburg to St. Domingo, having in her voyage touched at Bourdeaux, where she sold part of her cargo, and took a quantity of other articles for St. Domingo. The question was started, whether the stores which had been discharged at Bordeaux, though originally destined for St. Domingo, were contraband or not. The inference of the judge was, that they were not of a contraband nature, at least that they were left ambiguous, and without any particular means remaining of affording a certainty upon the matter. "If so," said he, "it is useless to imagine what the effect of contraband, in such circumstances, would have been. I shall say no more, than that I incline to think that the discharge of the goods at Bordeaux would have extinguished their powers of infection. It would be an extension of this rule of infection, not justified by any former application of it, to say, that after the contraband was actually withdrawn, a mortal taint stuck to the goods, with which it had once travelled, and rendered them liable to confiscation, even after the contraband itself was out of its reach."\*

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This was not indeed a return voyage, but one link of an outward voyage. The reason, however, given why contraband, after being discharged, could not leave a confiscating taint on the expedition, namely, because itself was out of the reach of confiscation, is precisely common to the two cases; yet it would seem that the judge is becoming not a little languid in maintaining the opinion, "that the offence of contraband is deposited with the cargo." He now "inclines to think that such would be the effect."

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February 5, 1800, the case of the Rosalie and Betsey, was that of a ship taken May 31, 1799, on a voyage from the Isle of France, asserted to be to Hamburg. It was made a question of property, turning on a question of fraud; the fraud in the returned voyage was held to be reinforced by the fraud in the outward voyage; and that fraud is stated by Sir William Scott, "as more noxious on account of the contraband nature of several of the articles of the outward cargo."

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Here contraband in an outward voyage was, in spite of the maxim that its offence was deposited with the cargo, allowed to have an influence on the character of the returned voyage. Still it was but an indirect and partial influence. It was held to be an aggravation only of the fraud, the fraud being the git of the offence.

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In 1800, June 24, occurs the case of the Nancy, Knudson master, a ship taken on a voyage to Copenhagen from Batavia, whither she had carried contraband of war. The cargo appears to have been condemned, on the ground of fraud in the papers and destination, combined with the contraband quality of the outward cargo. The complexion and weight, however, which the last ingredient had assumed in the mind of the judge, are seen in the following extract from the judgment pronounced by him:

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"But it is said, this is a past transaction, and that in cases of contraband, the returned voyage has not usually been deemed connected with the outward. In European voyages of no great extent, where the master goes out on one adventure, and receives at his delivering ports, new instructions and further orders, in consequence of advice obtained of the state of the markets, and other contingent circumstances, that rule has prevailed; but I do not think, in distant voyages to the East Indies, conducted in the manner this has been, the same rule is fit to be applied. In such a transaction, the different parts are not to be considered as two voyages, but as one entire transaction, formed upon one original plan, conducted by the same persons, and under one set of instructions, ab ovo usque ad mala."\* This condemnation of the cargo was confirmed by the lords of appeal, and the indulgence even allowed with respect to the ship, by the high court of admiralty, reversed by that superior tribunal.

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The existence of contraband in an outward voyage, not only figures more considerably in this, than in any preceding case; but the judge gets hold of a new implement of judicial warfare on neutral commerce. In aid of presumptive fraud, of the alleged continuity of fraud from the outward into the returned voyage, and of the aggravation given to fraud by the ingredient of contraband in the outward voyage; in aid of all these, the distance of the voyage, makes for the first time, its appearance. In the case of the Margaretha Magdelena, the voyage, like this, was a voyage to Batavia. In the case of the Rosalie and Betsey, the voyage was also into the East Indian seas. In neither of these cases, the slightest allusion is made to that criterion of right and wrong. The discovery then may fairly be dated with the case of the Nancy, of no older date than June, 1800.

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But mark the reason, why distant voyages to the East Indies are distinguished from European voyages of no great extent. It is, because in the latter the master "receives at his delivering ports, new instructions and further orders, in consequence of advice obtained of the state of the markets, and other contingent circumstances;" whereas, in distant voyages to the East Indies, conducted in the manner this has been, the two voyages are to be considered as one entire transaction, formed upon one original plan, conducted by the same persons, and under one set of instructions.

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If the reason here given for the distinction between distant voyages and voyages of no great extent, be a good one, it is not easy to see the reason for requiring, in addition to the distance of the voyage to the East Indies, that it should be conducted in the manner of this particular voyage; unless indeed it be, as there is too much room to remark in the decisions of the Judge, with a view to rest every case, as much as possible, on its own particular circumstances; and thereby avoid the judicial fetters formed by a chain of definite precedents.

Writings of Madison, Volume 2: 1794-1815, p.327

Certain it is, that if the outward and returned voyages are to be taken as one, where the distance of them is such, that new orders cannot be given, in consequence of new advices from the foreign ports of delivery, as may be done in voyages of no great extent; but that the whole business must be executed under one original set of instructions; every voyage to the East Indies, in whatever manner conducted, must fall within the rule which determines the outward and returned voyage to be but one voyage; in other words, that in that extensive branch of neutral commerce, the outward and returned voyage, making but one, contraband in the outward cargo, though deposited at its place of destination, is to have the same effect on the returned voyage, as it would have had on the outward voyage, if actually intercepted on the outward voyage.

Writings of Madison, Volume 2: 1794-1815, p.327

Nay more; the rule must be applicable to every European voyage, of great extent; an extent so great as to require that the sale of the outward cargo at the ports of delivery, and the purchase of a return cargo, should be provided for, in the same original instructions.

Writings of Madison, Volume 2: 1794-1815, p.327

In no view can the rule be less applicable to distant voyages between Europe and the West Indies, than between Europe and the East Indies; nor more to European voyages than to American voyages to the West Indies, where these are of so great extent as to require that the returned voyage should be provided for in the same set of instructions with the outward voyage.

Writings of Madison, Volume 2: 1794-1815, p.327

Whether these analogies and inferences entered into the contemplation of the Judge on this occasion, is an enquiry which may be waived. Nor is it known to the public, whether any intermediate steps were taken by him, or by the superior tribunal, between that date and the 24th June, 1803, conducting the policy or' opinion of the cabinet, towards the instructions of this last date. These form, however, a very natural result to those preliminary ideas, as appears by the tenor of the instructions, which is as follows:

Writings of Madison, Volume 2: 1794-1815, p.328

"In consideration of the present state of commerce, we are pleased hereby to direct the commanders of our ships of war and privateers, not to seize any neutral vessel which shall be carrying on trade directly between the colonies of enemies and the neutral country to which the vessel belongs, and laden with the property of inhabitants of such neutral country: Provided, that such neutral vessel shall not be supplying, nor shall have, on the outward voyage supplied, the enemy with any articles of contraband of war; and shall not be trading with any blockaded port."

Writings of Madison, Volume 2: 1794-1815, p.328

In these instructions we find the principle formally adopted, and the returned cargoes of West India produce actually obstructed, on their way to the United States, by the application of the principle, wherever the outward cargo had included contraband. We find, of course, the West India trade so far forced out of the channel to Europe through the United States, into such channels to and through Great Britain, as she may chuse to prescribe.

Writings of Madison, Volume 2: 1794-1815, p.328

This being necessarily and obviously the commercial effect of the instructions, it may fairly be supposed that it corresponds with the intentions of a nation so clear-sighted in whatever affects her commerce; and, consequently, that the principle on which this instruction is founded, was assumed as subsidiary to the commercial policy on which was founded the main principle under investigation.

Writings of Madison, Volume 2: 1794-1815, p.328

Another observation, with respect to this instruction, forces itself upon us. It was a heavy reproach against the instruction of November 6th, 1793, that it was not promulged until it had for some time been ensnaring, and laying waste, the commerce of neutral nations with the West Indies. The instruction of June 24, 1803, first found its way (probably by chance) to public notice in the United States, from the obscure island of Tortola, in the summer of 1805. It must, then, have been in the pockets of cruisers, ensnaring and destroying the commerce of this country, as far as that degree of innovation could have that effect, for a period of about two years. The reproach is heightened, too, by the consideration that the snare, in this case, was successful in proportion to the respect observed towards former instructions, the faith of which was violated by the ex post facto operation of that in question. A reparation of the damage is the least atonement that a just and wise nation can wish to make, for such a trespass on all the maxims of public morality, as well as of national honor.

Writings of Madison, Volume 2: 1794-1815, p.329

The second pretension subsidiary to the commercial policy of instructions, clothed with the language of belligerent rights, is that of subjecting to capture, colonial produce, re-exported from a neutral country to countries to which a direct transportation from the colonies by vessels of the re-exporting country, has been disallowed by British regulations. The effect of this pretension evidently is, to check neutral nations, particularly the United States, in the circuitous transportation of West India produce; and in the same proportion, to force the trade into channels terminating in British ports. And the effect is the more particularly in her favor, as the re-exportation of the surplus carried into her ports can be regulated by her own laws, for her own interests; whilst she will not permit the laws of other countries to regulate the re-exportation of the surplus carried into their respective ports.

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That this pretension, also, is as new as it is arbitrary, will be best seen by a review of its rise and progress; which will at the same time, as in the other instance, illustrate the inconstancy and inconsistency of the maritime proceedings of Great Britain towards other nations.

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Prior to the war of 1756, no trace of any such pretension is discovered; and it is testified by the authority of Lord Mansfield, as already seen, that a principle was, during that war, judicially settled in opposition to it. A neutral vessel, off the neutral island of St. Eustatius, had received on board a part of her cargo from French boats, from a French colony. "This," says his lordship, "is now a settled point by the lords of appeals, to be the same thing as if they had been landed on the Dutch shore, and then put on board afterwards; in which case there is no color for seizure."

Writings of Madison, Volume 2: 1794-1815, p.330

Here the rule was solemnly settled by the highest admiralty tribunal in Great Britain, that the trans-shipment, off a neutral port, of colonial goods from an enemy's vessel, protected the goods from capture, and that where such goods had been landed and reladen, there was not even a color for seizure.

Writings of Madison, Volume 2: 1794-1815, p.330

Notwithstanding this solemn recognition of the neutral right, it was found, as also has been seen, that French produce exported by neutrals from the neutral port of Monte Christi, during the war of 1756, was not protected by the rule.

Writings of Madison, Volume 2: 1794-1815, p.330

During the war of 1778, the whole claim of disturbing neutral commerce on the ground of its not being open in peace as well as in war, having been relinquished, the question could not occur until the war of 1793. And what is not to pass unnoticed, the first case in which the point fell under judicial observation, appears to have been that of the Immanuel in November, 1799. During the six preceding years, as may be inferred from what then fell from the judge, no doubt had existed, that an importation of colonial produce into a neutral country, converted it into the commercial stock of the country, with all the rights, especially those of exportation, incident to the produce or manufactures of the country itself.

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It will be most satisfactory to present the opinion of Sir William Scott on that occasion, in the words of his reporter. "It is argued that the neutral can import the manufactures of France to his own country, and from thence directly to the French colony; why not immediately from France, since the same purpose is effected? It is answered, that it is effected in a manner more consistent with the general rights of neutrals, and less subservient to the special convenience of the enemy. If a Hamburg merchant imports the manufactures of France into his own country (which he will rarely do if he has like manufactures of his own, but which in all cases he has an incontrovertible right to do) and exports them afterwards to the French colony, which he does not in their original French character, but as goods which, by importation had become part of the national stock of his own neutral country, they come to that colony with all the inconvenience of aggravated delay and expence; so if he imports from the colony to Hamburg, and afterwards to France, the commodities of the colony, they come to the mother country under a proportional disadvantage; in short, the rule presses on the supply at both extremities, and, therefore, if any considerations of advantage may influence the judgment of a belligerent country, in the enforcement of the right, which upon principle it possesses, to interfere with its enemy's colonial trade, it is in that shape of this trade, that considerations of this nature have their chief and most effective operation."\*

Writings of Madison, Volume 2: 1794-1815, p.331

Although the judge is somewhat guarded in his terms, more consistent with the general rights, and less subservient to the special convenience of the enemy; and somewhat vague, if not obscure, in his reasoning; yet he admits that an importation of goods from a belligerent country, into a neutral country, had the effect of making them a part of the national stock of the neutral country, equally entitled with the national stock itself, to be exported to a belligerent country. What circumstances would constitute an importation are not specified; nor does it appear in what light a mere trans-shipment, at a neutral port, would have been regarded.

Writings of Madison, Volume 2: 1794-1815, p.331

The next occasion, on which the judge delivered an opinion on this subject, occurred in a case before the court, February 5, 1800, and which came before it again on farther proof, April 29, 1800. It was the case of an American ship taken October 16, 1799, on a voyage from Marblehead to Bilboa, with a mixed cargo of fish, sugar and cocoa. The fish, which made the principal part of the cargo, could not enter into the question. The sugar was part of a whole cargo brought from the Havanna in the same ship, had been warehoused from some time in June till some time in August, during the repair of the ship, and was then reshipped. The cocoa, small in quantity, was originally from a Spanish settlement, and had been trans-shipped from another vessel, lying at Marblehead, after having been entered at the custom-house. The ship had been restored by the captors. The property of the cargo was proved. The legality of the voyage was the sole question. On this question, Sir William Scott pronounced the following judgment:

Writings of Madison, Volume 2: 1794-1815, p.332-p.333

"There remains then only the question of law, which has been raised, whether this is not such a trade as will fall under the principle that has been applied to the interposition of neutrals in the colonial trade of the enemy. On which it is said that if an American is not allowed to carry on this trade directly, neither can it [he?] be allowed to do it circuitously. An American has undoubtedly a right to import the produce of the Spanish colonies for his own use; and after it is imported bona fide into his own country, he would be at liberty to carry them on to the general commerce of Europe: Very different would such a case be from the Dutch cases, in which there was an original contract from the beginning, and under a special Dutch licence to go from Holland to Surinam, and to return again to Holland with a cargo of colonial produce. It is not my business to say what is universally the test of a bona fide importation. It is argued that it would not be sufficient that the duties should be paid, and that the cargo should be landed. If these criteria are not to be resorted to, I should be at a loss to know what should be the test; and I am strongly disposed to hold, that it would be sufficient that the goods should be landed and the duties paid. If it appears to have been landed and warehoused for a considerable time, it does, I think, raise a forcible presumption on that side; and it throws it on the other party to shew how this could be merely insidious and colorable. There is, I think, reason to believe that the sugar was a part and parcel of a cargo said to have been brought from a Spanish colony in this vessel; and if so, the very distribution of the remainder is some proof that they were not brought with an intention only of sending them on. But I have besides positive proof in the affidavit of Mr. Asa Hooper, who swears that the duties had been paid for them. Then the only difficulty remains as to the cocoa, and it is said by one of the witnesses, and by one only, that it was trans-shipped from another vessel, and that it had been brought into America only ten days before; but although there is something of a difficulty arising on this small part of the cargo, yet upon the whole I cannot think it weighty enough to induce me to send the case across the Atlantic for still further proof, as to the facts of this recent importation and trans-shipment, or of its having been transferred to the present proprietors, or of having been exported without a previous payment of import duties. If it had composed a larger part of the cargo, I might have deemed it reasonable to have had somewhat more of satisfaction on some of these points, which do not appear with sufficient certainty to found any legal conclusion against it. It appears by the collector's certificate that it had been entered and imported, and I think that these words are sufficient to answer the fair demands of the court."

Writings of Madison, Volume 2: 1794-1815, p.333

It must be confessed that we perceive, in this opinion of the judge, somewhat of that customary forecast, which in tying a knot to bind himself, avoids drawing it too close to be loosened a little, if there should be occasion. It is, nevertheless, established by the precedent, that the landing of the goods and paying the duties, is a sufficient test of the importation; and that the certificate of the collector that "they have been entered and imported, is all the evidence of the fact, that can fairly be demanded by the court."

Writings of Madison, Volume 2: 1794-1815, p.333

It might indeed have been expected that the rule stated by Lord Mansfield to have been settled by the lords of appeals, [which makes the trans-shipment to be equivalent to the landing and reshipment of goods, and this last procedure to take away all color for seizure,] would have found its way into the notice of the judge. That rule, however, cannot be impaired by any thing in his decision for two reasons. One is, that the further satisfaction, which, if the part of the cargo trans-shipped had been more considerable, he might have deemed reasonable on some of the questions; might refer not to the legality of the voyage, but to the question of property; and it is certainly agreeable to all the just rules of interpretation so to understand it, rather than to suppose a purpose in an inferior court, to decide in direct opposition to a rule settled by the superior court. The other reason is still more conclusive; it is, that on the supposition of such a purpose in an inferior court, it could have no legal effect in controuling the rule settled by the superior court, the rule by which alone the conduct of individuals could be governed.

Writings of Madison, Volume 2: 1794-1815, p.334

Such has been the judicial exposition of the neutral right, even under the British restrictions. The acknowledgment by the cabinet itself, was officially disclosed on the following occasion, and to the following effect:

Writings of Madison, Volume 2: 1794-1815, p.334

The cruizers of Great Britain having seized, and the vice admiralty courts having condemned, American vessels bound from the United States to the Spanish West Indies, on the pretext that their cargoes consisted of articles the growth of Spain, then at war with Great Britain; the American Minister in London, in March, 1801, represented to the British Government the iniquity of the proceeding, with the indignation which it inspired: and required that precise instructions should be dispatched to the proper officers in the West Indies and Nova Scotia, to put an end to the depredations. The subject was referred to the king's advocate general, an extract from whose report was communicated by the British Secretary of State to the American minister, with information that the king had ordered the doctrine laid down in the report, to be immediately transmitted to the several inferior judges, as the law for their future guidance and direction.

Writings of Madison, Volume 2: 1794-1815, p.334

The extract contain. lug this doctrine shall be literally recited:

Writings of Madison, Volume 2: 1794-1815, p.334

"I have the honor to report, that the sentence of the vice admiralty court appears to be erroneous, and to be founded in a misapprehension or misapplication of the principles laid down in the decision of the court of admiralty referred to, without attending to the limitations therein contained.

Writings of Madison, Volume 2: 1794-1815, p.334

"The general principle respecting the colonial trade has in the course of the present war been to a certain degree relaxed in consideration of the present state of commerce. It is now distinctly understood, and has been repeatedly so decided by the high court of appeals, that the produce of the colonies of the enemy may be imported by a neutral into his own country, and may be re-exported from thence, even to the mother country of such colony; and in like manner the produce and manufactures of the mother country may, in this circuitous mode, legally find their way to the colonies. The direct trade, however, between the mother country and its colonies has not, I apprehend, been recognized as legal, either by his majesty's Government or by his tribunals.

Writings of Madison, Volume 2: 1794-1815, p.335

"What is a direct trade, or what amounts to an intermediate importation into the neutral country, may sometimes be a question of some difficulty. A general definition of either applicable to all cases, cannot well be laid down. The question must depend upon the particular circumstances of each case; perhaps the mere touching in the neutral country, to take fresh clearances, may fairly be considered as a fraudulent evasion, and as in effect the direct trade; but the high court of admiralty has expressly decided (and I see no reason to expect that the court of appeal will vary the rule) that landing the goods and paying the duties in the neutral country, breaks the continuity of the voyage, and is such an importation as legalizes the trade; altho' the goods be reshipped in the same vessel, and on account of the same neutral proprietors, and forwarded for sale to the mother country."\*

Writings of Madison, Volume 2: 1794-1815, p.335

It is impossible to express the law meant to be here laid down in clearer terms, so far as it determines "that landing the goods and paying the duties" in a neutral country, legalizes the circuitous trade, even between a belligerent country and its own colonies. What inferior circumstances would have the same effect are not specified. It is not decided without a "perhaps" that the mere touching, &c., would be insufficient to legalize the trade. Nor is the legality even of a direct trade between the mother country and its colonies, denied in stronger terms than "I apprehend it has not been recognized."

Writings of Madison, Volume 2: 1794-1815, p.335

Thus stood the admiralty in Great Britain, as announced by British tribunals, and officially communicated by the British Cabinet to the neutral world. So it had continued to stand, as a pledge and safeguard to neutrals, conforming themselves to it, from the dates of those authorities, the last of which is as far back as the spring of the year 1801.

Writings of Madison, Volume 2: 1794-1815, p.336

With what astonishment, then, must the neutral world now learn, from the decision of Sir William Scott on the 23d July, 1805, that, according to the rule of law just laid down, after much deliberation, by the lords of appeals, "the circumstances of landing the goods or securing the duties, do not furnish complete evidence of the termination of the voyage;" and that without this complete evidence, derived from the original intention of the importing voyage, the voyage from the neutral port will be treated as the continuance of the voyage from the colony to the mother country.

Writings of Madison, Volume 2: 1794-1815, p.336

This political change in the judicial rules of condemnation, admits no other satisfactory, than a commercial explanation; for the loss of character, which it induces, is a greater sacrifice than could be made to the cupidity of cruisers, or the value of their prizes to the public.

Writings of Madison, Volume 2: 1794-1815, p.336-p.337

The whole course, indeed, of modifications pursued by the instructions, and by the decisions of the courts as they appear from day to day, can leave no doubt that the primary object with Great Britain has been to transfer to herself as large a share as possible of the commercial advantages yielded by the colonies of her enemies. An absolute monopoly was embarrassed by the irresistible pretensions of neutral countries; more especially of the United States, whose neighborhood and habits of intercourse, together with other considerations, forbade a perseverance in the original attempt to exclude them. They were accordingly the first of the neutral nations towards which a relaxation was afforded. The relaxation, after considerable delay, was extended, by the instruction of 1798, to the neutral nations of Europe. That instruction was founded on a compromise between the interest and the prudence of Great Britain. It permitted neutral nations to trade directly with the colonies of her enemies; without trading in colonial productions with one another; and permitted all of them to carry those productions directly to Great Britain. This arrangement was manifestly calculated to limit the importations of each neutral country to the amount of its own consumption; and consequently to turn the immense residue of colonial wealth, through neutral vessels, into her own market; whence it might be dispensed, under her own regulations, to the neutral countries of Europe having no direct commerce with the West Indies, and even to the belligerent nations whose commerce with their respective colonies she has as completely destroyed, as she has their commerce with foreign countries. The arrangement was specious, but proved to be deceptive. It was expected that the expence and delay of a circuitous trade through the United States would prevent importations and re-exportations, interfering with the projected trade directly from the West Indies to herself; and as long as this expectation was in any degree indulged, the right of re-exportation was admitted, though reluctantly, both by the Government and the courts. Experience, however, finally shewed, that the activity, the capital, and the economy employed by the American traders, overpowered the disadvantages incident to the circuit through the ports of the United States; and secured to them the profits of supplying Europe with the colonial productions of her enemies. In proportion as this unforeseen operation disclosed itself, the commercial jealousy of Great Britain began to take alarm. Obstructions were to be thrown in the way of importations. Re-exportations were seen with growing discontent. The idea of continuity, by which two voyages were consolidated into one, came into vogue. The Vice Admiralty courts, regardless of the superior decisions in England, would not allow that the landing of a cargo, and paying the duties, protected it against condemnation. At length appeared the sentence of Sir Wm. Scott, above cited, carrying into effect the construction of the inferior courts, as having been deliberately sanctioned by the Lords of Appeal. The doctrine established by that decision has been followed by other decisions and dicta, at first requiring the re-exportation, in another ship, then a previous sale of the articles in the neutral market, then other conditions, one after another, as they were found necessary; till it is finally understood, that no precautions whatever are to bar the cruisers from suspecting, nor the courts from scrutinizing, the intention of the original importer, and that the proof of this intention not to re-export the articles, is to fall on the claimant. To fill up the measure of judicial despotism, these wanton innovations are now extended to vessels returning from the belligerent mother countries, as well as to those going thither from the United States; with the addition of demands of proof never before heard of in prize courts, on points utterly unknown to the law of nations.

Writings of Madison, Volume 2: 1794-1815, p.338

These unexampled and vexatious proceedings manifestly have in view the entire obstruction of colonial re-exports from the United States; and it would be more candid in Great Britain, if not more just, to give public notice, at once, that in all such cases capture and condemnation would be authorized.

Writings of Madison, Volume 2: 1794-1815, p.338

Her present system, as subsidiary to the extension of her commerce, will be still further seen in her concurrent measures, of a type not less extraordinary than that of any which have preceded them.

Writings of Madison, Volume 2: 1794-1815, p.338

According to the instructions issued within the period of the existing war, or to the received interpretation of them, the permission given to neutrals by those of 1798, to carry the produce of enemy's colonies, directly therefrom to Great Britain, has not been continued. At first view this might appear to be inconsistent with the policy ascribed to her, in obstructing re-exportations from the United States. The act of Parliament, of June 27, 1805, however, which has been already noticed, changes this appearance of departure from that policy, into a new proof, and even an extension of that policy. By the regulations of that act a direct trade is opened between the British colonies in the West Indies and those of her enemies; and her enemies themselves are invited to enter into the trade. Whilst neutrals, therefore, are excluded from carrying colonial produce directly from the colonies to Great Britain, the commercial views of Great Britain are answered by the substitution of another channel through her own colonies; with the additional advantage of a monopoly to her own ships, in the transportation from her colonies across the Atlantic; and for the sake of this advantage, or for that of repressing the growth of neutral rivalship, or on both these accounts, she has been willing to encounter all the reproach of cultivating an avowed commerce with her enemies, in the very moment of laying new restrictions on that of neutrals with them.

Writings of Madison, Volume 2: 1794-1815, p.339

Further; the act of Parliament, of June 27, 1805, providing for a trade between Great Britain and the colonies of her enemies, through the medium of free ports in her own colonies, was preceded by an act of April 10, 1805, authorizing licences to British subjects, to import, during the war, into Great Britain, in neutral vessels, for their own or neutral account, from the American colonies of her enemies, most of their productions; requiring, at the same time, that all sugar and coffee so imported should be re-exported; and that the value of certain portion of the imports from such colonies should be returned in goods and commodities from Great Britain.

Writings of Madison, Volume 2: 1794-1815, p.339

Again; in concert with the act of June 27, instructions, founded on another act of Parliament, were issued, June 29, 1805, authorizing British subjects to export in neutral vessels to France, Spain, and Holland, a long list of articles, including their respective colonial productions; and to import therefrom a long list of such articles as suited her own wants.

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To complete the arrangement, in all its forms, it has been officially announced in the American Gazettes, conformably to a resolution of the British privy council, of August 3, 1805, that the trade with the settlements and islands belonging to the enemy, in America and the West Indies, is to be carried on through the medium of the British free ports in the West Indies, and not otherwise.

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The system of Great Britain may, therefore, now be considered as announced to all the world, without disguise, and by the most solemn acts of her government. Her navy having destroyed the trade of her enemies, as well between the mother countries and their colonies, as between the former and neutral countries; and her courts, by putting an end to re-exportations from neutral countries, reducing the importations into these, to the mere amount of their own consumption; the immense surplus of productions accumulating in the American possessions of her enemies can find no outlet but through the free ports provided for it; nor any other market than the British market, and those to which she finds it for her interest to distribute it; with a view to which, she not only allows her enemies to trade with her possessions, but allows her own subjects to trade with her enemies. And thus, in defiance as well of her treason laws and of her trade laws, as of the rights of neutrality, under the law of nations, we find her, in the just and emphatic language of the President, "taking to herself, by an inconsistency at which reason revolts, a commerce with her own enemy, which she denies to a neutral, on the ground of its aiding that enemy in the war."\*

Writings of Madison, Volume 2: 1794-1815, p.340

But let us return for a moment to the series of instructions of which an historical review has been taken; and advert to some additional lights in which the judicial construction and application of them present the conduct of Great Britain.

Writings of Madison, Volume 2: 1794-1815, p.340

Prior to the orders of November 6, 1793, the general principle forbidding to neutrals a trade opened to them during the war, must, if it be a principle of the law of nations, as asserted by Great Britain, have been the rule of Admiralty decisions. Accordingly, it appears, by 4 Rob. Appendix, p. 12, that condemnations in cases prior to that date were, in the court of Appeals, made to rest on that principle.

Writings of Madison, Volume 2: 1794-1815, p.340

The orders of November 6, 1793, designated for the operation of the principle, the trade with the colonies of the enemy; as well the trade to, as the trade from, them.

Writings of Madison, Volume 2: 1794-1815, p.340

The orders of January, 1794, expressly revoking the orders of November, 1793, designated for capture, the trade only from the West India Islands of the enemy, and bound directly to Europe, only.

Writings of Madison, Volume 2: 1794-1815, p.340

The orders of January, 1798, revoking expressly the orders of January, 1794, designated for capture the trade from the islands or settlements of the enemies, bound directly to any port in Europe; excepting what might be bound to British ports, or to the ports of the country to which the neutral vessels should belong.

Writings of Madison, Volume 2: 1794-1815, p.341

Without entering into a variety of minute questions growing out of the varied and very inaccurate expressions in which the orders are penned, several of very great importance occur, in expounding and applying the rules laid down.

Writings of Madison, Volume 2: 1794-1815, p.341

The first question is, whether the first order of 1793, which made no express reference to the general principle, and which was limited to the colonial branch of the enemy's trade, was to be understood as merely a specification of certain cases to which the general principle was applicable, leaving the general principle in force as to all unspecified cases; or whether this specification of certain cases was to be understood as implying a legalization of cases unspecified.

Writings of Madison, Volume 2: 1794-1815, p.341

The question arises, also, under the successive orders, each of them revoking the orders immediately preceding, whether it was to be understood, that the specification of certain cases did, or did not, legalize the cases omitted in the same order, but specified in the orders preceding.

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The more obvious construction of the original order, even, seems to be, rather that it was meant to define the only cases to which the general belligerent claim was to be applied, than that it was meant merely to notify the claim in those particular cases; a claim not more requiring notification in those cases, than in the cases not notified.

Writings of Madison, Volume 2: 1794-1815, p.341

With respect to the orders of posterior dates, the fair construction implies, that the belligerent claim was narrowed, first, by all the difference between the orders of 1793 and those of 1794; and finally, by all the difference between the orders of 1794, and those of 1798.

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Taking the whole together under these constructions, the application of the general principle of capture was restricted by these orders to the trade of neutrals from the colonies of enemies, directly to ports, other than their own respective ports and the British ports, and consequently there remained exempt from capture:

Writings of Madison, Volume 2: 1794-1815, p.342

1st. The coasting trade, and every branch of trade not colonial.

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2d. The trade from any neutral country, to belligerent colonies.

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3d. The trade by neutrals from any belligerent country to its own colonies, and to the colonies of another belligerent country.

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4th. The trade between belligerent colonies, whether belonging to the same or to different belligerent countries.

Writings of Madison, Volume 2: 1794-1815, p.342

Applying this rule of implication to the two orders only of 1794 and 1798; and admitting those of 1793 not to have superseded by implication, the claims to capture in cases not therein specified, there will be no other exception to the relations or exemptions just enumerated in favor of neutral commerce, but the coasting trade, and other trades not colonial, to which Great Britain has applied, or may choose to apply, the general principle.

Writings of Madison, Volume 2: 1794-1815, p.342

In general the high court of admiralty seems, by applying the assumed principle to the coasting trade, to have pursued that construction of the original order of 1793, which left the general principle in force as to cases not specified in it; and to have considered the relaxations in the succeeding orders of 1794 and 1798, as referring solely to the colonial trade.

Writings of Madison, Volume 2: 1794-1815, p.342

There appears, however, at no time to have been any clear and fixed opinion in the court, with respect to the illegality and penal consequences of the coasting trade.

Writings of Madison, Volume 2: 1794-1815, p.342

Few cases are reported, perhaps few have occurred, of discussions relative to this branch of trade. In 1 Rob., p. 104, the subject is incidentally brought into view, in a case where a French vessel had been purchased. The doctrine held by the judge is expressed as follows: "We certainly do allow it, [the purchase,] but only to persons conducting themselves in a fair neutral manner, &c.; besides, this vessel appears to have been engaged in the coasting trade of France. The court has never gone so far as to say, that pursuing one voyage of that kind would be sufficient to fix a hostile character: but in my opinion, a habit of such trading would. Such a voyage however must raise a strong degree of suspicion against a neutral claim; and the plunging at once into a trade so highly dangerous, creates a presumption that there is an enemy proprietor lurking behind the cover of a neutral name." Here, not the coasting trade itself, but the presumption of enemy's property found in it, is made the ground of animadversion.

Writings of Madison, Volume 2: 1794-1815, p.343

In the case of the Speculation, the same idea presents itself.\* The Emanuel\* was itself the case of a coasting trade. In this case the judge descanted with great energy and rigor, on the manifest illegality of the coasting trade. "Can there be "described," says he, "a more effective accommodation that "can be given to an enemy during war than to undertake it "for him during his own inability?" He did not however proceed further than to refuse freight on the principle settled by ancient judgments, that "neutrals are not permitted to trade on freight." He particularly refers to the case of the Mercurius, [Lords, March 7, 1795,] in which freight was refused. Why were not the ships confiscated in these cases ? that being laid down in other cases as included in the penalty for illegal voyages, and actually applied ultimately to cases of a trade between a colony and the mother country, to which the coasting trade is strictly analogous; both being trades from one port to another port of the same nation. It is not even to be inferred from the authorities here cited, that a coasting trade, in the produce of the country, if carried not on freight, but as property belonging to the neutral owner of the ship, is subject to any penalty. This indulgence to the coasting, and rigor towards the colonial trade, is it to be explained by the fertility of the one, and the little value of the other, as a source of captures and commercial profit, or in what other way?

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With respect to the orders of '94 and '98, and the colonial trade, it appears to have been in general understood, that they were to be construed as successively enlarging the trade of neutrals with the colonies of enemies, in the manner and to the extent above explained.

Writings of Madison, Volume 2: 1794-1815, p.344

The dilemma was indeed unavoidable; either the orders were to be considered as relaxations, (and if relaxations at all, in that extent,) or as leaving the general principle in force in cases not specified in the orders, and therefore as no relaxations at all.

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This latter decision would have given a character of mockery to the profession and parade of making, in their orders, so many sacrifices of belligerent rights to a spirit of moderation and amity towards neutrals. The former side of the dilemma, therefore, was necessarily taken. The orders, those of '94 and '98 at least, were relaxations.

Writings of Madison, Volume 2: 1794-1815, p.344

As relaxations however in the extent required by an obvious and consistent interpretation, the door, opened to neutral commerce with the belligerent colonies, was found to be wider than was compatible either with the interests of British commerce, the avidity of British cruizers, or the probable intentions of the British government.

Writings of Madison, Volume 2: 1794-1815, p.344

What was to be the remedy? The first tried was that of shutting the door gradually, by the dint of constructions, as may be seen by tracing the colonial cases adjudged by Sir William Scott, and reported by Robinson, and the decisions of the Lords of Appeals referred to by the reporter.

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The task was assuredly not a little difficult, of which there is the strongest demonstration in the crooked and contradictory reasonings and decrees, into which it forced the very eminent talents of the judge who presides in the high court of admiralty.

Writings of Madison, Volume 2: 1794-1815, p.344

In addition to the evidence already presented, take the following comparison between his rule of construction in the case of the Providentia,\* and the rule of construction in the case of the Immanuel.\*

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In the former case, August 16, 1799, he observes, "the first instructions were to bring in all ships which had been trading with any colony of the enemy: but this country afterwards receded from these directions; and the second orders were to bring in all ships laden with produce of the West India islands coming directly from the ports of the said islands to any port in Europe. I cannot but consider this as an abandonment of the former law, [instruction,] and I cannot but think that a cruiser taking this instruction, in conjunction with those given before must have inferred that it was no longer the intention of government to bring in, and much less to confiscate," [was there room for this distinction?] "cargoes of West India produce, unless coming to some port in Europe: this was followed by instructions now in force, which direct the bringing in of all vessels laden with the produce of the French and Spanish settlements, coming from the ports of such settlements to any port of Europe, other than the ports of that country to which the vessel belongs. It is certainly not laid down in the negative that they shall not bring in such vessels as are coming from such settlements to their own ports; but looking at the former instruction, I think it was a strong admonition to cruisers not to bring in such ships, and I believe it has been generally so understood and acted upon by them; and in this court cargoes brought from Surinam to ports in Europe to which the vessels belonged, have been uniformly restored on proof of the neutrality of the property."

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The reasoning here is plain and just. The first instructions designated for capture the colonial trade, without distinguishing between Europe and America: the second designated the trade to Europe only: therefore, by fair inference, the trade to America was exempted from capture.

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Again, the second orders designated for capture the trade to Europe: the third orders designated the trade to ports of Europe not being of Great Britain or of the country owning the vessel: therefore by fair inference the trade to Great Britain and to countries owning the vessels, was exempted from capture.

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In the Immanuel, November 7, 1799, the case was that of a neutral ship taken on a voyage last from France to a French colony. According to the reasoning of Sir William Scott, just quoted, the inevitable inference ought to have been that the voyage was legal.

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The first instructions designated for capture the trade to and from the colonies. Both the second and third designated for capture the trade only from the colonies; therefore, according to that reasoning, the trade to the colonies was exempted from capture.

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Hear nevertheless the reasoning employed by the judge himself in this case.

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After combating the neutral right to trade with the colonies of an enemy, by arguments applicable, in principle, as well to a trade between neutral ports and the colonies, as to a trade between the mother country and its colonies; he proceeds to state, in answer to all pleas for a neutral trade from the mother country to its colonies, "that the true rule to this court is the text of the instructions; what is not found therein permitted, is understood to be prohibited, upon this plain principle, that the colony trade is generally prohibited, and that whatever is not specially relaxed, continues in a state of interdiction."

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Now as what is not permitted, not specially relaxed, is by the instruction to continue prohibited, the question to be decided is, what it is that is permitted, or specially relaxed by the instructions. Is it what is positively and expressly permitted or relaxed? Then there is no permission or relaxation at all; for every thing positive and express in the instruction is for the capture, not for the permission or relaxation. Is it to be a permission or relaxation implied and inferred from a positive and specified prohibition in one order, and an omission of that or of a part of that prohibition, in a succeeding order? Then the neutral trade from a belligerent country to its colonies, which was prohibited in the order of 1793, and omitted in the orders of 1794 and 1798, was as much permitted, as specially relaxed, as the trade from a neutral. country to the colonies of an enemy, is permitted or relaxed by the omission in the orders of 1794 and '98, to prohibit the trade to the colonies, which as well as the trade from the colonies, was positively and specially prohibited by the previous order of 1793; or to recur to the reasoning of Sir William Scott, in the former case of the Providentia, as much permitted or relaxed as the trade from the colonies going not to Europe, was inferred to be so from the order of 1794, taken in conjunction with the order of 1793; the order of '93 having prohibited the trade from the colonies generally, and the order of '94 having omitted to prohibit more of the trade from the colonies than what was bound to some port in Europe.

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The judge concludes with declaring, "I see no favorable distinction between an outward and return voyage. I consider the intent of the instruction to apply equally to both communications, though the return voyage is the only one specially mentioned."

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What favorable distinction, then, could the judge see between the outward and the return voyage, in a trade between a neutral country, and the colonies of an enemy, more than between the two voyages to Spain, a mother country, and the colonies? Is not the return voyage the only one specially mentioned, whether the instruction be applied to the former trade or to the latter trade? This is self evident. Either then he must admit the distinction in both, and say that the return voyage only being specially mentioned, the outward voyage is in both trades permitted; or he must reject the distinction in both, and say, that the outward voyage, tho' the return voyage only be specially mentioned, is prohibited in both. A different course however was pursued. The instruction was applied to the outward voyage in the neutral trade from the mother country to the colony, without being considered as applicable to the outward voyage in the trade from the neutral country to a colony; which last has not as yet been subjected to condemnation. Whether that is to be its future destiny, as has happened to some other branches of commerce, where it was equally precluded by legal decisions and even official assurances, is among the arcana of the admiralty cabinet of Great Britain.

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The judgment in this case, it is to be observed, did not go beyond the condemnation of the goods. The vessel was restored, but with a forfeiture of freight and expences.

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By degrees, however, with the aid of alleged fraud, of false destination, and of contraband in the outward voyages, the ship as well as the cargo wore brought within the rules of condemnation in the high court of admiralty. The decision of the lords of appeal has finally established, in the case of a voyage from a Spanish colony to a neutral, but forbidden port in Europe, that any illegal trade of neutrals with the colonies of an enemy forfeits both ship and cargo.\*

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Other examples might be drawn from the proceedings in the British courts of admiralty, to illustrate the constructive return towards the general principle which had been mitigated by successive instructions, and the anomalous and entangled decisions, which have been employed for the purpose. These illustrations cannot be here pursued, without too great an addition to the prolixity which has already been incurred. It will only there fore be remarked generally; first, that the course of proceedings, as they relate to the coasting, and different branches of the colonial trade; to the grounds on which these have been interdicted to neutrals; and to the penalties attached to breaches of the interdictions, compose a labyrinth for which no concatenation of principles, no thread of reasoning whatever, affords a clue: secondly, that constructive decisions, as appears in the last volume of Robinson's reports, have not only restored, in a great measure, the operation of the general principle; but have introduced collateral principles, greatly extending the mischiefs of its operation.

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Whilst all the considerations therefore which originally led to the examination of this principle, are acquiring additional force, it is fortunate that so irresistible a testimony against its legitimacy, should have been furnished by the conduct of Great Britain herself.

Review of the reasons urged in defence of the British principle.

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Although some of the reasons by which this belligerent claim of Great Britain is defended, have incidentally fallen under consideration in the course which the subject has taken, yet a more particular notice of those most relied on, may be necessary to complete the present examination.

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The principal champions for the claim, are the judge of the high court of admiralty himself, Sir William Scott; Mr. Ward, now under Secretary of State in Great Britain, who is sufficiently known by his treatises on the law of nations, one of which embraces this precise subject; and Mr. Browne, a professor of civil law in the University of Dublin, and author of a work on civil and admiralty law.

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Sir William Scott has, in every view, the first title to be heard.

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In the judgment delivered by him in the case of the Immanuel, his eloquence has painted the belligerent claim in very glowing colours. The passage shall be given in his own words:

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"It is an indubitable right of the belligerent to possess himself of such places, as of any other possession of his enemy. This is his common right, but he has the certain means of carrying such a right into effect, if he has a decided superiority at sea: such colonies are dependent for their existence, as colonies, on foreign supplies; if they cannot be supplied and defended they must fall to the belligerent of course—and if the belligerent chooses to apply his means to such an object, what right has a third party, perfectly neutral, to step in and prevent the execution? No existing interest of his is affected by it; he can have no right to apply to his own use the beneficial consequences of the mere act of the belligerent, and to say, 'True it is, you have, by force of arms, forced such places out of the exclusive possession of the enemy, but I will share the benefit of the conquest, and by sharing its benefits prevent its progress. You have in effect, and by lawful means, turned the enemy out of the possession which he had exclusively maintained against the whole world, and with whom we had never presumed to interfere, but we will interpose to prevent his absolute surrender, by the means of that very opening, which the prevalence of your arms alone has affected; supplies shall be sent and their products shall be exported; you have lawfully destroyed his monopoly, but you shall not be permitted to possess it yourself; we insist to share the fruits of your victories, ann your blood and treasure have been expended, not for your own interests, but for the common benefit of others.' Upon these grounds it cannot be contended to be a right of neutrals, to intrude into a commerce which had been uniformly shut against them, and which is now forced open merely by the pressure of war; for when the enemy, under an entire inability to supply his colonies and to export their products, affects to open them to neutrals, it is not his will but his necessity that changes his system; that change is the direct and unavoidable consequence of the compulsion of war, it is a measure not of French councils, but of British force."

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The first remark to be made is, that were the intrinsic reasonableness of the claim admitted, it would not follow that the claim is justified by the law of nations as actually established. Reason is indeed the main source from which the law of nations is deduced; and in questions of a doubtful nature, is the only rule by which the decision ought to be made. But the law of nations, as an established code, as an actual rule of conduct among nations, includes, as already explained, a variety of usages and regulations, founded in consent, either tacit or express, and superadding to the precepts of reason, rules of conduct of a kind altogether positive and mutable. If reason and conveniency alone, without regard to usage and authority, were to decide all questions of public law, not a few of the received doctrines would at once be superseded; and among the first, some to which Great Britain is most pertinaciously attached. What would become of her favorite claim, to seize and condemn all enemy's property, laden in neutral vessels, if the claim were brought to the simple test of reason? a claim which gives so much more vexation to the nations at peace, than it contributes to any just advantage of those at war. On this question, it is well known, that the appeal has been constantly made by Great Britain from the reasoning of her adversaries, to the authority, of celebrated jurists, and other testimonies of the established rules and practice of nations. She must not expect to vary her test of right, according to her individual interest: to appeal to authority when reason is against her, and to reason, when authority is against her.

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In testing the British claim, then, by the law of nations, recurrence must be had to other sources than the abstract dictates of reason; to those very sources from which it has been shewn that her claim is an unauthorized innovation on the law of nations.

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But let us examine this appeal of the eloquent Judge to the reasonableness of his cause, and see what is gained by it.

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"It is an indubitable right of the belligerent to possess himself of such places, viz: colonies, [but the argument extends to all places shut against neutral commerce in time of peace,] as of any other possession of his enemy." Without question he has the right to possess himself of any place belonging to his enemy.

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"But he has the certain means of carrying such a right into effect if he has a decided superiority at sea." This is not so universally true as is assumed. A land force will be also necessary; unless both the superiority at sea and the situation of the colony be such as to admit a complete interruption of supplies; and then, a blockade must be the only legitimate expedient.

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"Such colonies are dependent for their existence as colonies, on foreign supplies: if they cannot be supplied and defended they must fall to the belligerent of course." It is certainly true that they must fall, if they can be neither fed nor defended. But it is not so true that colonies, as such, are dependent on foreign supplies. Some insular colonies are so dependent; others are not. Few, if any, of the continental colonies or settlements are dependent on foreign supplies.

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"And if the belligerent chooses to apply his means to such an object, what right has a third party perfectly neutral to step in, and prevent the execution?" No right at all to step in; provided the belligerent does, in fact, apply his means to that object, and, in the mode, conformable to the law of nations; that is, by intercepting contraband of war, and availing himself of his decided superiority at sea, to blockade the places, which if deprived of foreign supplies, must fall into his hands of course.

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Take the argument under another aspect. Colonies must fall without foreign supplies; therefore, it is said, a belligerent, without invading or investing them, may prevent neutrals from supplying them.

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The argument has one tendency which ought not to have escaped the penetration of its author. If the dependence of a place for its existence and defence on foreign supplies, be the ground of the belligerent right to intercept all neutral trade whatever with it, it will not be very easy to find a reasonable ground for the belligerent right to obstruct neutral supplies to a place blockaded, where the place, as frequently occurs, does not depend on foreign supplies for its existence and defence.

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Or the argument may take another turn, which ought not to escape the attention of neutrals. If the applicability, without an actual application of the means, to the legitimate object of possessing himself of the colonies of enemies, can justify the capture of neutral trade with such places, the mere existence of a force applicable to the purpose of a blockade any where, will, without an actual blockade, equally authorize the capture of a neutral trade with ports susceptible of blockade; and thus the neutral trade becomes interdicted with every part of the dominions of her enemy; on the same principle as interdicts it with the colonial part of their dominions; a blockade being as legitimate an object of war as conquest; and a decided superiority at sea being at least as applicable to the former, as to the latter object.

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But an essential vice of the argument lies in the fallacy of the inference. It no more follows from the dependence of colonies on foreign supplies, that neutrals have no right to trade with them, with the exceptions of contraband and of blockaded ports, than it follows from the dependence of other countries or parts of countries on foreign supplies, that neutrals have no such right. Is not Holland, is not Portugal, is not even Spain, at all times, dependent on foreign supplies for their subsistence; not less perhaps than some of the insular colonies in the West, and much more than some in the East Indies? Yet since the usurped power of obstructing all neutral trade with an enemy was abandoned by belligerent nations, has it ever been pretended that that dependence gave a right to the enemies of those countries, to prevent neutral supplies to them?

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The argument fails when brought to another test. If the dependence on foreign necessaries constitutes the belligerent claim against the neutral trade to colonies, the principle of the claim limits it to such colonies as labour under this dependence. The continental colonies or settlements, which have within themselves resources, necessary for their existence, and which therefore no decided superiority at sea can reduce into the possession of a belligerent, are clearly not within the utmost range of the principle. Yet no distinction is made in the application of it, either in argument or practice, between the most sterile and indefensible island, and the vast and fertile provinces on the continent of South America.

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Thus far, then, the judge has found no foothold for the belligerent pretension which he endeavors to support.

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But he must be heard further: "No existing interest of his [the neutral] is affected by it," [an exclusion, &c.]

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The interest of neutrals may be materially affected by the loss of the customary supplies from belligerent colonies, as must happen, if they can neither trade directly with the colonies, nor receive supplies from them thro' the mother country. This is the consideration expressly assigned, in the appendix to 4 Rob., for the orders of 1798: "Neutral vessels were by this relaxation allowed to carry on a direct commerce between the colony of an enemy and their own country; a concession rendered more reasonable by the events of war, which by annihilating the trade of France, Spain, and Holland, had entirely deprived the States of Europe, of the opportunity of supplying themselves with the articles of colonial produce, in those markets." This is a view of the subject very different from that given by Sir William Scott here, and in another paragraph; where he represents "Guadaloupe and Jamaica, as no more to Germany, than if they were settlements in the mountains of the moon, to commercial purposes, as not in the same planet."

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The judge proceeds, "He [the neutral] can have no right to apply to his own use, the beneficial consequences of the mere act of the belligerent."

Writings of Madison, Volume 2: 1794-1815, p.354

Why not? In many respects, as will hereafter be seen, the neutral suffers by war; is it unreasonable that in some respects, he should profit by its effects ?

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Waiving this consideration, it does not follow that one belligerent has a right to deprive a neutral of a colonial market opened to him under the pressure of war, by another belligerent, any more than of any new market or new channel of trade, in relation to the mother country, opened under a like pressure. As yet, however, the latter pretension has not appeared.\* It is even disavowed in a succeeding passage of this very judgment. Is it not the pressure of war, which at this time, obliges the enemies of Great Britain, to abandon in great measure, to neutral vessels, the trade between themselves and other countries? Is it not the pressure of war, during which more food is consumed, with fewer hands to raise it, that often compels nations at war, to open their ports to the supplies and ships of neutrals, contrary to their ordinary regulations in time of peace? In a word, the whole commercial policy of belligerent towards neutral nations, undergoes changes, which the latter is in the constant practice of "applying to their own use." And it is manifest that Great Britain is as ready, as any of her enemies, to lay open her navigation and her colonial markets, though so rigorously shut in time of peace, Whenever the pressure of war, makes it her interest, that neutrals should apply the benefit of these changes to their own use.

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It is perfectly clear, then, that the mere circumstance of an increase of profit to neutrals, from a participation in branches of trade opened under the pressure of war, does not render that participation unlawful.

Writings of Madison, Volume 2: 1794-1815, p.355

The sequel of the argument assumes a very singular shape. The neutral has no right to say to the belligerent,—"True it is you have by force of arms forced such places out of the exclusive possession of the enemy, but I will share the benefit of the conquest; and by sharing its benefits, prevent its progress. You have, in effect, and by lawful means, turned the enemy out of the possession which he had exclusively maintained against the whole world, and with whom we had never presumed to interfere; but we will interpose to prevent his absolute surrender, by the means of that very opening which the prevalence of your arms alone has effected."

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Here let it be observed, the case first stated is, that the place has been forced by one belligerent out of the possession of another belligerent, and that the neutral is undertaking to share the benefit of the conquest. Were that the real intention, as it is the inevitable import of the statement, there could be no advocate for a neutral pretension to interfere. But with an inaccuracy (a harder term will not be applied) little to have been looked for where it is found, this conquest, this turning of the enemy out of exclusive possession, does not in the least mean, as is quickly disclosed, a transfer of the place or colony to a new sovereign. The colony remains precisely as it did; not even attacked or threatened by a military operation. The conquest really meant turns out to be nothing more than the creation of a certain degree of difficulty and danger in the trade between the colony and the mother country. With this change in the statement of the fact, the inference with respect to the intrusion of a neutral commerce must, unfortunately for the argument, undergo a correspondent change. As the conquest of the colony would have justified the conqueror stepping into the exclusive possession, out of which his arms had forced his enemy, in prohibiting a neutral interference with its trade, it is equally certain, that he is not justified in any such prohibition by the mere obstruction thrown in the way of the ordinary colonial trade; any more than he would be justified by obstructions thrown equally in the way of other branches of his enemy's trade, in prohibiting the entrance of neutrals into them.

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That the meaning of the judge is shifted from an expulsion of the enemy from his colony, to an obstruction of his trade with his colony, is put beyond all question by the conclusion of this hypothetical address of the neutral to the belligerent,—"Supplies shall be sent, and their products shall be exported; you have lawfully destroyed his monopoly, but you shall not be permitted to possess it yourself."

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Thus the right of a belligerent to possess himself of the colonies of his enemies depending on foreign supplies, which, in the beginning of the argument, was the ground of the unlawfulness of such neutral supplies, as might prevent the colonies from falling into the hands of the belligerent, undergoes a complete transformation in its progress, and ends in a right of the belligerent to supply the colonies himself, in exclusion of neutrals. The neutral is interdicted from sending supplies to an enemy's colony, and exporting its produce; not because it would interfere with the reduction of an enemy's possession; but because it would interfere with a commercial monopoly. This at least would be a new principle in the law of nations.

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But it is worth while to enquire how the right of a belligerent to subdue the colonies of his enemy, and for that purpose to obstruct neutral supplies to them, can be reconciled with the actual regulations of the British Government on this subject. Whilst this claim is exercised, in general, so much to the disadvantage and dissatisfaction of neutrals, it is relaxed in some respects which are fatal to the very purpose of the belligerent to subdue the colonies of his enemy; which purpose alone could give a colour to any such obstruction of neutral commerce. The orders both of 1794 and of 1798 limit their restrictions on neutrals to the trade from colonies; leaving by implication, unrestricted, the trade to the colonies; or they manifest, at least, under every construction, a solicitude rather against the trade from, than against the trade to the colonies. Now if the object and the pretext, in controuling the trade with the colonies, be the conquest of the colonies, is it not extraordinary that whilst checks are opposed to the exports, which can, at the most, have but a remote influence in preserving them from the necessity of surrender, the channel should be left open for the importation of those foreign supplies, for the want of which, they might fall to the belligerent of course? How is this to be explained? Not, certainly, by a belligerent policy, which is completely defeated by the relaxation. There is but one explanation that is satisfactory, and it must not be deemed uncandid to resort to it. As the orders have endeavored to give to the trade from the colonies such a course as was most favorable to imports into Great Britain, the course allowed to the conveyance of supplies to the colonies is equally favorable to the export of manufactures from Great Britain. British manufactures, it must have been supposed, could find their way to hostile colonies, through no channel so conveniently and certainly, as through that of neutrals which conveys the means of subsistence. Whilst the regulation, therefore, defeats the measure of conquest, it extends the market for manufactures. Every fold of this belligerent claim wraps up some commercial project.

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In prosecuting his argument, the judge occupies another ground for this belligerent pretension: "Different degrees of relaxation," he observes, "have been expressed in different instructions issued at various times during the war. It is admitted that no such relaxation has gone the length of authorizing a direct commerce of neutrals, between the mother country and its colonies; because such a commerce could not be admitted without a total surrender of the principle: for allow such a commerce to neutrals, and the mother country of the enemy recovers, with some increase of expence, the direct market of the colonies, and the direct influx of their productions; it enjoys as before, the duties of import and export, the same facilities of sale and supply, and the mass of public inconvenience is very slightly diminished."

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It was lately the object of dispossessing the enemy of his colonies altogether, that authorized the obstruction of neutral supplies. It was next the object of securing to the belligerent him, self, the monopoly of the commerce with those colonies, that gave him such an authority. Now the authority is derived from the policy of withholding from the mother country of the colony, the public conveniencies arising from the revenue and from the commercial profits supplied by her direct intercourse with her colonies.

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It cannot be necessary to dwell on the hollowness of this foundation, for the claim to make war on the participation of neutrals in a colonial trade. It will be merely observed, or rather repeated, that if neutrals have no right to trade with an enemy, where the enemy in consequence of the pressure of the war, would otherwise lose the revenues and other public advantages flowing from the trade, the inference fairly is, that Great Britain, by driving the ships of her enemies, as she does at this moment, altogether from the sea, may renew with effect the old and exploded tyranny of interdicting all neutral commerce whatever with her enemies.

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This last argument only against the neutral trade to colonies, was applicable to the coasting trade. There, neither conquest, nor the substitution of the belligerent's own commerce, could be the object. It will accordingly be seen in the case of the Immanuel,\* that the belligerent claim is founded, as it is here, on its general effect in cramping the revenues of the enemy, and in inflicting a pressure which may compel a due sense and observance of justice.

Writings of Madison, Volume 2: 1794-1815, p.358

It only remains to advert to a reply, from the judge to the counsel at the bar, with which he closes the argumentative part of his judgment.

Writings of Madison, Volume 2: 1794-1815, p.358

The inconsistency of Great Britain, in making, in time of war, the same relaxations in her navigation and colonial monopolies, which she denies the right of her enemies to make, is so obvious that it could not possibly escape the notice of the counsel for neutral claimants. The more striking the inconsistency, however, the greater the delicacy which was to be observed in pressing it on the court. It appears accordingly to have been brought into view, in one instance only, in Robinson's Admiralty Reports, which was in this case of the Immanuel; and here it is managed with much tenderness, and seasoned, finally, with some material concessions to the known opinions of the Bench and the government. In order to do justice to Mr. Arnold and Mr. Sewell, charged on that occasion with the defence of the neutral claimants, and for the sake of some very judicious reflections of a more general nature, with which they introduce their particular argument, no abridgment will be made of the following passage:

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"It is true that the general colonial law of Europe has created a monopoly, from which other countries are generally precluded; at the same time laws respecting colonies, and laws respecting trade in general, have always undergone some change and relaxation after the breaking out of hostilities; it is necessary that it should be so, with regard to the rights of neutral nations; because as war cannot be carried on between the principal powers of Europe, in such a manner as to confine the effects of it to themselves alone, it follows that there must be some changes and variation in the trade of Europe, and it cannot be said that neutrals may not take the benefit of any advantages that may offer from these changes—because if so, it would lead to a total destruction of neutral trade; if they were to suffer the obstructions in their old trade, which war always brings with it, and were not permitted to engage in new channels, it would amount to a total extinction of neutral commerce: such a position, therefore, cannot be maintained, that they may not avail themselves of what is beneficial in these changes, in lieu of what they must necessarily suffer, in other parts of their trade, in time of war. It is not meant that they should be entirely set at liberty from all the restrictions of peace—that would be going too far. But that, as there has been a regular course of relaxations, as well in our navigation laws, as in the colonial trade, in admitting importations and exportations not allowed in time of peace; it seems not to be too much to say, that if they have been regularly relaxed in former wars, neutral merchants may think themselves at liberty to engage in it, in any ensuing war, with impunity; and it does justify a presumption, that as a belligerent country allows a change in its own system as necessary, and invites neutrals to trade in its colonies under relaxations, so it would allow them to trade in the same manner, with the colonies of the enemy."

Writings of Madison, Volume 2: 1794-1815, p.360

In reply:—

Writings of Madison, Volume 2: 1794-1815, p.360

"It is an argument," says the judge, "rather of a more legal nature than any derived from those general topics of commercial policy, that variations are made in the commercial systems of every country in wars and on account of wars, by means of which neutrals are admitted and invited into different kinds of trade, from which they stand usually excluded; and if so, no one belligerent country has a right to interfere with neutrals for acting under variations of a like kind made for similar reasons in the commercial policy of its enemy. And certainly if this proposition could be maintained without any limitation, that wherever any variation whatever is made during a war, and on account of the state of war, the party who makes it, binds himself in all the variations to which the necessities of the enemy can compel him, the whole colony trade of the enemy is legalized; and the instructions which are directed against any part are equally unjust and impertinent; for it is not denied that some such variations may be found in the commercial policy of this country itself; although some that have been cited are not exactly of that nature. The opening of free ports is not necessarily a measure arising from the demands of war; it is frequently a peace measure in the colonial system of every country: there are others, which more directly arise out of the necessities of war;—the admission of foreigners into the merchant service as well as into the military service of this country;—the permission given to vessel, to import commodities not the growth, produce, and manufacture of the country to which they belong, and other relaxations of the act of navigation, and other regulations founded thereon: these, it is true, take place in war, and arise out of a state of war; but then they do not arise out of the predominance of the enemies force, or out of any necessity resulting therefrom; and this I take to be the true foundation of the principle. It is not every convenience, or even every necessity arising out of a state of war; but that necessity which arises out of the impossibility of otherwise providing against the urgency of distress inflicted by the hand of a superior enemy, that can be admitted to produce such an effect. Thus, in time of war, every country admits foreigners into its general service—every country obtains, by the means of neutral vessels, those products of the enemy's country which it cannot possibly receive, either by means of his navigation or its own. These are ordinary measures, to which every country has resort in every war, whether prosperous or adverse: they arise, it is true, out of a state of war, but are totally independent of its events, and have therefore no common origin with those compelled relaxations of the colonial monopoly; these are acts of distress, signals of defeat and depression; they are no better than partial surrenders to the force of the enemy, for the mere purpose of preventing a total dispossession. I omit other observations which have been urged and have their force: it is sufficient that the variations alluded to stand upon grounds of a most distinguishable nature."

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On comparing the argument of the counsel with the discourse of the judge, there is but too much room to remark, that there are in the former a coolness and clearness not unworthy of the Bench; and in the latter a florid and fervid stile, which might have been less unsuitable to the zeal of the bar. But it is more important to examine and weigh the effect which their respective reasonings, so far as those of the judge can be extricated from the general and somewhat obscure expressions employed by him, ought to have on the point in question.

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The reasoning at the bar is simply this—that as Great Britain is herself in the practice of opening to neutrals, in time of war, channels of navigation and colonial markets, which she shuts to them in time of peace; she ought to allow, or might reasonably be presumed to allow, as equally lawful in time of war, a like relaxation of the colonial system of her enemies.

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The judge does not deny the fact that Great Britain is in the practice of relaxing in time of war her system of colonial trade. He does not deny the inference that a like relaxation would be equally lawful on the part of her enemies. It might have been expected, therefore, that in his reply he would have allowed to the enemies of Great Britain the same right to capture neutrals trading with her colonies, as is exercised by Great Britain against neutrals trading with the colonies of her enemies; and have contented himself with the advantage enjoyed by Great Britain in her superior means of intercepting the neutral trade with her enemies, and of preventing her enemies from intercepting the neutral trade with herself. This, it would seem, was a more consistent, and also a more politic ground to have taken. The judge was of a different opinion. Unwilling to make even that degree of concession, he attempts to retain the privilege claimed by Great Britain, and at the same time withhold it from her enemies; by certain distinctions between the two cases. With what success the distinctions are made, is now to be seen.

Writings of Madison, Volume 2: 1794-1815, p.362

One of the distinctions is between a colonial trade which is frequently opened in peace, as in the case of free ports, and a colonial trade opened in war only.

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The example of free ports was not very happily chosen; for it has been seen that the trade from such ports in the French West Indies to the United States, was not excepted in the British orders on the subject of neutral trade with the colonies of France; nor is it known that any such exception has been made in the British courts of admiralty.

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The distinction, however, fails in its essential point. It is not an uncommon thing for relaxations to take place in time of peace as well as in time of war, in the colonial monopolies of all the European nations. The Spaniards, the French, and the Dutch,\* never fail to open their colonies to foreign supplies, whenever a scarcity, or other cause, renders it inconvenient to supply them from European sources. Even on this ground then, as admitted by the judge himself, a neutral trade with enemy's colonies would be lawful in time of war.

Writings of Madison, Volume 2: 1794-1815, p.363

Another distinction is intimated between the ordinary measures of relaxation, to which every country has resort in every war, whether prosperous or adverse, and unusual measures of relaxation produced by a peculiar state of the war.

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Here again the distinction directly militates against the object for which it is made, it being well known to be an ordinary measure, with the enemies of Great Britain, in all modern wars at least, to open their colonial ports to neutral supplies. Prior to the American revolution, Great Britain had, in these States, resources which rendered it unnecessary for her colonies to invite supplies, if indeed they could have been obtained, from any foreign sources. In her wars since that event, she has followed the example of her enemies in relaxing her colonial system, as far as was necessary to obtain supplies, from the sources and through the channels which furnish her enemies. At this moment, her islands are as open as the colonies of her enemies to the supplies and the vessels of the United States, with this difference, indeed, that her ports are opened by regulations more temporizing and more special, than those of some, if not all, of her enemies; and therefore with pretensions to legality, according to her own standard, inferior to those of her enemies.

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The remaining distinction is the sole fortress on which the defence of the principle maintained by the judge, must depend. This distinction is so novel, and in its appearance so refined, that in explaining it some difficulty was naturally felt, in the selection of apposite expressions. A critic, tinctured with want of candor, might be tempted to exclaim, that a distinction between a necessity arising out of a state of war, and a necessity arising out of an impossibility, which impossibility arises out of a state of war, was a subject less proper for discussion, than for a less serious treatment.

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The judge, however, cannot be justly charged with a want of meaning, whatever may have been his difficulty or his caution in expressing it. It may be collected, with sufficient certainty, that he meant to establish the right of Britain, and the want of right in her enemies to interrupt neutral commerce, on the predominance of force, on the decided superiority at sea, which she enjoys, and on the inferiority of force, under which her enemies labour. When she opens her colonial ports to neutrals, although it arises out of a state of war, it does not arise, like theirs, out of the predominance of the enemy's force. This predominance he frankly declares to be the true foundation of the principle.

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And thus we are arrived at the true foundation of the principle which has so often varied its attitudes of defence, and when driven from one stand, has been so ready to occupy another. Finding no asylum elsewhere, it at length boldly asserts, as its true foundation, a mere superiority of force. It is right in Great Britain to capture and condemn a neutral trade with her enemies, disallowed by her enemies in time of peace, for the sole reason that her force is predominant at sea. And it is wrong in her enemies to capture and condemn a neutral trade with British colonies, because their maritime force is inferior to hers. The question no longer is, whether the trade be right or wrong in itself, but on which side the superiority of force lies? The law of nations, the rights of neutrals, the freedom of the seas, the commerce of the world, are to depend, not on any fixt principle of justice, but on the comparative state of naval armaments, which itself may change at every moment, may depend on the event of a battle, on the skill of an admiral, on the tack of the wind; on one of those thousand casualties which verify the admonition, that the battle is not always given to the strong, any more than the race to the swift.

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A government, which avows such a principle of conduct among nations, must feel great confidence in the permanence, as well as the predominance of its own power.

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It would nevertheless not be unwise in any nation, to reflect on the vicissitudes of human affairs, and to ask herself the honest question, how she would relish the application of the principle, if in the course of events, a maritime superiority should happen to change sides? Should Great Britain ever find the state of things thus reversed, she might wish, in vain perhaps, to let her claim pass silently into abeyance, as she alleges was done in the war of 1778.

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Nor would it be less unworthy of her wisdom to reflect, that if a predominance of force on one element confers right, a similar right must result from a predominance of force on another element.

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The supposition may be made to press more immediately on her reflections. Great Britain as a maritime power is as dependent on external commerce, as the insular dominions of her enemies are, as colonies, dependent on external supplies. In this general view, the principle which she employs against the colonies of her enemies, may be turned by her enemies against herself. But a more particular view demands her attention. She has already beheld her principal enemy on a coast little distant from her own, by a decided preponderance of force on land, and a threatened co-operation of naval armaments, giving to the war an unexampled pressure on her faculties and resources. The wheel of fortune may reproduce the crisis. Her seamen may be taken from her merchant ships, to man her fleets. Her fleets may be called home from the protection of commerce, to the defence of the State. In this posture of things, her harvest may fail, her existence may, depend on foreign food; its importation on neutral commerce; and the successful use of this resource, on the right of neutral ships to a navigation not open to them in times of peace. With such monitory possibilities in view, ought an enlightened nation by her own example, and her own language, to authorize her enemies to say to her friends—you have no right to step into a trade with our enemy, from which his monopoly of the navigation excluded you in times of peace; you have no right to import for him supplies which are absolutely necessary for his support, and which the distress I am inflicting, renders it impossible for him otherwise to obtain. Neither have you any right by a trade, also forbidden in time of peace, to furnish to his colonies the supplies which his command of the sea no longer ensures to them, and without which they must fall of course into our possession.

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What reply could be made to such an expostulation, by a neutral, who had not refused to recognize a like claim on the part of Great Britain; and, by the refusal, consulted better the interest of Great Britain, than she had consulted it herself in advancing the claim?

Writings of Madison, Volume 2: 1794-1815, p.366

Taking leave of the very distinguished judge, with these observations, some notice is next due to Mr. Ward and Mr. Browne.

Writings of Madison, Volume 2: 1794-1815, p.366

A remark that soon occurs on opening the volumes of these writers is, that both of them confound the principle here in question, with the question whether free ships make free goods; and under this confusion, bring the former within the arguments and authorities belonging to the latter only. The confusion results not only from the more general expressions in which they describe the controversy between neutral and belligerent nations, on the subject of commerce; but is promoted by their frequent use of the terms "carrying trade," without distinguishing between the carriage of enemies property in neutral vessels, and the neutral carriage of neutral property in channels navigated in time of peace by domestic carriers only. These questions are evidently and essentially distinct; and the distinction answers, of itself, much of the reasoning employed by those writers; and most, of the authorities cited by them.

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With respect to the consolato del mare, so much appealed to by Mr. Ward, it has been already observed that however direct its authority may be against the principle that enemy's property in neutral vessels is subject to confiscation, there is not a sentence in that compilation which directly or indirectly recognizes or favors a belligerent claim, to confiscate neutral property, on the principle that it is found in channels of trade not open at all or to other than subjects or citizens of the belligerent, in time of peace. The negative testimony of the consolato, therefore, is completely in favor of the contrary principle.

Writings of Madison, Volume 2: 1794-1815, p.367

In recurring to Grotius, Mr. Ward, is led, by his own comment on the passage which describes the rights of belligerents against the trade of neutrals, to conclude that the real question before Grotius, was that which Grotius said had been so much and so sharply agitated, namely, whether a belligerent had a right to interdict all neutral commerce with his antagonist; and Mr. Ward accordingly takes the defensive ground of maintaining that the neutral "claim to a carrying trade had never entered the mind of Grotius."

Writings of Madison, Volume 2: 1794-1815, p.367

If by the "carrying trade" Mr. Ward means the carriage of enemy's property, it must have been within the view of Grotius; because he has furnished Mr. Ward himself with an authority against the lawfulness of such a trade. If by the "carrying trade" he meant a trade carried on in war, where it was not allowed in peace, it is strictly true, that it appears never to have entered the mind of Grotius. It did not enter his mind, because no such particular claim had ever been asserted or exercised against neutrals. The general claim to intercept all neutral commerce with an enemy, did enter into his mind and into his discussion, as well as the other particular claims of belligerents in the case of contraband and of blockades; because as well that general claim, as those particular claims, had, at different periods, been asserted and exercised against neutrals. To suppose that the carrying trade could be unnoticed by Grotius, for any other reason than that no belligerent right to intercept that particular branch of trade, had been asserted, would be the more preposterous, for the reason suggested by Mr. Ward, "that Grotius lived in a time when his countrymen were raising to its height the source of their commerce, by rendering their State the emporium of trade, and becoming the carriers of the rest of the world;" carriers as well of their own property as of the property of others, and in every channel which might be opened to them with profit to the carriers.

Writings of Madison, Volume 2: 1794-1815, p.367

Notwithstanding this relinquishment of the authority of Grotius, in relation to the carrying trade, Mr. Ward has shewn a strong inclination to extract from certain terms employed by Grotius, on the subject before him, some general countenance to the British principle.

Writings of Madison, Volume 2: 1794-1815, p.368

Grotius, it must be admitted, is less definite in explaining himself in this particular instance, than he is in others; and much less so, than other jurists who have succeeded him. It is impossible at the same time to put on his words, any construction that will avail Mr. Ward.

Writings of Madison, Volume 2: 1794-1815, p.368

Although the passage has been heretofore analyzed, it will not be improper to re-examine it with a particular reference to the argument of this writer.

Writings of Madison, Volume 2: 1794-1815, p.368

Grotius having made his distribution of the articles of neutral commerce into three classes—lst, of such as are wholly of pacific use—2d, such as are wholly military, and 3d, such as are, usus ancipitis—of a doubtful or double use, enlarges on this 3d class in the words following—" In tertio illo genere, usûs ancipitis, distinguendus erit belli status. Nam si tueri me non possum nisi quæ mittuntur intercipiam, necessitas ut alibi exposuimus jus dabit sub onere restitutionis, nisi causa alia accedat. Quod si juris mei executionem rerum subvectio impedierit, id que sciri potuerit qui advexit, ut si oppidum obsessurn tenebam, si portus clausos, et jam deditio ant pax expectabatur, tenebitur ille mihi de damno culpa dato, ut qui debitorem carceri eximit,''\* &c., &c. He proceeds next to graduate the injuries done to the belligerent and the penalties due to the neutral, according to certain distinctions since exploded, particularly the distinction between a just and unjust war, on which he founds a rule; "Quod si præteria evidentissima sit hostis mei in me injustitia, et ille eum in bello iniquissimo confirmet, jam non tautum civiliter tenebitur de damno sed et criminaliter, &c."

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From this text, Mr. Ward makes the following deduction: "The tenor of these words 'status belli' which is a general de'' scription; of 'juris executione' which is the very right to take "arms; of 'pax expectabatur' which is a final termination of "hostilities, not surrender of the besieged place; and lastly of "'bello confirmet' which is demonstrably applicable to the "whole field of war: these (he says) prove him to be occupied "with the general plan of operations, and the general exigencies of a state of hostility."

Writings of Madison, Volume 2: 1794-1815, p.369

The great importance attached to this passage in Grotius, and the extensive consequences drawn from it by this learned champion of the British principle, will be apologies for a more critical attention to the passage, than it could be thought, of itself, to require.

Writings of Madison, Volume 2: 1794-1815, p.369

Whether Grotius did or did not limit his meaning to the nature of contraband articles, and the case of blockades; it is demonstrable that his words are inapplicable to the distinction between a trade permitted, and a trade not permitted in peace.

Writings of Madison, Volume 2: 1794-1815, p.369

1. According to Grotius, the articles in question are of the third class only, the class of a doubtful or double use: the principle of Great Britain makes no such distinction. Articles of every class and kind found in the new channel of trade, are rendered unlawful by the channel itself, however inapplicable they may be to the uses of war.

Writings of Madison, Volume 2: 1794-1815, p.369

2. According to Grotius, it is one state of war compared to another state of war, that is to be distinguished—"distinquendus erit belli status:" According to Great Britain, the essence of the distinction is, between the state of war, and the state of peace; or rather between the state of the municipal laws of commerce in time of war, and the state of those laws in time of peace.

Writings of Madison, Volume 2: 1794-1815, p.369

3. According to Grotius, the right to intercept the neutral commerce accrues from its particular necessity, as a measure of defence: according to Great Britain, the necessity is not the criterion. If there be no such necessity, the trade is condemned, in case the channel were unlawful before the war. Be the necessity what it may, the trade is free, if the channel was lawful before the war.

Writings of Madison, Volume 2: 1794-1815, p.370

4. According to Grotius it must be such a necessity as he had elsewhere pointed out—"ut alibi exposuimus." The British advocates have not undertaken to shew any other passage of Grotius, giving the explanation which their principle requires. No such passage exists.

Writings of Madison, Volume 2: 1794-1815, p.370

5. According to Grotius, the articles intercepted, if no other cause prevent, are to be restored. According to the British decisions, no such restitution is due. Both vessel and cargo are confiscated.

Writings of Madison, Volume 2: 1794-1815, p.370

6. Finally—The war to which Grotius refers, when he uses the expression "bello confirmet" is a war of the most evident injustice—"evidentissima injustitia; bello INIQUISSIMO confirmet," not bello confirmet, as cited by Mr. Ward. The distinction between just and unjust wars, does not enter into the principle, on which Great Britain founds her belligerent claim. It is, in fact, disclaimed by Bynkershoeck,\* who succeeded Grotius; and tho' countenanced by Vattel, is generally understood to be excluded from questions affecting belligerent and neutral rights.

Writings of Madison, Volume 2: 1794-1815, p.370

Whether the text of Grotius, therefore, is to be understood as confined, or not confined to the case of contraband and blockade, it cannot possibly be applied to the case of a trade asserted to be unlawful in war, merely as being a trade not permitted in peace.

Writings of Madison, Volume 2: 1794-1815, p.370

It may be observed nevertheless, in justice to Grotius, that his meaning, ought in fairness, not to be extended beyond the cases of contraband and blockades: First, because it is the only construction that can satisfy one part of the text; whilst the terms used in the other part, are by no means, inconsistent with that construction. The expression least apposite to the case of a blockade, is that of "pax expectabatur," or "the expectation of peace," as an event which might be frustrated by the neutral commerce. But there may certainly be wars, where peace itself might depend on a blockade. It is obvious that a blockade of particular ports, such as that of Amsterdam, the chief emporium of the country of Grotius, might influence the question of peace, as well as the question of capitulation. Or to state a case still more decisive: a state at war, may consist of little more than the place actually blockaded. Venice and Genoa, formerly, Hamburgh at present, are examples. A close and continued blockade of such places as these, would necessarily involve a question of peace, with that of a surrender.

Writings of Madison, Volume 2: 1794-1815, p.371

Again; the meaning of Grotius ought not to be extended, as Mr. Ward extends it, beyond those two cases of contraband and blockade "to the general plan of operations, and the general exigencies of a state of hostility;" because this construction is directly at variance with the principles heretofore cited from Grotius; particularly in the note where he condemns the practice of England and Holland, in their general prohibition of neutral trade with their enemy.

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But the construction attempted by Mr. Ward not only puts Grotius at variance with himself; it puts Mr. Ward at variance with himself also; as well as with the limits affixed to the principle by his own government. For if the belligerent right laid down in the passage of Grotius be not restricted to contraband and blockades, and cannot be applied to the British distinction between a trade in war and a trade in peace; but extends to the general exigency of hostilities; it is impossible to deny to belligerents a right to intercept all neutral trade with their enemy, whenever the state of the war, the accomplishment of justice, or the expectation of peace, prescribe it; or whenever a neutral trade may be calculated to confirm an enemy in the war. This consequence is inevitable. Yet Mr. Ward, expressly,\* in another place, disclaims any such a latitude in the rights of war, with an exultation that his country had once, and once only, attempted it; and, on seeing its injustice, candidly renounced the attempt.

Writings of Madison, Volume 2: 1794-1815, p.372

The observations which have been already made on Pufendorf, and on his letter to Groningius, cited by Barbeyrac, afford a conclusive reply to the use which Mr. Ward faintly endeavors to make of that authority, on the point here in question. He seems, indeed, in general, rather to combat it as an authority claimed by an opponent, than to claim it as of much weight in his own scale.

Writings of Madison, Volume 2: 1794-1815, p.372

Bynkershoeck and Heineccius, though jointly cited as explicit authority for the principle that free ships do not make free goods, are neither of them appealed to by Mr. Ward as supporting the principle that a trade not allowed in peace was unlawful in war. This silence of Mr. Ward, considering his spirit of research, and his zeal for this latter principle, may reasonably be ascribed to his discovery that he could gain nothing by bringing it to the test of those authorities.

Writings of Madison, Volume 2: 1794-1815, p.372

The same inference may be drawn from his silence with respect to the authority of Vattel, as to a trade of that description.

Writings of Madison, Volume 2: 1794-1815, p.372

In Hubner, whose authority it is a great object with Mr. Ward to discredit, he finds a half concession, to which he does not fail to summon a marked attention. Hubner, it seems, referring\* to the case of a neutral trade with an enemy's colonies, opened on account of the war, admits that it is subject to some uncertainty, "quelque incertitude." He immediately subjoins, however, "that he does not see why neutral sovereigns should refuse themselves so considerable a benefit when it offers; provided they abstain from supplying those colonies with any merchandize which is prohibited in war. It is true," he adds, "if, besides that, they are careful not to carry provisions thither, by which I mean, articles of the first and second necessity, which, in time of war, are fully and more than equivalent to contraband of war properly so called; then it is evident that neutral nations may lawfully carry on that commerce, because the principal cause of its being opened to them during the war, will not have had the effect intended to be produced; by means of which that commerce will no longer have any thing that may directly influence the war, and which consequently may be an object of the right which belligerent nations have of opposing every thing which tends to the immediate assistance of their enemies." In this ramble of Hubner, from the plain path in which he commenced his answer to the uncertainty suggested by himself, he bewilders both himself and his subject, and lays a foundation for real uncertainties, in his attempt to remove an imaginary one. How could distinctions be maintained, in practice, between provisions of the first and those of the second necessity, and between both and all other provisions? What is meant by the right which belligerent nations have of opposing every thing, which tends to the immediate assistance of their enemies?

Writings of Madison, Volume 2: 1794-1815, p.373

But were the concession free from these incumbrances, it could not avail the advocates for the British doctrine: First, because the concession is limited to the colonial trade, not extending even to the coasting trade: Secondly, because it is limited to the case of those necessary supplies to the colonies, which were the object in opening the trade to neutrals; whereas the British doctrine extends to all trade to and from the colonies.

Writings of Madison, Volume 2: 1794-1815, p.373

If any thing further be requisite to invalidate this fugitive concession, or rather hesitation of Hubner, it is amply furnished by Hubner himself, in sec. 5, of the same chap. and book, in which he systematically establishes principles, by which the rights of neutral commerce are to be determined.

Writings of Madison, Volume 2: 1794-1815, p.373

"But let us suppose," says he, "that the commerce of a neutral nation with one of the belligerent parties, however innocent it may be, should indirectly strengthen the latter, does it follow, that his adversary has a right to hinder it, to the detriment of the neutral nation? who in carrying it on, neither had nor could have that particular object in view; which merely exercises her industry as in time of peace; and which, besides, will be very glad to trade with that same adversary, upon the like terms, as far as his commercial laws will permit, and the nature and interest of its own commerce may require.

Writings of Madison, Volume 2: 1794-1815, p.374

"To attempt to render a neutral State responsible for the increase of the strength of an enemy, because that increase "arises from the commerce which that State carries on with "him, is to impute to one, a thing which he has caused by mere "accident."

Writings of Madison, Volume 2: 1794-1815, p.374

Again—" Neutral nations by trading with those who are at "war, merely avail themselves of their incontestible right. "Now whoever makes use of his right, and merely does so, "never can do an injury to another, which he can have a right "to complain of. The possible consequences of just, innocent, "and lawful acts, never can hinder us from doing them, at least "there is no one who has a right to prohibit us, &c."

Writings of Madison, Volume 2: 1794-1815, p.374

With such principles in his mind, it is not wonderful, that if Hubner was startled, as Mr. Ward expresses it, by the terms of his own premises, he should be more startled at his own concession; and that finding himself at a loss to explain the ground on which such a claim as that of Great Britain could in any degree be reconciled with the rights of neutral commerce, he should be in a hurry to resume his principle, "that there is no reason why sovereign States who are neuter, should refuse the advantage presenting itself, provided they abstain from supplying colonies with contraband."

Writings of Madison, Volume 2: 1794-1815, p.374

Hubner wrote in the war of 1756. Another Danish writer, Hennings, published a treatise on "neutrality," in the interval between the war of 1778 and the war of 1793. His authority is precise and peremptory against Mr. Ward.

Writings of Madison, Volume 2: 1794-1815, p.374

After the capture of Grenada, and the Grenadines by the French, in the war of 1778, an act was passed by the British parliament\* "to protect goods or merchandize of the growth, produce, or manufacture of those islands, on board neutral vessels bound to neutral ports during the present hostilities," with provisoes, that the protection should not extend to cargoes from any other island, nor affect any sentence of any vice admiralty court, which prior to a given day should have condemned productions of the said islands.

Writings of Madison, Volume 2: 1794-1815, p.375

There is some obscurity in the object and the text of this act. To make it consistent, however, with itself, as well as with the acknowledgment on all hands, that a neutral trade in neutral property was free, during that period, with French colonies, it must be understood, as intended either to exempt the trade of those islands, which had become French, from the operation of British laws, and to put them on the same footing with other French islands; or to exempt from capture the property of the inhabitants of the islands, become French property and French subjects; an indulgence\* that might be thought due to those who had but just ceased to be British subjects, and who might be restored to that character by a peace.\*

Writings of Madison, Volume 2: 1794-1815, p.375

Hennings, however, conceiving the act to have been intended to legalize a neutral trade with French colonies, which otherwise might be subjected by the British courts to condemnation, is led to the following assertion of the law of nations in opposition to such a principle:

Writings of Madison, Volume 2: 1794-1815, p.375

"An important subject which ought to be here noticed, is the trade with the colonies in America. Is there any principle on which the sugar islands in the West Indies ought to be considered as blockaded? And if there is no such principle, why is the permission of Great Britain required for neutral ships to take sugars from the islands of Grenada and the Grenadines, since those islands have fallen into the hands of the French, and the French had opened a free trade to Martinico, and to their other islands, &c.?"

Writings of Madison, Volume 2: 1794-1815, p.376

"This law is evidently contrary to the rights of neutral powers, and they might refuse to acknowledge its obligation, as France alone has a right to permit or prohibit trading with her colonies, and as long as she permits it, no neutral ought to be molested therein."

Writings of Madison, Volume 2: 1794-1815, p.376

Hubner and Hennings appear to be the only writers who have taken notice of the principle in question. The former having written at a period when the principle was in operation, was doubtless influenced by that consideration. The attention of the latter seems to have been drawn to the subject by the act of parliament concerning Grenada and the Grenadines, which he was inserting in his collection of State papers, and by the construction which he gave to the purport of that act.

Writings of Madison, Volume 2: 1794-1815, p.376

The other numerous writers of most modern date, though generally strenuous advocates for the neutral rights of commerce, make no allusion to the British principle: For it would be absurd to regard in the light of an allusion to, and consequently a recognition of this particular principle, the language they happen to use in stating the general principle, that when war arises between some nations, the nations at peace with all, are to proceed in their trade with all, on the same footing in time of war as they did before the war broke out. The obvious meaning of these phrases is, that with the particular exceptions of contraband and blockades made by all of them, the neutral right to trade with a nation at war remains the same as if that nation was at peace; and consequently the right to trade to whatever places, in whatever articles, and in whatever vessels, their regulations might mutually permit. That such must have been the intention of such writers as Galiani, Azuni, and even Lampredi, as well as of Schlegel and the German writers, cannot be questioned, without setting up a forced construction of a particular phrase, in opposition to the whole tenor of their publications; without supposing that whilst they contend for the general system of the armed neutrality, of which this is an essential principle, and have for their main object the enlargement of neutral rights, they could, by a loose stroke of the pen sacrifice a neutral right, far more important than those which they took up their pens to maintain. Such suppositions cannot for a moment be entertained. Nor indeed have any of the partizans of Great Britain undertaken to advance them.

Writings of Madison, Volume 2: 1794-1815, p.377

With respect to the opinion of these very late writers, indeed, it is impossible to doubt that their sentiments are in opposition to the belligerent principle of Great Britain. If they have not been more expressly so, their silence is readily explained by the period when they wrote, that is, after the abandonment of the principle during the war of 1778, and before their attention could be called to the subject by the occurrences of the war of 1793. As late even as the year 1799, it was affirmed at the bar of the high court of admiralty, that "in the late practice of this court, during this war, there have been a variety of cases from the French and Dutch colonies, in which the court has either ordered further proof, or restored in the first instance."\* And in a prior case, in the same year, Sir William Scott in reply to an argument at the bar, that the illegality of a trade between the mother countries and their West Indies had been in a good measure abandoned in the decisions of the lords of appeal, does not pretend that any contrary decisions had taken place. He says only—"I am not acquainted with any decision to that effect; and I doubt very much whether any decision yet made has given even an indirect countenance to this supposed dereliction of a principle rational in itself, and conformable to all general reasoning on the subject."\* Even the orders of council, commencing in January, 1793, could not have been known to these writers; and if they had, were so loosely expressed, so frequently changed, and had their effects at so great a distance from European jurists, that the innovation could not be expected to become an immediate subject of their attention and discussion.

Writings of Madison, Volume 2: 1794-1815, p.377

To the incidental hesitation of Hubner, then, opposed by his own deliberate explanation of his principles, are to be opposed the direct authority of one of his countrymen, and the unanimous authority of a host of modern writers, all of a date later than Hubner, and many of them more distinguished for their talents and their erudition on subjects of public law.

Writings of Madison, Volume 2: 1794-1815, p.378

It will be found that Mr. Ward is not more successful in his definitions and reasonings on this subject, than in his appeal to the authority of Jurists.

Writings of Madison, Volume 2: 1794-1815, p.378

That the obscurity and uncongruity into which this heresy in public law betrays the rotaries who engage in its defence, may be the better seen, Mr. Ward shall be exhibited in his own words:

Writings of Madison, Volume 2: 1794-1815, p.378

"Let it be remembered, therefore, that the question on the part of the belligerent is not, as has been grossly supposed, whether he has a right to interfere with the neutral; but merely whether he cannot prevent the neutral from interfering with him? In other words, whether, when the former extends the bounds of his trade not with but for a belligerent; not only purchases what he wants for his own consumption, or sells his usual peace supply of articles; but sells to him articles which may be easily converted into the means of annoyance; or even turns carrier for his oppressed friend who uses the surplus strength which is thus afforded him against his opponent; whether in such case the other belligerent has no reason to be offended, and to reclaim those rights which the pretended neutral is disposed to deny him? This is in fact the true state of the question."\*

Writings of Madison, Volume 2: 1794-1815, p.378

"In granting, therefore, the fair and reasonable enjoyment of their privileges to neutral nations, there must always be added the fair and reasonable caution that they use them so as not to hurt the belligerent; and that I may not seem to entrench myself in generals 'ubi sæpe versatur error,' I would add that they have certainly no right to use them in any one, the smallest degree more than they did in times of peace, nor even in so great a degree, if such augmented, or the ordinary use of them, bears immediate mischief to either belligerent. For example, they may increase their purchases to any amount in the belligerent countries, provided their own consumption required it, and provided they remain domiciled in their own country. But if they persist in carrying, much more, if they extend their faculty of carrying for the belligerent, where the latter was in the habit of carrying before; and if, in consequence, he is enabled to come to the battle, and to stand the shock of war, with augmented strength, which he never would nor could have possessed without it, I see little or no difference between this and an actual loan of military assistance. All the distinction is, that he substitutes his own people in the place of taking foreigners, for every man which the neutral lends to his trade enables him to furnish a man to his own hostile fleets. In other words, it enables him to meet his enemy with undiminished forces, and yet preserve entire his sources of revenue; when, if it was not for this conduct of the neutral, either the forces or the revenue of the belligerent must be diminished.\*

Writings of Madison, Volume 2: 1794-1815, p.379

"According to our principles, the same reason which applies to contraband, applies to all nocent cases whatsoever.

Writings of Madison, Volume 2: 1794-1815, p.379

A complaint in general terms that a power, which had hitherto stood by, should step in and do that for the belligerent which he was no longer able to do himself, introduces the following passage: "to come a little more into the detail and application of this argument, let us suppose, as was the case with France, a heavy duty on foreign freight had formed an almost fundamental law of her own commercial code; which in times of peace, was a kind of navigation act amounting to an interdiction of foreign interference; and that of a sudden, while engaged in war, wanting her sailors, perhaps her merchant ships, for hostile expeditions, at the same time wanting the pecuniary and other sources of her trade, which would thus be extinguished, she applied to nations calling themselves neutral, by taking off this duty, or even by bounties, to carry on this trade. Here is a proof how necessary this trade is to her exigencies, and how impossible it is to preserve it, consistently with her warfare. But where is the man of plain understanding, and uninterested in the question, who would not determine, that if the neutral accepted the offer, that instant he interfered in the war, &c.?"\*

Writings of Madison, Volume 2: 1794-1815, p.380

"These observations apply very generally to all the carrying trade, but they more particularly apply to that specific claim in the first article of the armed neutrality of 1780, to navigate freely on the coasts, and from port to port of nations at war. In so far as the coasting trade of a nation is more valuable and more necessary to its existence than its foreign commerce; in just so far is the interposition of neutrals more powerful in its favor."\*

Writings of Madison, Volume 2: 1794-1815, p.380

These extracts cannot be charged with perverting or mutilating the argumentative part of Mr. Ward's vindication of the belligerent claim in question.

Writings of Madison, Volume 2: 1794-1815, p.380

The views of this claim, which Mr. Ward here gives, are, it must be confessed, so vague and so confused that it is difficult to fix on the real meaning of the writer. As far as it can be reduced to any thing like precision, he appears to be at variance with himself; and what is perhaps, not less extraordinary, at variance with Sir William Scott; sometimes going beyond the belligerent claims of the judge, and sometimes relinquishing a part of them.

Writings of Madison, Volume 2: 1794-1815, p.380

Thus, on comparing him with himself, he first allows neutrals to increase their purchases to any amount; provided their own consumption require it. He next states, that the neutral privilege is not only not to be used in the smallest degree more than in peace, but not in the ordinary degree, if it bears immediate mischief to either belligerent. Finally, he maintains, that the same reason which applies to contraband, applies to all nocent cases whatsoever.

Writings of Madison, Volume 2: 1794-1815, p.380

On comparing him with Sir William Scott, Mr. Ward admits that neutrals have a right to trade, so far as to purchase and increase their purchases, to the amount of their own consumption. It has been sufficiently seen that Sir William Scott, and indeed his superiors both in the admiralty and executive departments, consider the trade of neutrals, beyond the permission to trade in peace, as merely a relaxation of the rights of war. Here then he stops short of Sir William Scott.

Writings of Madison, Volume 2: 1794-1815, p.381

If we are not to consider that, as his real meaning, but pass on to his next position, which denies to neutrals a trade, even in the ordinary degree, if it bears immediate mischief to a belligerent (by which the context will not permit us to understand any possible allusion to contraband) he here expressly contradicts Sir William Scott, who lays it down with emphasis, "that the general rule is, that the neutral has a right to carry on in time of war, his accustomed trade, to the utmost extent of which that accustomed trade is capable."

Writings of Madison, Volume 2: 1794-1815, p.381

If we recur to his last and most rigorous position, that all nocent cases whatever are within the reason applicable to contraband; he must be still more extensively at variance with Sir William Scott.

Writings of Madison, Volume 2: 1794-1815, p.381

In support of the claim, whatever be the extent in which he means to give it, Mr. Ward urges the unlawfulness of a neutral trade, which "is not with, but for an enemy." This has been a very favorite phrase with the patrons of the British claim. It probably was first used in expressing the fiction by which neutral ships, licensed to trade with the French colonies, were converted into French ships. In its application to the subsequent pretext, which determines the channel of trade itself to be unlawful, it is not easy to find any distinct signification: If by trading for an enemy be meant, carrying in neutral vessels enemy's property, the phrase has no connection with the present question; which is not, whether enemy's property in a neutral ship be liable to capture, but whether neutral property in a neutral ship, in a particular channel, be a lawful trade: If by trading for an enemy be meant, carrying to or from his ports, neutral property, where he used to carry it himself; then it cannot be any thing more than trading with, not for him, during the war; as he traded with, not for the neutral nation, before the war; and the case is nothing more than a relaxation of a navigation act: If by trading with an enemy be meant, carrying neutral articles of trade, which he would neither carry himself nor permit to be carried by neutrals before the war, but the carriage of which he permits both to neutrals and to himself during the war; this can no more be trading FOR, not WITH him, than it was trading FOR, not WITH each other, for either to carry to the other during war or peace, articles at one time prohibited, and then permitted by the other; and the case is nothing more than a relaxation with respect to the articles of commerce; as the former was a relaxation with respect to the vessels transporting the articles. The same distinctions and inferences are generally applicable where particular ports shut, at one time, come to be opened, at another.

Writings of Madison, Volume 2: 1794-1815, p.382

The essence of the argument supposed to be compressed into this equivocal phrase, thus, evaporates altogether in the analysis. It either means nothing that is true, or nothing that is to the purpose.

Writings of Madison, Volume 2: 1794-1815, p.382

But the real hinge on which the reasoning of Mr. Ward turns, is, the injury resulting to one belligerent, from the advantage given to another, by a neutral whose ships and mariners carry on a trade previously carried on by the belligerent himself, and which, consequently, enables the belligerent to employ his own ships and mariners in the operations of war; without even relinquishing the revenue which has its sources in commerce. Between this and an actual loan of military assistance by the neutral, Mr. Ward can see no difference; and this is the most plausible consideration perhaps which could be urged in the cause which he defends.

Writings of Madison, Volume 2: 1794-1815, p.382

But unfortunately for this defence, it is completely subverted by three other considerations:

Writings of Madison, Volume 2: 1794-1815, p.382

1. The argument is just as applicable to cases where the vessels of the nation, before it was at war, were actually employed, without any legal exclusion of those of the neutral nation, as to cases where there was a legal exclusion of foreign vessels before, and a legal admission of them during, the war. In both cases, the belligerent vessels and seamen, as far as they are liberated by the substitution of foreign vessels and seamen, may be added to his military strength, without any diminution of his exports and imports, or of the revenues connected with them. Either, therefore, the argument must be extended (which will not be undertaken) to the latter case, or it loses its force, as to the former.

Writings of Madison, Volume 2: 1794-1815, p.383

2. It has been shewn that Great Britain does herself, thus relax her navigation act; and avowedly for the purposes of substituting neutral vessels and mariners in place of those which she finds it expedient to employ in the operations of war. Mr. Ward must therefore either relinquish his argument, or condemn the practice of his own government.

Writings of Madison, Volume 2: 1794-1815, p.383

3. This fundamental argument of Mr. Ward is expressly thrown out of the question by Sir William Scott, who admits that Great Britain, like all countries, in all wars, relaxes her navigation acts and other regulations founded thereon, in order to obtain the service of foreigners with their vessels, where she did without it in times of peace; but that these relaxations, though they arise out of a state of war, do not arise from that predominance of force which he takes to be the true foundation of the principle.\*

Writings of Madison, Volume 2: 1794-1815, p.383

When Mr. Ward then asks, "where is the man of plain understanding, and uninterested in the question, who would not determine, that if the neutral accepted the offer, [of a trade from which the ships and seamen of the belligerent were withdrawn for the purposes of war,] that instant he interfered in the war?" A man may be named whose determination of the question, Mr. Ward, as may be inferred from his eulogies on Sir William Scott, would of all men be the last to contest.

Writings of Madison, Volume 2: 1794-1815, p.383

On turning to the work of Mr. Browne, it does not appear that he has presented any views of the subject, which require particular examination. He has, in fact, done little more than appeal to the authority of Sir William Scott, and praise and repeat the arguments of Mr. Ward.

Writings of Madison, Volume 2: 1794-1815, p.383

It may be thought, that some notice ought to be taken of a discourse of the present Earl of Liverpool, prefixed to his collection of treaties. It would be injustice to the distinguished author of that defence of the maritime principles of Great Britain, to deny it the merit of learning, ingenuity, and a vein of candor more than is always found in such discussions. His attention, however, was almost wholly directed to the question whether free ships make free goods, a question not within the limits of this investigation. He has, indeed, a few cursory observations, such as could not be here noticed without going into unnecessary repetitions, in favor of the doctrine that a trade not customary in peace cannot be lawful in war. These observations, he concludes, with one referred to by Mr. Ward as of great force, on the general question between belligerent and neutral nations; namely, "that if this right were admitted, it would be the interest of all commercial States to promote dissentions among their neighbors."

Writings of Madison, Volume 2: 1794-1815, p.384

If there be any plausibility in this argument, it is certainly all the merit that can be claimed for it. The wars which afflict mankind, are not produced by the intrigues or cupidity of the weaker nations, who wish to remain in peace, whilst their neighbors are at war. They are the offspring of ambitious, and not unfrequently commercial rivalships, among the more powerful nations themselves. This is a fact attested by all history. If maxims of public law are to be tested, therefore, by their pacific tendency, such maxims, it is evident, must be favored as circumscribe, not the rights and interests of neutral nations, but the belligerent and commercial interests, of their more powerful and warlike neighbors.

Writings of Madison, Volume 2: 1794-1815, p.384

As a further answer to the observations of this noble author, and as a final answer to all the arguments which are drawn from the intrinsic equity or conveniency of this principle, the following considerations must have weight with all candid and competent judges.

Writings of Madison, Volume 2: 1794-1815, p.384

In the first place it may be repeated, that on a question which is to be decided, not by the abstract precepts of reason, but by rules of law positively in force, it is not sufficient to show on which side an intrinsic reasonableness can be traced. It is necessary to shew, on which side the law as in force, is found to be. In the present case, it has been shewn that this law is not for, but against, the British side of the question.

Writings of Madison, Volume 2: 1794-1815, p.385

But secondly, it is denied that if reason, equity, or conveniency, were alone to decide the question, the decision would be different from that which the law in force pronounces on it.

Writings of Madison, Volume 2: 1794-1815, p.385

War imposes on neutral commerce a variety of privations and embarrassments. It is reasonable, therefore, as well as lawful, that neutrals should enjoy the advantages which may happen to arise from war.

Writings of Madison, Volume 2: 1794-1815, p.385

1. In the case of contraband, the articles of which, especially according to the British catalogue, may compose an important branch of exports in time of peace, the commerce of particular nations remaining at peace may suffer material defalcations from the exercise of the rights of war.

Writings of Madison, Volume 2: 1794-1815, p.385

2. In the case of enemy's property carried by neutral ships, (as Great Britain, at least, understands and enforces the law of nations,) a branch of trade more or less important to all commercial nations, and constituting the most profitable branch of trade with some in times of peace, becomes an object of belligerent interruption and confiscation.

Writings of Madison, Volume 2: 1794-1815, p.385

3. In the case of blockades the abridgment and embarrassment to which the trade of neutrals, especially those at a distance, is subjected by war, form other important items of loss on their side. This is a belligerent claim, on which much might be said, if the notoriety of its effects, to say nothing of its extravagant abuses, did not render it unnecessary.

Writings of Madison, Volume 2: 1794-1815, p.385

4. The interruptions, proceeding from searches of neutral vessels on the high seas, the erroneous suspicions and inferences which send them into port for trial, the difficulty of obtaining all the requisite proofs thereon by the claimant, the delays and expences incident to the judicial proceedings, more especially where the trial is at a great distance, and above all when appeals still more distant become necessary, the changes in the state of markets during all these delays, which convert into loss the gains promised by the expedition, the suspension of the mercantile funds, the heavy sacrifices, and sometimes bankruptcies thence ensuing; all these injuries, which war brings on neutral commerce, taken together, must surely, during war, require a very great weight in the opposite scale to balance them, and the weight of these injuries is sometimes not a little increased by the piracies which a state of war generates and emboldens.

Writings of Madison, Volume 2: 1794-1815, p.386

The injuries, besides, which are here enumerated, are limited to such proceedings as the laws of war may be thought to authorize. To a fair estimate of the evils suffered by neutral commerce, must be added all those abuses which never fail to be mingled with the exercise of belligerent rights on the high seas; the protracted interruptions, the personal insults, the violent or furtive spoliations, with a thousand irregularities, which are more or less inseparable from the proceeding, and which can seldom be so far verified and prosecuted to effect against the wrong-doers, as to amount to a reparation.

Writings of Madison, Volume 2: 1794-1815, p.386

If the evils, brought on neutrals by a state of war, were to be traced to their full extent, a long list of a distinct kind ought moreover to be thrown into the same scale. How many condemnations are made either directly contrary to the law of nations, or by means of unjust presumptions, or arbitrary rules of evidence, against neutral claimants! How often and how severely are the neutral appellants aggrieved by measuring the restitution awarded to them, not according to the actual loss, but according to the deficient estimates, or the scanty proceeds of sales, decreed by ignorant or corrupt vice admiralty courts,\* in places and under circumstances, which reduce the price to a mere fraction of the value! Examples of this sort might easily be multiplied; but they may be thought of the less weight in the present case, as they furnish a just ground of resort from the ordinary tribunals of justice, to those ulterior remedies, which depend on negotiations and arrangements between the belligerent and neutral governments. But whatever may be the provisions for indemnity, obtained in these modes, it remains an important truth on the present subject, that besides the intermediate disadvantage to neutral traders from the mere delay of diplomatic and conventional remedies, the justice stipulated is always rendered very incomplete, by the difficulties in verifying the losses and damages sustained.

Writings of Madison, Volume 2: 1794-1815, p.387

The principle urged against a neutral trade in time of war, not permitted in peace, is the more unreasonable, because it gives to a tribunal established by the belligerent party only, a latitude of judgment improper to be confided to courts of justice, however constituted.\*/\*\*

Writings of Madison, Volume 2: 1794-1815, p.388-p.389

In cases, even where the tribunal has an equal relation to both the parties, it has ever been deemed proper, that the rules of decision should be as plain and as determinate as possible; in order not only, that they might be the surer guide to those who are to observe them; but also a better guard against the partialities and errors of those who are to apply them. Say, then, whether it be not an abandonment of every reasonable precaution, while the judges have, in their national prejudices, in the tenure of their official emoluments, and in their hopes of personal advancements, an exclusive relation to one of the parties; say whether it be not unreasonable to leave to the opinion, perhaps to the conjectures of a tribunal so composed, the questions whether in a distant quarter of the globe a particular trade\* was or was not allowed before the war, whether if not allowed before the war, its allowance during the war, proceeded from causes distinct from the war, or arising out of the war; whether the allowance had or had not been common to all wars; whether again, if resulting from the particular pressure of the war, the pressure amounted to a necessity; whether if amounting to a necessity, the necessity resulted from an impossibility, imposed by a decided predominance and superiority at sea, of the adverse party? These are not questions of fancy or of unfairness. They are questions which it has been seen, that the enlightened judge in the British high court of admiralty has himself recognized as involved in the principle for which he contends. But they are questions in their nature improper to be decided by any judicial authority whatever; and in their importance, they are questions too great to be left even to the sovereign authority of a country where the rights of other sovereigns are to be the object of the decision.

Writings of Madison, Volume 2: 1794-1815, p.390-p.391

Finally:—The belligerent claim, to intercept a neutral trade in war not open in peace, is rendered still more extravagantly preposterous and pernicious, by the latitude which it is now assuming. According to late decisions in the British courts, it is in future to be a rule, that produce of an enemy's colony, lawfully imported into a neutral country, and incorporated into its commercial stock, as far as the ordinary regulations of a sovereign State can work such an effect, is to be subject on re-exportation to capture and condemnation; unless it can be shewn that it was imported in the preceding voyage, with an intention that it should not be re-exported. Consider for a moment the indignity offered to a neutral sovereign in subjecting the integrity of its internal regulations to the scrutiny of foreign courts, and to the interested suspicions of belligerent cruizers; consider the oppression on the individual traders, inseparable from a trial in a distant court, and perhaps an appeal to another court still more distant, where the intention of an antecedent voyage is to be traced through all the labyrinth of mercantile transactions. A neutral vessel goes to sea with a cargo consisting, in whole or in part, of colonial produce. It may be the produce of a neutral colony. It may be the produce of the country exporting it: The United States already produce cotton, sugar, rice, &c., as well as the West Indies. The cruizer does not forget, that the proof will probably be thrown on the claimants; that besides the possibility that it may be a licensed capture, the difficulty of proof may have the same effect in producing condemnation. He recollects also that in the event of an acquittal the costs\* will, where there is the least color for seizure, be thrown on the claimants; and that, at the worst, he can only be put to the inconvenience of giving up a few men to take charge of the prize, in exchange for a few others, not unfrequently impressed into the vacancy. In a word, his calculation is, that he may gain, and cannot lose. Will not, under such circumstances, every hogshead of sugar, or bale of cotton, or barrel of rum, &c., be a signal for detention? Could ingenuity devise a project holding out a more effectual premium for the multiplication of vexatious searches and seizures, beyond even the ordinary proportion of condemnations? A project, in fact, more unjust in itself, more disrespectful to neutral nations, or more fatal to the liberty and interests of neutral commerce? Would Great Britain be patient under such proceedings against her, if she held in her hands, the means of controuling them? If she will not answer for herself, all the world will answer for her, that she would not, and what is more, that she ought not.

1807

Burr's Conspiracy: Bollman's Communication.

Substance of a Communication Made on the 23 of January, 1807, by Doctor Bollman to the President: J. M., at the request of the President, attending:

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Doctor Bollman having just arrived from N. Orleans under the charge of Lt Wilson, in pursuance of an order from Genl W., had conveyed to the P. his desire of an opportunity, which was immediately allowed, to disclose to him certain interesting particulars relating to the plans of Col. Burr, in which the Docr was charged with a criminal participation.

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Previous to the disclosure, the P. assured him that nothing which he might say or acknowledge should be made use of against himself; and it was further observed to him that it was a settled rule in Court, that no communication confidentially made to an officer of the Govt, in his official capacity, could be extorted from him as a witness.

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The Docr opened himself by observing that he had known Col. Burr for some years, and that he had reason to believe that his thoughts had for five or six been turned to Mexico, as an object of enterprize worthy of his preparatory researches; but that his confidential intercourse with Burr on the subject commenced at Washington during a visit which he, Bollman, made there, with a view to effectuate, through the Marquis de Yrujo, a share in the royal licences from Spain to trade with her American Colonies; in which licences his House was, with others, included; all of them, however, being in fact suppressed in favour of that of Craig, of Philadelphia, in which it was well known that Yrujo was a partner of the prodigious gains made; and this House itself being since shut out by a later arrangement of the Spanish Government with the Hopes and Barings, who had been able to afford advances of money, as well as more satisfactory provisions for transferring the treasures of New Spain to Europe.

Writings of Madison, Volume 2: 1794-1815, p.394

During his stay in Washington he had occasional interviews with Burr. They were chiefly at night, and very transient, owing to the constant occupations of Burr with others, and with his plans and papers. In consequence, however, of what passed between them, and of further explanations of Burr at Philadelphia, he was induced to enter into his views; and under the colour of an arrangement with a farming brother on the Ohio, who wished to gain a better establishment for himself, on lands held out for settlement by Mr. D. Clark, near the Washeta, he proceeded to New Orleans, where he arrived in September, with the duplicate letter from Burr to Wilkinson, which he delivered on the arrival of W. at New Orleans.

Writings of Madison, Volume 2: 1794-1815, p.394

He stated that what he knew of Burr's plans and views was derived entirely from Burr himself; Burr, as he believed, having an unbounded confidence in him, and making of course no other the depositary of what was not disclosed to him.

Writings of Madison, Volume 2: 1794-1815, p.394-p.395

In explaining these plans and views, he stated that Burr had taken great pains to acquire a knowledge of Mexico in all its circumstances, which might invite an attempt to revolutionize it; that he had been successful in gaining information, and was made very sanguine by it; that he considered such an enterprize as under every aspect happy for Spanish America; as highly beneficial to the United States; as extremely favorable even to Europe; and as promising a glorious place in the history of magnificent events. He more particularly stated that Burr had obtained abundant proofs of the hatred of Spain to the United States, her aversion to the transfer of Louisiana to them, and her hopes of undoing that transaction; that France was also unfriendly, considered the sale of Louisiana as little more than a loan on mortgage, had views of getting it back on the return of peace in Europe, and, ultimately, of bringing all Spanish America under her sway; that for this purpose it was not to be doubted that the present feeble and degenerate Government of Spain would be set aside in favor of a French dynasty, under the tutelage of France, and thereby all the wealth and power of Spanish America be turned into French resources for accomplishing the objects of France in Europe, as well as on this Continent; that even now the money of New Spain was a fund essential to the operations and victories of that scourge of Europe and humanity; and that in cutting it off, all the world would share the happy effect; that under all these circumstances it was equally just, necessary, and honorable for the U. S. to enter into war against Spain, and to separate from her her most wealthy possessions, as was easy to be done; and that the most expedient mode of beginning and conducting hostilities would be under the auspices of an individual who might find the means independently of the Govt for the purpose; that Burr was able to provide these means; that he had accordingly engaged in so doing; that he would be able, as he had. latterly written to his friends at N. O.; that he could and should be at Natchez about the 20 December with about 2,000 volunteers, to be followed by about 4,000 more, to whom he could superadd two or three times as many, if necessary, and he had possessed the pecuniary resources; that his plan then was to proceed to N. O., avoiding as much as he could violence and the invasion of private rights, but that it was his intention to seize for his use the French Artillery deposited there; and using force as far as necessary, to lay under requisition all the shipping there, expected, that season, to be sufficient to convey to Vera Cruz in a few days six or seven thousand men, a force which, once effectually landed, could easily march to Mexico, and, with the aid of the discontented, bear down all opposition.

Writings of Madison, Volume 2: 1794-1815, p.395

Was it understood that any of the officers, particularly the higher ones of the Spanish Government, would join in the revolutionary project? No. Influential characters only, not in office, were understood to be ready to co-operate.

Writings of Madison, Volume 2: 1794-1815, p.396

He professed to be unacquainted with much of the detail of the project, and seemed to be so of both the proceedings of Burr and those against him, which have lately taken place in the W. Country. He denied any knowledge of an intention to seize the money in the Bank at N. O.

Writings of Madison, Volume 2: 1794-1815, p.396

The part which Wilkinson had taken, he said, was contrary to all Burr's calculations, and would so embarrass him that it was difficult now to know the course it would produce. As a proof of the reliance of Burr on Wilkinson's joining him, and according to the belief of Burr of the good grounds for it, he said that just before he parted from Burr at Philadelphia, in July, Burr told him he had just received a letter from Wilkinson pledging himself to the enterprize, which he (Wilkinson) applauded with an enthusiasm. On being asked what was meant by Wilkinson's joining Burr, he said, [by] resigning his commission in the Army of the United States and taking a command under Burr. Was it expected that Wilkinson would carry over with him the army, or any part it? No; it was only thought probable that a certain portion of the individuals might desert and join the corps of Burr. Was it not apprehended that the army would be an obstacle to the progress of Burr? Very little, if at all; and it was expected that the army would be either engaged in hostilities with the Spaniards, or detained by the unsettled state of things on the Sabine; or so scattered into detachments that they could not make head against such a superior and collected force.

Writings of Madison, Volume 2: 1794-1815, p.396

On being asked whether he was himself to have gone with Burr to Mexico, he said, no; that he was allotted for another, a sort of diplomatic service. What was that? It was the intention of Burr, as soon as he had embarked at N. O. for the execution of his plan, that he, Bollman, should be sent to Washington, charged with such communications and representations to the Government as might induce it to espouse the enterprize, to concert measures with Burr, and thus, by a war, to consummate and extend its objects. These communications and representations were to consist of documents, facts, discourses, and arguments, which, taken together, could not fail to convince Congress and the Executive that such was the deadly hatred and the dangerous designs of Spain and France, and such the opportunity of frustrating them by securing all we wished and must have with respect to Louisiana and the Floridas, and at the same time of effecting a glorious revolution in the Spanish provinces, and depriving Bonaparte of the resource which principally supports him in his irresistible career, that the whole Govt would readily accede to his propositions.

Writings of Madison, Volume 2: 1794-1815, p.397

What was the intention of Burr, in case of his success in Mexico, with respect to the political establishment to be made there? This was to partake of monarchy, the people not being fit for a republican Government; but the most influential and most intelligent of the well-disposed persons of the Country were to be consulted, and proper use made of their advice and co-operation.

Writings of Madison, Volume 2: 1794-1815, p.397

Were there now, or had there been, with Burr, any persons of consequence belonging to Mexico? He did not know that any were now; or that more than one Spaniard had been with him on the business. There was one who had given him information as to the state of things there.

Writings of Madison, Volume 2: 1794-1815, p.397

How could it be supposed that so extraordinary and illegal an enterprize as that undertaken could proceed with the acquiescence or without the knowledge of the Government? Or, if presumed to be not disagreeable to it, why was it, instead of being communicated, so industriously concealed? He had often discussed this point with Burr; who supposed that the measures were so taken and would be executed with such rapidity, that the enterprize would get beyond the reach of the Government; and that it was more expedient in every view that this course

should be pursued, even on the supposition that the dispositions of the Government were in his favor. Burr, he said, would have not concealed his views from the President, if the necessary authority had laid with him; but he, the President, could do nothing, or would be obliged to oppose them; and to make the communication to Congress would have produced a ruinous publicity.

Writings of Madison, Volume 2: 1794-1815, p.398

Whence have the funds been obtained or expected for purposes so far beyond those of individuals, such as the enlistment, equipment, subsisting, and transporting, even to New Orleans, a body of 6 or 7,000 men? No other than private funds, contributed by the friends of Burr, with the use of Bills at long sights, had been employed; many of these bills were drawn at 120 to 150 days' sight, and Burr had expected, by the rapidity of his successes, to be able to provide for the discharge of them. He repeated that he was not acquainted with such details of the plan; and particularly disowned a knowledge of the contributing friends of Burr, or any circumstances affecting his son-in-law, Alston.

Writings of Madison, Volume 2: 1794-1815, p.398

Had no pecuniary success been obtained or attempted from foreign Governments, and what were Burr's prospects or connections with those Governments? Had nothing taken place with the Government of Great Britain, or [of] Spain, through their Ministers here, or by agents of Burr abroad? Yrujo, whom Burr, in order to lull had duped into a belief that his object was to revolutionize Louisiana, and separate the Western States from the Union, entered eagerly and zealously into the plan; visited him continually, and pestered him with his advice and exhortations; offered him the use of 10,000 stand of arms, and money to any necessary amount; was, in fact, so full of zeal, that he would have gone to Spain in order to put his Government in the course of effectual co-operation. Burr, however, despised the dirty character of Yrujo, and never would accept either money or any thing else from that quarter.

Writings of Madison, Volume 2: 1794-1815, p.398

Did it appear that Yrujo acted merely from himself, under a general confidence in the dispositions of his Government, or that he had applied for and obtained particular instructions on the subject? He did not know that there had been, or was time for, any communication of Yrujo with his Government subsequent to the first communication of Burr with him.

Writings of Madison, Volume 2: 1794-1815, p.398

He dwelt here on what he had very early intimated, that it never was a part of Burr's plan to detach the Western Country, or to revolutionize Louisiana; Burr's sole view in his intercourse with Yrujo was to keep him from watching him and sounding alarms to the Government, by letting him enjoy the pleasing belief that the operations of Burr were levelled against the U. S., not against Spain. Yrujo was not without jealousy. He one evening posted himself for two hours opposite Burr's lodging, to ascertain the coming out of Merry; after this Burr was obliged to take measures for duping him thoroughly, and succeeded.

Writings of Madison, Volume 2: 1794-1815, p.399

Did Burr contemplate a union of Mexico with the United States; or did he not rather intend a union of Louisiana and Mexico in an Independent State? Neither; he had in view a connection of friendship, but Mexico was too distant. The idea appeared to be absurd. If Burr had wished to unite Mexico and Louisiana, it would also have been folly to attempt it; because he must, in that case, have left part of his force to guard Louisiana, and thereby have ruined his expedition to Mexico. But might not the plan be to proceed with the whole force to Mexico, and after success there to re-act with its resources on Louisiana? He could not see any grounds for such a plan.

Writings of Madison, Volume 2: 1794-1815, p.399

Had Burr any, and what, communication with the British Government? He communicated freely with Merry, who entered warmly into his views, assured him that its dispositions could not but be entirely favorable, and that he would make such representations to it that it could not fail to see its interest in the event too clearly not to be active, provided it could be done without cause of umbrage to the United States. He (Bollman) understood that no doubt was entertained, previous to the death of Pitt, that decisive measures would have been taken for espousing the plan of Burr, not with unfriendly views towards the U. S., but to promote the interests of Great Britain, and eventually to unite more closely both against the Enemy of the latter. The death of Pitt changed the face of things so much, that he could not say whether Burr had taken any steps since, as to that Government, or what his hopes from it were, further than that it would not oppose him, and that its ships of war in that quarter might keep off those of Spain and France. He had understood that Truxton would go to Jamaica to make some favorable arrangement with the British Commander there, and spoke of him as being there at this time.

Writings of Madison, Volume 2: 1794-1815, p.400

What kind of aid was it understood was to be derived from the British Government? was it money, a regular expedition of ships and troops fitted out for the occasion, or merely the incidental protection of ships of war, as in the case of Miranda? He could not be precise on this subject. He presumed all these aids, if requisite, would be furnished: money, as well as the rest. How would the money probably be brought into the use of Burr? In the usual mode, he presumed, of bills drawn on Great Britain. Was it understood that the measures of Great Britain were to be the effect of an arrangement particularly expected between Burr and that Government, or at least of a mutual understanding of the parties resulting from the communications between Burr and Merry? He could not say any thing particularly on this head. He presumed that the measures of both would be guided by the understanding at least between them, which commenced between Burr and Merry. He took pains, at the same time, to impress the idea that Merry had no wish to injure the interests or infringe the authority of the United States, but solely to advance those of Great Britain, and to draw as much as possible the two nations into a common interest on this occasion.

Writings of Madison, Volume 2: 1794-1815, p.400

Burr, he said, had sent a person to the British Court. On being asked his name, he wished to know whether the assurances that his communications should not be used against himself extended to others, and being told not, he professed scruples at giving the name; intimating, however, that he was not a native, was of the mercantile class, and not a conspicuous character; and that having arrived in England after the death of Pitt, had probably never disclosed or done any thing in his mission.

Writings of Madison, Volume 2: 1794-1815, p.400

Had Burr's plans any relation to those of Miranda? No. Not the least. Burr thought meanly of Miranda, of his plans, and of his prospects.

Writings of Madison, Volume 2: 1794-1815, p.400

The primary object of B—l—n in wishing to see the President seems to have been to explain his own conduct, which he supposed to have been viewed as blended more with Burr's transactions than was the fact: his next object, to present Burr's plans and proceedings in a light as little criminal as possible. He manifested a bitterness towards Yrujo and Spain—the reverse towards Merry and Great Britain.

Writings of Madison, Volume 2: 1794-1815, p.401

He betrayed, also, the strongest resentment against Wilkinson, but tempered his remarks with a respect to his relation to the Government, and to the presumed sentiments of the President. He complained, however, of Wilkinson's conduct towards him as harsh—insinuated as the motive a conscious treachery of Wilkinson towards Burr, and expressed a confidence that many were suspected at New Orleans, and some denounced, without cause. He particularly acquitted E. Livingston and Prevost. The latter, he said, Burr, who avowed the maxim of trusting nothing to any body, beyond the necessity of the case and the measure of discretion, never would unbosom himself to, because Prevost was not considered as possessing the requisite discretion.

To James Monroe.

LETTERS, ETC.

To James Monroe.

WASHINGTON, March 20, 1807.

Writings of Madison, Volume 2: 1794-1815, p.401

DEAR SIR,—You will receive herewith a. letter for yourself and Mr. Pinkney, acknowledging the receipt of your communications by Mr. Purviance, and suggesting the intermediate course to be pursued, until the further instructions contemplated by the President can be matured. The delay will be short; but it is desirable to accommodate the instructions to the result of some enquiries as to certain facts, and the probable operation of certain arrangements.

Writings of Madison, Volume 2: 1794-1815, p.401

The President writes you by this conveyance, and touches, I presume, on the particular difficulties which restrain him from closing the bargain with G. Britain on the terms which she so obstinately insists on. In general, she has indulged a hard and spirit, of which it is probable Mr. Fox would never have been the Minister. But in refusing an explicit pledge against the horrible practice of impressmerits, and in giving to the declaratory note the form and face chosen for it, she has, in the view of the President, laid him under the necessity of recurring to the course and chance of negociation. The declaration, if not put aside by the turn of events, may be put into some candid and delicate shape which would remove that difficulty. But the case of impressments consists altogether of thorns. Considering that the public mind has reached a crisis of sensibility, and that this object essentially contributed to the Extraordinary Mission, as well as to the non-importation act, there is every motive to seek in every mode an effectual remedy. For reasons already hinted, the promise in the note of Lords\* H. and A., of Novr 8, is not such a remedy, in the view produced here by circumstances which could not be so well appreciated where you are. In several other points the terms insisted on by G. Britain are liable to all the objections which you opposed to them, and it is the wish of the President that they may undergo revision, on grounds which will be stated in my letter by Mr. Purviance.

Writings of Madison, Volume 2: 1794-1815, p.404

The President and all of us are fully impressed with the difficulties which your negociation had to contend with, as well as with the faithfulness and ability with which it was supported, and are as ready to suppose, in as far as there may be variance in our respective views of things, that in your position we should have had yours, as that, in our position, you would have ours. What may be the effect of further efforts in another form, or on other grounds, if these can be devised, remains to be seen. The President has, doubtless, given you to understand as well the choice left you as to a participation in these efforts, as the satisfaction which will be felt in case your arrangements admit of your stay for the purpose. If he has been silent, it is because he assures himself that his sentiments cannot be misconstrued by you. The uncertainty whether you may not have carried into effect the purpose intimated in your private letter by Mr. P., before this reaches London, concurs with the urgency of the opportunity in rendering it shorter than it would otherwise be.

To George Joy.

WASHINGTON, May 22d, 1807.

Writings of Madison, Volume 2: 1794-1815, p.404

DEAR SIR,—I duly received your favor of Feby 10. Not recollecting the precise sentiments which you were induced to communicate, first to Mr. Fox and then to Lord Holland, I cannot fully appreciate the step taken. I know only that I felt the dispositions expressed, that I did not look beyond your own perusal of the letter, and that I am entirely persuaded of the laudable motives which governed the use of it. You will, I am equally persuaded, be sensible that the very consideration which promised advantage from the communication would not permit a repetition.

Writings of Madison, Volume 2: 1794-1815, p.405

The Treaty signed with the British Commissioners has not received the approbation of the President. Full justice is done to the talents and exertions of ours, but the terms admitted on the other side do not satisfy the expectations on this. The case of impressments, particularly, having been brought to a formal issue, and having been the primary object of an Extraordinary Mission, a Treaty could not be closed which was silent on that subject—a subject which, whenever it shall no longer be seen through the mist with which practice enveloped right, must excite wonder that the patience of the United States has remained so long unexhausted. That an officer from a foreign ship should pronounce any person he pleased, on board an American ship on the high seas, not to be an American citizen, but a British subject, and carry his interested decision on the most important of all questions to a freeman into execution on the spot, is so anomalous in principle, so grievous in practice, and so abominable in abuse, that the pretension must finally yield to sober discussion and friendly expostulation. Our Commissioners are accordingly instructed to resume the negociation, with a view to cure this and some other essential defects; and to revise several articles into which the British Commissioners pressed advantages too unilateral. It is truly to be desired that the result may establish a perfect cordiality between the two Countries, founded on solid justice and fair reciprocity. But it is not to be overlooked, that so happy a state of things will be of short continuance, if the arrangements on paper be not accompanied with a suppression of the outrages which the Naval Commanders of G. Britain are so much in the habit of practicing on our shores, and even within our harbours. Insults have just been received which rouse feelings that are only controuled by a confidence that such atrocious conduct will be elsewhere avenged.

Writings of Madison, Volume 2: 1794-1815, p.405

Will you accept a statistical publication which contains some interesting views of the progressive faculties of this Country? with assurances of the respect and esteem with which I remain,

Yr mo. obt servt.

To James Monroe.

WASHINGTON, May 25, 1807.

Writings of Madison, Volume 2: 1794-1815, p.406

DEAR SIR,—Although it is not certain that this will find you in London, I cannot commit to Mr. Purviance the official despatches without a few private lines.

Writings of Madison, Volume 2: 1794-1815, p.406

It has been a painful task with the President to withhold from the joint work of yourself and Mr. Pinckney the sanction which was expected, as it has been to me to communicate the event, with the considerations which produced it. I console myself with an assurance that you will see in both the same conscientious discharge of duty which is stamped on your proceedings, and with a hope that your further efforts, aided by the new proposition which is authorised, may yet close our common labours with success and satisfaction. An adjustment with G. Britain continues to be rendered important by the state of our affairs with Spain, &c., as well as by the danger which a failure threatens to the peace between the two nations. This danger may be increased, too, by the late change in the British Councils, if the new administration should be able to keep its legs, and not be checked in its inclinations by the fear of encountering the consequences to themselves of a rupture with the U. States. But it is not consistent with the judgment of the Executive, or, as is believed, with the temper of the nation, to purchase an adjustment at a higher price than is explained in the instructions of which Mr. Purviance is now the bearer.

Writings of Madison, Volume 2: 1794-1815, p.406

We shall soon learn, I presume, whether a supersedeas to Mr. Erskine will be among the minor changes proceeding from the change in the Cabinet. It may be said with truth, that it would be difficult to find a successor who would give or feel more pleasure in the station than the present incumbent. The latter consideration may, however, be a motive, whilst the former may not be a sufficient objection to his removal.

Writings of Madison, Volume 2: 1794-1815, p.406

I could on no occasion so properly refer to the bearer of a letter for information as to Mr. P. on the present. He has been long enough here to know every thing worth telling you, and will be sure to tell it as he knows it. He returns in the character which he brought with him; to which the commissioners of the sinking fund have added a trust, the value of which he will explain. The opportunity of giving him that mark of esteem was embraced with the greater pleasure, as it would have been difficult to find another, especially an equivalent.

To James Monroe.

WASHINGTON, July 25, 1807.

Writings of Madison, Volume 2: 1794-1815, p.407

DEAR SIR,—Since the communications by the Revenge, which sailed on Monday last, nothing very material has occurred. The British squadron, on receiving the Proclamation, fell down to the Capes, near which, (in Lynhaven Bay,) several of the same or substituted ships remain. It is not known whether any orders have been received from the Admiral relative to their conduct under the Proclamation. They continue to defy it, not only by remaining within our waters, but by chasing Merchant vessels arriving and departing. They make efforts, also, to get in small parties on shore, for the purpose, as supposed, of obtaining water and provisions. In a late instance, two officers and three men, said to be from the Leopard, were surprised and taken. It became a question whether they were to be considered as prisoners of war. The Executive council of Virginia were for so viewing them, and for retaining them. The Governor was not of the same sentiment. The President has decided that it is expedient, under all considerations, not to enforce the principle that a war de facto exists, in this first instance; but leaves himself free to proceed according to expediency, if like instances occur. To release indiscriminately will be to invite landing parties, and insults to the public authority.

Writings of Madison, Volume 2: 1794-1815, p.407

The public mind is settling itself every where into a determined stand at the present crisis. The Proclamation is rallied to by all parties. Reparation or war is proclaimed at every meeting, or rather by every mouth, which is not British; and the reparation must be such as ought to satisfy the just feelings of a nation which values its honor, and knows its importance. I anxiously hope that the British Government will not mislead itself into a belief that it can evade our demand, or attempt to abridge or disguise the satisfaction rendered, by the mode and circumstances of rendering it. If, for example, a minister specially sent to disavow and repair the insult should supersede the ordinary Minister, and remain here, it would be regarded as a species of subterfuge. His immediate return will be necessary, to shew to the world that his mission was for the purposes avowed.

Writings of Madison, Volume 2: 1794-1815, p.408

I have been unwell for several days, and am much fatigued by the business I have been lately obliged to go through, and by the heat of the weather. I must, therefore, however abruptly, add only that I remain, Dr Sir, your sincere friend and servant.

To Judge Peters.

Septr 5, 1807.

Writings of Madison, Volume 2: 1794-1815, p.408

I wish you had been led to a more thorough development of the principles which enter into the subject now engaging the public attention—I mean the desertion of seamen. Although the question produced between this and a Foreign nation by the late outrage against one of our Frigates does not turn on that point, there would be an advantage, in several views, in placing the questions incident to the desertion of seamen on the true ground. Judging from what is seen and heard, few subjects of importance stand more in need of elucidation; although few, one would suppose, could less require it.

Writings of Madison, Volume 2: 1794-1815, p.408

Desertions from Merchantmen are merely breaches of private contract; and when the parties and the contract are wholly alien, it may or may not be enforced within our jurisdiction, as the policy of the Country may dictate. As an encouragement to commerce, and as a claim to reciprocity, there is sound policy in enforcing the contract; and there are special considerations for enforcing it specifically here, even where this would not be done in the Country to which the parties belong. Still, the Law of nations leaves us free to provide or omit the means necessary for the purpose. In G. Britain no such provision has been made. In several cases applications have been made in vain for the restoration of seamen deserting our Merchant vessels in British ports; the magistrates alledging that it was not authorized by law. I recollect particularly that on the late renewal of the war with Spain, by the seizure of the Spanish treasure, so many of our seamen at Liverpool were tempted to desert and enlist on board British Privateers, that our trade was seriously embarrassed, in consequence of which the Consul thought it his duty to appeal to the magistracy. He received for answer that the law afforded no relief in such cases:

Writings of Madison, Volume 2: 1794-1815, p.409

Desertions from ships of war are of a character essentially different. The deserters in such cases are on the common footing of exiles, liable to punishment, even to capital punishment, for violating the law. It is well understood that no nation is bound to surrender them to the angry Sovereign, unless by some positive stipulation. G. Britain never does it otherwise. Her laws do not authorize it; nor is the Prerogative of the King competent to it. It is, perhaps, sometimes done, indirectly and covertly, by the instrumentality of impressments and the courtesy of Naval commanders; but always then of favor, not of duty. With us there is not only no obligation, but less than with other nations the policy of inviting reciprocity, our navy being so small, and so little resorting to Foreign ports. It is rather our policy to discourage the resort of Foreign ships of war to our ports; and as far as humanity can be justly consulted, it does not plead for the surrender of men to vengeance for leaving a situation such as that of a British ship of war, into which they had been engaged by a mode such as that of impressment. All these considerations, however, amount to no more than that a gratuitous surrender of such deserters ought not to be expected. There are certainly views of the subject which would authorize an article for the purpose in a convention, combining with it other articles providing for objects desirable to this Country. The only distinctions between deserters from National ships and other fugitive offenders is—1. That in the former case, the flight itself constitutes the offence; in the latter, it is the consequence of a preceding offence. This being a circumstantial distinction, does not affect the sameness of the principle. 2. The offence committed by deserters from ships of war generally takes place within the Country affording a refuge; whereas the offences of other fugitives generally take place in their own Country. But this, again, is a distinction not affecting the principle. Ships of war in a Country not their own are, with respect to the discipline on board, a part of their own Country, not of the Foreign Country where they happen to be; desertions violate the laws of the former, not of the latter; and Tribunals deriving authority from the former, not the latter, inflict the punishment incurred.

1808

To James Monroe.

WASHINGTON, Jany 5, 1808.

Writings of Madison, Volume 2: 1794-1815, p.410

DEAR SIR,—Nothing has occurred since you left us worth detailing to you. We are still uninformed of the precise circumstances which have detained Mr. Rose on board the frigate. There is a report that he will either pass up the bay to Annapolis, or possibly engage a vessel to bring him immediately to this place. As a precaution for the former event, an express carried yesterday an instruction to the collector similar to the one sent to Norfolk. Be so good as to keep in mind your promise to note to me the passages in your correspondence proper to be withheld from Congress, in the event of a communication of our affair with G. Britain.

To Thomas Jefferson.

Writings of Madison, Volume 2: 1794-1815, p.410

DEPARTMENT OF STATE, Jany 7th, 1808.

Writings of Madison, Volume 2: 1794-1815, p.410

The Secretary of State, in compliance with the note of the President, relating to the public property at New Orleans, as reported by Governor Claiborne to the Secretary of the Treasury, begs leave to state that no part of that property appears to fall in any respect under the purview of the Department of State, unless it be the Government House, and the lot on which it stands. This, it is inferred from the representation given by Governor Claiborne, might be disposed of for a greater sum than would provide accommodations for the Governor of the Orleans territory, in a part of the city more eligible for his residence. It would require, however, further knowledge of the local circumstances, to enable the Secretary of State to judge of the expediency of such a proceeding. And it is presumable, from the character given of the lot in question, that delay will not be attended with less advance in its value than will be incident to the spot which might be substituted; so that the proposed sale and substitution may probably at any time be carried into effect, without loss to the public.

Negotiations With Mr. Rose.

Friday, 1st Feby, 1808.

Writings of Madison, Volume 2: 1794-1815, p.411

General object of interview.

Writings of Madison, Volume 2: 1794-1815, p.411

Explain causes of Proclamation—continuation of attack—by seamen detained—officers recalled—Ships in Harbors doing illegal things.

Writings of Madison, Volume 2: 1794-1815, p.411

Grounds of prelimy. 1. Disavowal by Ld G. due to G. B. even if war—2. General assurance and personal conviction.

Writings of Madison, Volume 2: 1794-1815, p.411

Impossible for means of judging for ourselves see Mr. E. Object of procln—precaution—not merely as to the Chesapeake.

Writings of Madison, Volume 2: 1794-1815, p.411

2. Errors. 1. In supposing reparation object—which an item then only—2. Precaution vs. Chesapeake.

Writings of Madison, Volume 2: 1794-1815, p.411

Disavowal—due to G. B.—even if war meant—honor, interest, principle so much against her—disavowed by Ld Grenville—disavowal no reparation—shews a disposition only to repair—project of expln—particulars and contemporary acts.

Writings of Madison, Volume 2: 1794-1815, p.411

Mr. Rose—suggests idea of his friendly return with rept of the diffly.

Writings of Madison, Volume 2: 1794-1815, p.412

J. M. reports this to P., who, on consultation on Monday, decides vs. this idea, and prefers informal disclosure by R. of atonement and repeal of procln to be contemporary acts.

Tuesday, Feby.

Writings of Madison, Volume 2: 1794-1815, p.412

J. M. states to Mr. R. objection to adjournment of subject to G. B., which Mr. Rose admits—and in conversation as between two private Gentn enquires whether U. S. will agree to mutual discharge from public ships of all natural-born subjects and Citizens, it appearing to be implied that this might contribute to diminish difficulties and prepare way for something further—willing to wait for answer.

Wednesday, Feby 3.

Writings of Madison, Volume 2: 1794-1815, p.412

Idea of Cabinet that the mutual discharge not inadmissible, if extended to Merchant Vessels; considering the advantage to naturalized subjects, of being kept out of danger from being taken into the jurisdiction of their former Sovereign; and that Mr. R. be sounded as to his powers and dispositions.

Thursday, Feby 4.

Writings of Madison, Volume 2: 1794-1815, p.412

Conversation of J. M. with Mr. Rose—explained himself on the subject of Tuesday's conversation, by signifying that his suggestion was a hasty thought, and that it was most consonant to his situation to limit the enquiry to the case of deserting subjects natural born. He was told this was already provided for by the rules prescribed to our Naval Commanders. Occasion was taken to express the desire of the U. States to remove all causes of danger to the harmony, &c., as well as that exemplified in affair of Chesapeake, which was evidently of a nature not likely to recur after disavowal, &c. He did not open himself as to any thing beyond the limit to which he reduced the enquiry, acquiescing generally in the desirablehess of a general adjustment, &c. The objections to the delay of seeking further instructions, &c., was dwelt on by both, and ended in a frank and direct suggestion by J. M. to let the satisfaction, acceptance, and recall of proclamation, be executed on same day, and so as not to shew on the face of the proceeding a priority, leaving this to be assumed respectively, as might be agreeable. He, Mr. Rose, would take into consideration with best wishes, but was not sure that his instructions could bend to it. He held out the idea of exhibiting without editing the revoking proclamation, as an expedient to save him. He was told nothing would be admitted that would expose the Executive to appearance of having yielded to his preliminary; and it was remarked that Mr. Canning, if he had not supposed the Proclamation to be a retaliation, and that the aggression had been discontinued, which could not be during the detention of the men, would have approved this course at least. Mr. Rose glanced at idea of disclosing his terms, &c., through Mr. Erskine and Mr. Robt Smith. He went away under an arrangement for another interview to-morrow, 12 o'clock.

Feby 5th.

Writings of Madison, Volume 2: 1794-1815, p.413

Conversation.

Writings of Madison, Volume 2: 1794-1815, p.413

Mr. Rose appeared to have taken a view of the proposed contemporary signing and adjustment of the Proclamation, which required him to decline it definitively. On my restating it, he resumed the conversation, and agreed to see me in the evening at my house, in order to hold frank and informal communications and explanations.

Evening of Feby 5.

Writings of Madison, Volume 2: 1794-1815, p.413

He brought Mr. Erskine with him. The conversation was free. The tenor of a suitable proclamation disclosed, and the terms he meant to offer, viz: recall of Admiral Berkley; restoration of [the?] three men; and provision for families of the killed and wounded. The idea of restoration to the same ship was stated to him, which he seemed willing to favor; also punishment of Berkley, which he said would be difficult by his co-officers, and be in the result, perhaps, an obstacle to a permanent exclusion from actual employment. Agreed to see one another at 1 o'clock to-morrow, at office of State.

Friday, Feby 6.

Writings of Madison, Volume 2: 1794-1815, p.414

Conversation.

Writings of Madison, Volume 2: 1794-1815, p.414

Mr. Rose starts the idea of a disavowal on our part of conduct of Agents, &c., in encouraging and not discharging deserters—natural-born subjects. This was combated as going out of the case of the Chesapeake and leading to other subjects of complaint; and particularly as justifying a demand of British disavowal of—&c., &c. The difficulty, also, as to natural born, was stated, in cases of naturalization. He was reminded, too, that orders had been issued and circulated to officers against recruiting deserters, &c., which was amply sufficient. He retired under doubts as to the possibility of his satisfying his instructions without obtaining this point.

Writings of Madison, Volume 2: 1794-1815, p.414

Monday, Feby 8th, appointed to meet again.

Monday, Feby 8.

Writings of Madison, Volume 2: 1794-1815, p.414

Instead of the expected matter, Mr. Rose very soon introduced, as a point enjoined in his instructions, the necessity of some disavowal on the part of the U. States as to the conduct of their agents in encouraging, harbouring, and retaining, deserters, natural-born subjects of H. B. M.; as what had preceded the affair of the Chesapeake, and was but a reasonable satisfaction to his Majesty preparatory to the adjustment intended by him.

Writings of Madison, Volume 2: 1794-1815, p.414

As this was a new and unlooked for preliminary ultimatum, though it had been glanced at in a former conversation, when it was supposed to have been answered in a way putting it entirely aside, it was proposed to him to reduce it to paper, so that there might be no possible misconception, with a general intimation only that it would not be admitted into the adjustment, and that it would be impossible for the U. States to view natural-born subjects of G. Britain, who had been naturalized here, in any other light than as American Citizens whilst within American jurisdiction. Mr. Rose agreed to see me the next day, (Tuesday, Feby 9,) with his idea put into writing, to be informally read to me.

Tuesday, Feby 9, 1808.

Writings of Madison, Volume 2: 1794-1815, p.415

Mr. Rose read from his paper, in substance, that with a view to remove impressions made by recent events on the mind of H. B. M., the U. States should disavow the conduct of their Agents in encouraging, harbouring, and not discharging, natural-born deserters—a case different from not surrendering, which was not claimed.

Writings of Madison, Volume 2: 1794-1815, p.415

He was reminded of the difficulty as to natural-born subjects naturalized by the U. States; that if impressions were to be removed on one side, so on the other, where they were much greater, from the course of indignities offered by British Ships in our harbours and on our coasts; that the proposal was not reciprocal in itself—a thing essential to the honor of the U. States, [here he remarked that this had not escaped him, reading a reservation to the U. States of their right to claim from G. Britain a like disavowal; to which the reply was, that there was no reciprocity between an actual disavowal and a right to ask a disavowal;] and, finally, that it could not enter into the Chesapeake business, unless other things as much connected with it were also to be admitted.

Writings of Madison, Volume 2: 1794-1815, p.415

Being myself much indisposed, the conversation was soon ended, with an understanding that I would take the orders of the President, and see him as soon as convenient.

Sunday, Feby 14.

Writings of Madison, Volume 2: 1794-1815, p.415

This was the earliest that I had health enough to see Mr. Rose, who was invited to call at my house for the purpose. I preferred the irregularity, both as to time and place, to a delay, which was becoming very disagreeable on all sides, and was rendered to him, as he had indicated, peculiarly distressing, by his having two British Packets detained till he could say something on the subject of his mission.

Writings of Madison, Volume 2: 1794-1815, p.415

Having previously obtained the sanction of the President, I repeated the insuperable objections to his proposal, (adding, in fact, that there had been no refusal to discharge deserters, the demand being always to surrender,) and, in place, suggested a mutual disavowal—1. As to receiving deserters into naval service. 2d. As to claiming a surrender of them. This would agree with the principles now maintained on both sides, would be reciprocal, and might be useful. He admitted that the surrender was not claimed, but that his instructions did not authorise any such general or separate arrangements being restricted to the case of the Chesapeake.

Writings of Madison, Volume 2: 1794-1815, p.416

It was observed that this was at least as much connected with that as the case of the discharge; and it was signified that a mutual, general, and separate disavowal of this case alone would not be inadmissible, with a saving, by the form of expression, of the principle as to naturalized Citizens. This also was declined, as not within his instructions.

Writings of Madison, Volume 2: 1794-1815, p.416

He was finally told, as had been on former occasions intimated, that it would be easy to write a letter on some pretext to Mr. Erskine, explaining the principles of the U. States as to Deserters; that if mere assurance of these principles was the object of his Government, that object would thus be attained as well as in his mode; if not that, but an expiatory act on the part of the U. States was the object, it was absolutely inadmissible.

Writings of Madison, Volume 2: 1794-1815, p.416

He dwelt with expressions of great regret on the situation in which he found himself, tied down, as he was, by his instructions, and knowing, as he did, the impressions of his Government. To all which it was simply remarked that the attack on the Chesapeake was a detached, flagrant insult to the flag and Sovereignty the U. States on the high seas, in face of the world; that the plain course was to repair that, according to usage public and private, and to the examples of his own Government; that reparation made, the way was open to any demands of redress on other points, if any existed, where it might be due to the redressing party, and a general example was the best mode of securing liberal satisfaction.

Writings of Madison, Volume 2: 1794-1815, p.416

In course of this conversation, he mentioned, with an apology for omitting it before when he intended to do it, that a disavowal of Commodore Barron's denial that he had such men on board as were required made a part of his instructions.

Writings of Madison, Volume 2: 1794-1815, p.417

After remarking that it was impossible in any view that that circumstance could be admitted, and that it was merely noticed for the sake of truth, which could never do harm where the manner did not imply something improper, I told him that Barron was responsible to his Government for his conduct in that instance; that his reply was wholly unbecoming his station; that it was probable, however, that he said what he believed to be true; and, indeed, was true, the demand of Humphreys being for deserters from other ships than that to which the men taken from the Chesapeake belonged. This he admitted, except as to one Jenkins Radford, stated to be a deserter from the Halifax. I told him that, even as to him, we had the authority of the British Consul at Norfolk that he was a deserter from a Merchantman. This he seemed not to be aware of, and said that if the fact was wrong, he could not found a proceeding on it. He retired with an intimation that he would revolve the subject and his instructions still further, and see me when I pleased to intimate, which was promised as soon as health permitted. His manner and concluding remarks left it uncertain what determination he would bring to the inverview.

Tuesday, Feby 16.

Writings of Madison, Volume 2: 1794-1815, p.417

Conversation.

Writings of Madison, Volume 2: 1794-1815, p.417

Mr. Rose, in consequence of an offer to see him to-day, called about 2 o'clock. It appeared that he did not consider himself authorized to accede to either proposal for getting over the difficulty respecting the disavowal required from the U. States of the conduct of our agents in harbouring, encouraging, and not discharging deserters. He was reminded that this disavowal, as stated by him, was as much a departure from the specific case of the Chesapeake as the mutual disavowals proposed by me, being general as to deserters, and not restricted to those entering on board the Chesapeake. He seemed sensible of this, and manifested a disposition to make it rather more limited; but proposed nothing; nor did he revive the subject of disavowing Barron's answer; seeming to be prepared for abandoning further informal conversations, and leaving me to answer in form his note of the 26th ult. This was promised as soon as my health, and some urgent business, [meaning the despatch of the vessel waiting at New York to carry letters, &c, to France and G. Britain,] would permit; it being remarked to him that the hopes that an answer would have been rendered unnecessary had prevented me from particularly revolving even a suitable answer.

Monday, Feby 22.

Writings of Madison, Volume 2: 1794-1815, p.418

Mr. Rose having signified by a note last evening a wish for an interview to-day, 2 o'clock was named, when he called for the purpose.

Writings of Madison, Volume 2: 1794-1815, p.418

His object appeared to be to express his hopes that a failure of our negociations might be still consistent with a future adjustment, either here or in England, and to speak of the difficulty under which he should find himself in making known to his Government the points on which the failure would have taken place; as he could not give this explanation, after a refusal of his preliminary, without showing that he had departed from his instructions. With these remarks he mingled expressions of much solicitude that no unfavorable inferences might be drawn from the obstacles arising from his instructions, and that he might be instrumental in promoting a removal of them, which he thought he could best do by personal communications at London.

Writings of Madison, Volume 2: 1794-1815, p.418

It was observed to him, that without meaning to express more than an abstract opinion, it would seem not difficult to let his Government understand the points on which the business failed, by intimating that there were sufficient indications that if the preliminary had been complied with or got over, the views entertained by the Government on those points would have necessarily produced a failure. It was intimated, also, that the place most proper in itself for adjusting the matter was here, not in G. Britain, and that the propriety was strengthened by what had passed. If, in the first instance, London had been proposed, it was with a view to hasten the result.

Writings of Madison, Volume 2: 1794-1815, p.418

Mutual observations were made pointing out the inconveniences of referring the subject to a settlement under new instructions. His attention was drawn to the experiments which had been made to avoid delay, and it was repeated to him that there was still a willingness to write a letter, detached from, and subject to, an acceptance of the reparation, in which the principles and practice of the U. States in the case of Deserters could be stated, with the addition now authorised, that an order had issued for discharging from the public Ships all British subjects. It was remarked that could not be mentioned but in a certain way, such as such a letter would admit, because the order was not the result of either legal obligation, or of example; his Government instantly refusing to discharge Americans voluntarily accepting a bounty.

Writings of Madison, Volume 2: 1794-1815, p.419

He manifested satisfaction at this course, and signified that it could not fail to make agreeable impressions and promote salutary objects. He was reminded that this was more than his instructions aimed at; and it was for him to decide how far it would balance the objections to a departure from the letter of them.

Writings of Madison, Volume 2: 1794-1815, p.419

He professed to be gratified with the spirit of the conversation, but without any apparent change in the course he was to pursue, and retired with an understanding that I would see him at any time he might wish to resume it.

Feby 25.

Writings of Madison, Volume 2: 1794-1815, p.419

Mr. Rose having yesterday asked an interview, was afforded one to-day. He seemed to have in view to prevent any expectation that he would, instead of the disavowal required as to deserters, accept the information proposed to be given of the principles and policy of this Government on that subject, by suggesting, that as this course would be inconsistent with his powers, he should not act with candor towards us in so doing. He reiterated his regret that his powers were so limited, and his belief that the orders issued to discharge all British subjects from our public ships would make great impression on his Government. Little was said in reply, further than repeating the inconveniences resulting from such an issue to his mission, and remarking on our disappointment at the tenor of his instructions, and the length we had prevailed on ourselves to go in order to surmount the difficulties they occasioned. It was intimated as one of the inconvenient effects of the actual posture of the business, that the President was sending a Message to Congress recommending an extension of precautionary measures, necessarily attended with expence, &c.

Points for Mr. Rose. Wednesday, [Feby 24.]

Writings of Madison, Volume 2: 1794-1815, p.420

Evils of degradation mutually to be shunned ———— after acceding to the mode of separation cases of impressment and of the Chesapeake, the demand of such preliminary the less looked for, so categorical and precise.

Writings of Madison, Volume 2: 1794-1815, p.420

The recall of Procln founded on disavowal, &c., &c.

Writings of Madison, Volume 2: 1794-1815, p.420

What is disavowed? Act of unauthorised officer—and principle of d°, an avowal never presumed—but the contrary.

Writings of Madison, Volume 2: 1794-1815, p.420

What to be recalled? Act of Govt itself, an act not of aggression or of reparation; but wholly of precaution—and referring to wrongs prior to, and wholly distinct from, the affair of Chesapeake.

Writings of Madison, Volume 2: 1794-1815, p.420

To revoke the proclamation in face of the world, under such circumstances, would acknowledge it to be aggressive, and would originate a reparation on our part instead of receiving one—a degradation, in fact, the worst of all evils, and which a nation determined never to be degraded could never suffer to be imposed on it. Do not wish to require, cannot, therefore, perform, degrading conditions. Unless, therefore, some new turn to the subject, must proceed from oral to written communications. If a precise and categorical preliminary shuts the door against all chance and prospect, delay is fruitless.

Writings of Madison, Volume 2: 1794-1815, p.420

But if door not shut, it will be agreeable to find that the consequences of a failure are not suspended on an ultimatum of such a character.

Writings of Madison, Volume 2: 1794-1815, p.420

The revocation of the Procln impossible without extending the disavowal, and assurances, to the several cases which led to it, and referred to in it, and many of them long lying before your Government without notice or promise of future security to the U. States.

Writings of Madison, Volume 2: 1794-1815, p.421

Tho' the time unexpected by the P—, no purpose, by hasty issue on a particular point not perfectly understood, to preclude amicable explanations, and which might possibly lead to a favorable result.

Writings of Madison, Volume 2: 1794-1815, p.421

General and mutual reasons vs. war—interest, harmony, &c., &c.

Writings of Madison, Volume 2: 1794-1815, p.421

With this view, U. S. desired to settle everything.

Writings of Madison, Volume 2: 1794-1815, p.421

Union of Impressments and Chesapeake favorable thereto, and facilitates latter.

Writings of Madison, Volume 2: 1794-1815, p.421

Separation yielded, to the views taken of the subject by G. B. and to his Mission.

Writings of Madison, Volume 2: 1794-1815, p.421

Surprize at; at splitting the case of Chesapeake—entirely statu quo. Talk Proclamation—precaution vs. other wrongs—Bradly—Whitby—Love—French ship burnt—Dougl seiz. of Norfk—Continental disobedience to Procln.\*

To James Monroe.

WASHINGTON, Feby 6, 1808.

Writings of Madison, Volume 2: 1794-1815, p.422

DEAR SIR,—I received last night your favor of the 3d, and lose no time in forwarding the papers which it requests. I am sorry that they have been so long delayed; but, in truth, our hands have been so full in one way or other of late, that the transcripts which were to be taken for the office could not be readily attended to. I am not sure that there may not yet be some omissions, and must, therefore, ask the favor of you to return such of the papers as you may have copies or not wish copies of. Should any particular paper wanted not be now sent, be so good as to drop a hint, and it shall be immediately attended to.

To James Monroe.

WASHINGTON, MARCH 18, 1808.

Writings of Madison, Volume 2: 1794-1815, p.422

DEAR SIR,—I duly received your favor of the 5th, and with it your observations, addressed to the Department of State, on the subject of the Treaty of December, 1806, which will be communicated to Congress with the documents relating to the negociations, &c., connected with the Treaty; it being understood that such a disposition of the paper will conform to your wishes.

Writings of Madison, Volume 2: 1794-1815, p.422

Mr. Rose's mission is abortive. Communications on the subject will be made to Congress in a day or two. He made it an indispensable preliminary to his entering on a negociation, or even disclosing the terms of satisfaction he had to offer, that the Proclamation of the President should be put out of force. This being inadmissible, it was proposed that on his disclosing his terms, and their appearing to be satisfactory, a repeal of the Proclamation and the act of reparation might bear the same date. His instructions being a bar to this, the correspondence was closed, with an intimation that it rested with his Government to decide on the case. He will depart, I understand, without delay.

To James Monroe.

WASHINGTON, March 21st, 1808.

Writings of Madison, Volume 2: 1794-1815, p.423

DEAR SIR,—In the joint letter from you and Mr. Pinkney, of October, a project on impressments is referred to which does not appear. I forget what passed with you in conversation on the subject. You will oblige me by dropping me the state of the case, and if there be any document in your hands, that you will be so good as to forward it, or a copy of it. It can, if necessary, be thrown into the mass which will be before Congress. This will be communicated to-morrow, probably, and will include the proceedings in the case of the Chesapeake, and in relation to the general negociations preceding it. I regret much that you could not afford your aid in selecting from your correspondences the parts proper for Congress, and the separation of these, again, into the parts proper and improper for the public at large. I have found the task extremely laborious, and being infirm in health, and otherwise hard pressed on important subjects, I have been obliged to let it devolve in a good measure on others. You would have executed it with a better apprehension than many of us of the bearings of many passages, especially on the feelings and way of thinking in the British negociations, &c. I am not without fear that errors both of omission and of commission may have happened. I will take the liberty of forwarding by to-morrow's mail a list of the letters from you and Mr. P., joint and several, which have not been allotted for communication, and will thank you, if there be any, or parts of any, which your judgment would have added, that you would note them to me. Occasion, perhaps, may be found to get them thrown into Congress before the business be completed. I wish I could, with the same case, give you a view of the distinction between the parts of the papers communicated; which are confidential within Congress, and which are not so.

To James Monroe.

WASHINGTON, March 30, 1808.

Writings of Madison, Volume 2: 1794-1815, p.424

DEAR SIR,—I received last evening your favour of the 26th, and now enclose the promised list of the communications to Congress, which gives as much information as can be done in that form. Where extracts were made, they generally extended, I believe, to nearly the whole of the letters, it being intended that the residue should be reduced as much as motives of prudence and delicacy would permit. On examining the papers inclosed, the project concerning impressments does not appear. Will you be so good as to correct the omission ? A copy of the original project accompanying your letter of Nov. 11th went to Congress in its proper place. Of course, the renewal of it at the latter period does not appear, as the communications now stated. Being unable to distinguish which of the papers you wished to be returned, I send the whole, with a request that after taking them out, the rest may come back to the office. The inclosed paper contains the correspondence with Mr. Rose, produced by his Mission.

To James Monroe.

WASHINGTON, April 18th, 1808.

Writings of Madison, Volume 2: 1794-1815, p.424

DEAR SlR,—Your favour of ————— came duly to hand, accompanied by the papers now returned, and by a note on the correspondence communicated to Congress. It appears that in most instances the parts allotted for publication coincide with your wishes. In the excepted instances, an attempt will be made to have the confidential parts conformed also to these, by being included in the publication ordered by the House of Representatives, and by being made a supplement to that ordered by the Senate, which is already out of the Press. With respect to the two letters of August 4th and September 13, 1806, which were not communicated to Congress, the object could not be effected without a new communication to Congress, to which the President would be disinclined. They were omitted in the original communication as not within the general subject of it, as were my letters relating to such cases. And it would be somewhat awkward to take up a distinct subject now, even if the whole correspondence relating to it were embraced.

Writings of Madison, Volume 2: 1794-1815, p.425

Will you accept a copy, herewith sent, of the documents, as complete as they have yet come from the press?

To William Pinkney.

WASHINGTON, Novr 9, 1808.

Writings of Madison, Volume 2: 1794-1815, p.425

DEAR SIR,—I find, by the receipt of your last private letter by Mr. Attwater, that there has been no miscarriage of any preceding one.

Writings of Madison, Volume 2: 1794-1815, p.425

The conduct of the British Cabinet in rejecting the fair offer made to it, and even sneering at the course pursued by the United States, prove at once a very determined enmity to them, and a confidence that events were taking place here which would relieve it from the necessity of procuring a renewal of commercial intercourse, by any relaxations on its part. Without this last supposition, it is difficult to believe that, with the prospects at home and abroad in Europe, so great a folly would have been committed. As neither the public nor Congress have yet had time to disclose the feelings which result from the posture now given to our relations with G. Britain, I cannot speak positively on that subject. I shall be much disappointed, however, if a spirit of independence and indignation does not strongly reinforce the past measures with others, which will give a severity to the contest, of privations, at least, for which the British Government would seem to be very little prepared, in any sense of the word. It was, perhaps, unfortunate that all the intelligence from this country, previous to the close of your correspondence with Mr. Canning, was from a quarter and during a period most likely to produce miscalculations of the general and settled dispositions. You will see in the newspapers sufficient evidence of the narrow limits to which discontent was confined, and it may reasonably be expected that the counter current will be greatly strengthened by the communications now going forth to the public.

Writings of Madison, Volume 2: 1794-1815, p.426

Among the documents communicated confidentially to Congress, I hope you will excuse us for including (with the exception of some small passages) your private letter of Septr 21. The excellent views which it appeared to take of our affairs with G. Britain were thought to justify the liberty. They coincided, indeed, so entirely with the sentiments of the Executive, and were so well calculated to enlighten the Legislative Body, that it was confidently presumed the good effects would outweigh the objections in the case. A like liberty was taken with a private letter to Genl Armstrong.

Writings of Madison, Volume 2: 1794-1815, p.426

The President's Message mentions that no answer was given by the French Government, &c. It may not be inexpedient to intimate, in order to appreciate this omission, that the note of Genl Armstrong, in consequence of the arrival of the St Michael, bears date August 6, whilst he was absent from Paris; that the Court did not return thither till about the middle of that month; that no succeeding note on that subject was sent in, the experiment being declined under an idea that it would be injurious; and that the last letter from Genl Armstrong to the Department of State, acknowledging the despatches by the Hope, bears date the 30th of August, at certain mineral Springs between two and three hundred miles from Paris, to which Genl Armstrong had not returned when the Messenger left it. These circumstances will shew that the French Government may easily, if reflection or events should induce, still take up the relations with the United States in a favorable view. Genl Turreau fosters such an expectation, and talks of the probability of soon receiving favorable answers to his representations, whether with sincerity or from policy is best known to himself.

To William Pinkney.

WASHINGTON, Decr 5, 1808.

Writings of Madison, Volume 2: 1794-1815, p.427

DEAR SIR,—I have little to add to the printed information accompanying my official letter of this date. Congress seemed to be sufficiently determined, as you will perceive, to resist the unjust and insulting Edicts of the Belligerents, and differ only as to the mode best suited to the crisis. The disposition to prefer war to the course hitherto pursued is rather gaining than losing ground, and is even promoted by the efforts of those most opposed to war with Great Britain, who concur in deciding against submission, and at the same time contend that withdrawing from the Ocean is submission. It is very questionable, however, whether a preference of war, to be commenced within the present session, is so general in Congress, or so much looked for by the nation, as to recommend the measure. Whether, in case the measure should be —————, any such substitute providing for war during the recess, as I have communicated in one of my last letters, will be acceptable, is more than I can undertake to say; nothing of the sort having been even brought into conversation.

Writings of Madison, Volume 2: 1794-1815, p.427

I find by conversation with Mr. —————, that he is himself favorably impressed by the documents laid before Congress as to the fairness of our conduct towards the two belligerents, and that he is willing I should believe that the impression will be the same on his Government. As it may be conceived by him, however, to be politic to lull our feelings and suspicions, I am the less sure that he calculates on any change in the Councils of his Government likely to do justice to those of this Government.

Writings of Madison, Volume 2: 1794-1815, p.427

As to the state of the public mind here, you will sufficiently collect it from the printed information now forwarded. I cannot believe that there is so much depravity or stupidity in the Eastern States as to countenance the reports that they will separate from their brethren, rather than submit longer to the suspension of their commerce. That such a project may lurk within a junto ready to sacrifice the rights, interests, and honor, of their Country, to their ambitious or vindictive views, is not to be doubted; but that the body of an intelligent people, devoted to commerce and navigation, with few productions of their own, and objects of unceasing jealousy to G. Britain on account of their commerce and navigation, should be induced to abandon the Southern States, for which they are the Merchants and carriers, in order to enter into an alliance with G. Britain, seems to be impossible. What sort of a Commercial Treaty could be made between such parties? In truth, the obstacles to one between the United States and that Nation arise almost wholly from the patronage by the former of the maritime rights and interests of the Eastern States, as a portion of the Confederacy. A Treaty between such parties, if made at all, must be political, not commercial, and having in view modifications of Government and aggrandizement of individuals, not the public good.

1809

To Joel Barlow.

WASHINGTON, February 7, 1809.

Writings of Madison, Volume 2: 1794-1815, p.428

DEAR SIR,—I have received your favor of — —, and valuing, as I do, the friendly and favorable expressions it contains, I cannot but be truly gratified by them.

Writings of Madison, Volume 2: 1794-1815, p.428

I perceive that I did not impress Mr. Fulton as distinctly as I meant to do with the circumstance that, previous to the receipt of his letter, I had, as far as might lie with me, not only fixed, in my thoughts, on a person for the approaching vacancy in the department of State, but had taken a step towards an understanding with him on the subject, which closed it against reconsideration.

Writings of Madison, Volume 2: 1794-1815, p.428

This being the case, delicacy will, in every view, be best consulted by not entering into the particular considerations which led to that selection. But I owe it to my high respect for your talents, and my confidence in your principles, and the purity of your patriotic zeal, to say that no abatement in the continuance of either of those sentiments is implied by the course which I have deemed, under all circumstances and combinations, most advisable for the public service.

Writings of Madison, Volume 2: 1794-1815, p.429

With the greatest esteem, I remain, Dear Sir, your friend and hble servt.

To William Pinkney.

WASHINGTON, Feby 11, 1809.

Writings of Madison, Volume 2: 1794-1815, p.429

DEAR SIR,—My official letter by this conveyance leaves little of importance to be added to its contents. You will see with regret the difficulty experienced in collecting the mind of Congress into some proper focus. On no occasion were the ideas so unstable and so scattered. The most to be hoped for at present is, that a respectable majority will finally concur in taking a course not essentially dishonoring the resolution not to submit to the foreign Edicts. The last vote taken, as stated in report of their proceedings, sixty odd against fifty odd, implies that a non-intercourse with G. Britain and France, including an Embargo on exports to those two nations, [should ?] be substituted for the general Embargo existing, and it is not improbable that 8 or 10 of the minority, who prefer a simple adherence to the latter, will, on finding it cannot be retained, join in the non-intercourse proposed. It is impossible, however, to foretell the precise issue of such complicated views.

Writings of Madison, Volume 2: 1794-1815, p.429

If the non-intercourse, as proposed, should be adopted, it will leave open a trade to all the Continent of Europe, except France. Among the considerations for not including the other Continental powers with France were—1st, the certainty that the Russian Edict, of which I inclose a copy, does not violate our neutral rights; and, 2dly, the uncertainty as to most of the others whether they have in force unlawful Edicts or not. Denmark, it is ascertained, though not officially notified, is under the same description as Russia. Holland and Spain are the only two Countries which are known to have copied the several decrees of France. With respect to Holland, it is understood that she will favor as far as she can an intercourse with neutrals, in preference to a co-operation with France. It would be imitating the cruelty of the Belligerents to retaliate the reluctant injuries sustained from such a quarter. With respect to Spain, the same remark is applicable, even if her decrees should not have been revoked. Besides this, it is particularly important not to extend the non-intercourse to the Spanish Colonies, which, whilst a part of Spain, would be within the effect of the Spanish Decrees on the question. It is probable, also, that if G. Britain should lose or withdraw her armies from Spain, she will endeavour to mitigate the odium by conniving at least at neutral supplies; or, rather, not to increase the odium and the evil by subjecting them to the famine threatened by the exhausted state produced by the war. As another motive, she may be expected to consult the sympathies with the parent nation of the Spanish Colonies, to which her attention will doubtless be turned in the event of a subjugation of Spain. As to Portugal, there can be little doubt that the British Cabinet will have prudence, if not humanity enough, not to oppose a trade supplying that Country with the necessaries of life.

Writings of Madison, Volume 2: 1794-1815, p.430

On what principle is it that G. Britain arrests our trade with Russia, or even Denmark? Neither of these powers have edicts to countenance her pretended retaliations; nor can the former be regarded as under the sway of France, in the sense applied to some others. Is it that Russia excludes the British flag? That she has the right to do. England does the same. Is it that she prohibits a trade with England under a neutral flag? That she has an equal right to do, and has equally examples in the British code justifying it. I have been frequently asked whether trade from the United States to Russia would be captured. I have been obliged to answer, that as it came under the letter of the British orders, though excluded by what you held out as the principle of them, it was to be inferred, from the spirit and practice of British cruisers and Courts, that such would be the fate of vessels making the experiment.

Writings of Madison, Volume 2: 1794-1815, p.430

The repeal of the Embargo has been the result of the opinion of many that the period prescribed by honor to that resort against the tyrannical Edicts against our trade had arrived, but principally from the violence excited against it in the Eastern quarter, which some wished to assuage by indulgence, and others to chastise into an American spirit by the lash of British spoliations. I think this effect begins to be anticipated by some who have been most clamorous for the repeal. As the Embargo is disappearing, the orders and decrees come into view, with the commercial and political consequences which they cannot fail to produce. The English market will at once be glutted, and the Continental markets, particularly for the sugar and coffee in the Eastern warehouses, will be sought at every risk. Hence captures, and clamours against the authors of them. It cannot, I think, be doubted, that if the Embargo be repealed and the orders be enforced, war is inevitable, and will, perhaps, be clamored for in the same quarter which now vents its disappointed love of gain against the Embargo.

Writings of Madison, Volume 2: 1794-1815, p.431

There is reason to believe that the disorganizing spirit in the East is giving way to the universal indignation of all parties elsewhere against it. It is repressed in part, also, by the course of events abroad, which lessens the prospect of British support in case of a civil war.

Writings of Madison, Volume 2: 1794-1815, p.431

The mode in which Canning's letter got to the press is not ascertained. I have seen it stated, on what authority I know not, but with some probability, that the copy was obtained from the Minister here, and was to have been published in the first instance at Halifax; but being shewn by the bearer to certain British partisans, of more zeal than discretion, at Boston, he was prevailed on to hand it at once to the Palladium, the paper in which it first appeared.

To Messrs Rochester and Brent.

Mar. 17th, 1809.

Writings of Madison, Volume 2: 1794-1815, p.431

GENTLEMEN,—I have duly received your letter of the 6th instant, conveying the resolutions of a portion of my fellow-citizens of Washington County, in the State of Maryland.

Writings of Madison, Volume 2: 1794-1815, p.432

The situation of our Country justly awakens the anxious attention of all good citizens. Whether an adherence to the just principles which have distinguished the conduct of the United States towards the belligerent powers will preserve peace, without relinquishing independence, must depend on the conduct of those powers; and it will be a source of deep regret, if a perseverance in their aggressions should be encouraged by manifestations among ourselves of a spirit of disaffection to the public authority, or disobedience to the public measures. To any who may yield to such a spirit, there cannot be a more instructive example than is found in the animating pledges of support to both, flowing from the sensibility of the Citizens of Washington County, for the rights of the nation and the efficacy of the laws.

To Thos T. Kenney.

WASHINGTON, March 18, 1809.

Writings of Madison, Volume 2: 1794-1815, p.432

SIR,—I have received the address conveyed through you, from "The Republican citizens of the County of Essex, in the State of New Jersey," with equal sensibility to the friendly motives which suggested it, and to the patriotic sentiments which it expresses.

Writings of Madison, Volume 2: 1794-1815, p.432

Persuaded that the true interests of our Country, not less than the precepts of Religion and humanity, make it the duty of those entrusted with public authority to cherish peace, as long as more imperious calls will permit, I see, with much pleasure, the approbation given to the moderate and prudent course which has been employed for prolonging its blessings.

Writings of Madison, Volume 2: 1794-1815, p.432

Among the means best calculated to diminish the risk which threatens an interruption of these blessings, is a cordial union of every description of Citizens in supporting their Government in its necessary authorities, and in promoting the execution of the laws with an exemplary vigilance. Nothing, therefore, could be more reproachful than efforts to open one of the most baneful sources of discord, by arraying the interest of one section of our Country against that of another; nor would any thing be more to be dreaded than such efforts, were not so effectual an antidote to the poison to be found in that liberal spirit, that brotherly disposition, and those comprehensive views, which pervade our fellow-citizens at large, and of which so honorable a sample is now before me.

Writings of Madison, Volume 2: 1794-1815, p.433

For the kind prayers which have been offered in my behalf, I am truly thankful; and I pray, in return, that the authors of them may experience the choicest tokens of divine favor.

To Edward Hall and Thos Yarrow.

WASHINGTON, March 18, 1809.

Writings of Madison, Volume 2: 1794-1815, p.433

GENTEMEN.—The proceedings of "the Republican Delegates of the several Townships of the County of Salem, in New Jersey, on the 3d instant,"transmitted by you, have been duly received.

Writings of Madison, Volume 2: 1794-1815, p.433

It is highly agreeable to find in these proceedings our internal embarrassments traced to their true source, in the injustice and aggressions of foreign powers; and equally so, to see the measures for counteracting them so entirely approved. It cannot be doubted that these measures have had many salutary effects, and the efficacy of them would have been still greater, if the perseverance of those powers in their wrongs had been less encouraged by unworthy citizens, who have shewn themselves ready to sacrifice their duty and their Country to the spirit of party, or the thirst of gain. There could not be a more honorable contrast than is presented in the sentiments and determinations of the meeting in the County of Salem; nor pledges more animating to those charged with the maintenance of the rights and interests of the nation.

Writings of Madison, Volume 2: 1794-1815, p.433

Having borne a part, though less distinguished than your partiality ascribes to me, in establishing the system of Government under which we live, I may well be presumed to feel a solicitude for its success, as well as a conviction of the soundness of its principles. Thus far we have all had reason to be gratified with its fruits; and nothing could make me more happy than to be among the instruments of divine Providence in rendering it conducive, in the highest possible degree, to the welfare of our Country.

To Thomas Jefferson.

WASHINGTON, March 19, 1809.

Writings of Madison, Volume 2: 1794-1815, p.434

DEAR SIR,—Mr. Coles left us this morning. The mail of yesterday brought a letter from Armstrong of Decr 25, and Paris papers of the 27th. No change had taken place in our affairs. The occurrences and prospects in Spain will appear in the National Intelligencer. No letter from Short, nor is he named by Armstrong. I conclude he had set out for St Petersburgh.

To William Hayward.

WASHINGTON, March 21, 1803.

Writings of Madison, Volume 2: 1794-1815, p.434

SIR,—I have received your letter of the 14th instant, conveying an address from the "Democratic Republican Citizens of Talbot County, Maryland," and through you return my thanks for the favorable sentiments which they have expressed of the principles and purposes by which my public life has been and will be governed.

Writings of Madison, Volume 2: 1794-1815, p.434

The solicitude which they manifest for the preservation of peace well becomes virtuous citizens of a free Country, which, placing its glory in doing justice to others, and its ambition in a pre-eminent happiness within itself, regards national degradation as the only calamity which is not greater than those of war. To avoid, if it be possible, amidst the unbridled passions which convulse other Nations, both of these alternatives, is our true wisdom, as well as our solemn duty; and among the essential means of doing so, are that attachment to the Union, that zeal for the authority of the laws, and that readiness to devote life and fortune in the cause of their Country, which are so laudably avowed by the Citizens of Talbot County. I tender them my sincere respects and friendly wishes.

To Cornelius Comegys.

WASHINGTON, March 21, 1809.

Writings of Madison, Volume 2: 1794-1815, p.435

SIR,—I have received your letter of the 16th instant, inclosing the proceedings of "The Democratic citizens of Kent County, on the 4th instant."

Writings of Madison, Volume 2: 1794-1815, p.435

I am certainly obliged by the kind expressions towards me which have a place in those proceedings; and the more so, as the value of them is enhanced by the patriotic spirit which characterizes the meeting.

Writings of Madison, Volume 2: 1794-1815, p.435

In preferring peace, though prepared for a suspension of its blessings, when the national rights cannot be otherwise maintained; and in doing justice to the measures and motives by which those blessings have been cherished, without an abandonment of those rights; they have shewn themselves worthy of the Country and Government of which they are citizens.

Writings of Madison, Volume 2: 1794-1815, p.435

It is a grateful reflection that a like disposition prevails throughout the great mass of our countrymen; and it may reasonably be hoped that the number forming an exception will every day diminish, under the influence of truth and of the general example.

Writings of Madison, Volume 2: 1794-1815, p.435

I tender to the citizens of Kent County, to whom I am indebted for the address transmitted by you, my sincere respects and friendly wishes.

To Timothy Skinner.

WASHINGTON, March 22d, 1809.

Writings of Madison, Volume 2: 1794-1815, p.435

SIR,—The Resolutions transmitted through you, as unanimously adopted by a meeting of the "Republicans of the Town of Litchfield," have been duly received.

Writings of Madison, Volume 2: 1794-1815, p.436

The conduct, as unexampled as unprovoked, by which the belligerent powers have trampled on the rights of neutral nations, and in some instances added peculiar insults to the injuries done to the United States, naturally excite the feelings which these resolutions manifest.

Writings of Madison, Volume 2: 1794-1815, p.436

In such a state of things, whilst it is the duty of the Government to take its measures with the impartiality and prudence best calculated to save both our peace and our honor, it is incumbent on its constituents to reflect that the efficacy of these measures must essentially depend on the support which can only be found in their enlightened patriotism.

Writings of Madison, Volume 2: 1794-1815, p.436

It affords pleasure, therefore, to observe, in the proceedings of the Meeting at Litchfield, sentiments and pledges so well corresponding with this duty.

Writings of Madison, Volume 2: 1794-1815, p.436

In inculcating the vital importance of the Union, and a faithful maintenance of its Constitution and laws, they have evinced a knowledge of the true sources of the public welfare, as well as a laudable zeal in promoting it.

Writings of Madison, Volume 2: 1794-1815, p.436

Happily, the union of these States is founded on so clear a reciprocity of interests, and the most important constitutional relations between the general and local authorities is now so far illustrated by practice, that it may always be expected that involuntary errors on those subjects will quickly yield to reflection, and that voluntary ones, being confined to a few, will not long resist the general impulse.

Writings of Madison, Volume 2: 1794-1815, p.436

I tender to my fellow-citizens who were associated at Litchfield my sincere respects and friendly wishes.

To Thomas Jefferson.

March 28, 1809.

Writings of Madison, Volume 2: 1794-1815, p.436

DEAR SIR,—I have yours of the 24. The inquiry as to will be made as soon as an opportunity offers. F. Page had been appointed before your letter was received, and his commission forwarded.

Writings of Madison, Volume 2: 1794-1815, p.436

We have letters from Erving to January 28. He was at Cadiz, intending, it appears, to adhere to the Junita Suprema, till the drama should close, and then leave Spain, by way of Gibraltar, ———— or England, if no other course offered itself. I fear he has run from one extreme to another, under the influence of the existing atmosphere. His view is pretty much like that in the paper inclosed. Yrujo was at Cadiz, going on with his mills, which, involving a monopoly, were odious, and not likely to survive popular fury in the only turn of things that could preserve his patent. He says he has sacrificed his fortune in promoting the patriotic cause.

To Thomas Jefferson.

April 9, 1809.

Writings of Madison, Volume 2: 1794-1815, p.437

DEAR SIR,—A Secretary of Legation, with a sort of Extra establishment, has just arrived from England, with despatches for Erskine. I have a private letter only from Pinkney. The Ministry of G. Britain are pretty certainly shaken with respect to this Country. The catastrophe in Spain, and the new policy to which it leads, have doubtless contributed towards it. But it is unquestionable that the documents communicated to Congress, and the countenance presented by their earlier resolutions, afford the true explanation. Erskine has not yet opened much of his budget to Mr. Smith. The contents of it were not disclosed to Pinkney; perhaps from an unwillingness to risk a discovery by France, or a use of them by Armstrong. Private letters from individuals in England leave no doubt that a great dread prevailed of our perseverance in the Embargo.

Writings of Madison, Volume 2: 1794-1815, p.437

Among the faux pas of Erving, he has brought about an arrangement between Izuardi and Hackley, much to be regretted on account of the latter. It is a sort of Simoniacal contract, by which H. gives I. 600 dollars a year, and receives from him the appointment of Vice Consul; Izuardi retaining the title, without the responsibility of Consul. The contract, with sundry details apportioning the functions and formalities, is executed in due form, with the sanction of Erving as a witness, and transmitted hither for that of the Government. Erving (who appears to have become a little aware of the folly committed) was to have applied to the Spanish authorities for an [exequatur?'] to the vice Consulate, but has suspended the application till he hears from us. In the mean time, the contract is in operation. No time was lost by the Department of State in giving notice of the nullity and impropriety of such a transaction. I am persuaded, from what appears, that Mr. Hackley has been betrayed into it by his confidence in the judgment and experience of others. Erving remarks particularly that his conduct was unexceptionably delicate. It becomes a serious question, nevertheless, whether the contemplated appointment of him at Cadiz would not leave suspicions that the bargain with Izuardi was secretly in fulfilment, and of course furnish a handle to a disappointed candidate for injurious attacks on the Government, as well as Mr. Hackley. If it were certain that Jarvis would not remain at Lisbon, it would mitigate the difficulty by transferring H. thither. It is not probable that Jarvis would be willing to remove to Cadiz, which, I believe, is not rated as high as Lisbon as a Consular birth. I recollect no other vacancy that would bear a comparison with Cadiz.

To Governor Snyder.

WASHINGTON, Apl 13th, 1809.

Writings of Madison, Volume 2: 1794-1815, p.438

SIR,—I have received your letter of the 6th instant, accompanied by certain acts of the Legislature of Pennsylvania, which will be laid before Congress, according to the desire expressed.

Writings of Madison, Volume 2: 1794-1815, p.438

Considering our respective relations to the subject of these communications, it would be unnecessary, if not improper, to enter into any examination of some of the questions connected with it. It is sufficient, in the actual posture of the case, to remark that the Executive of the U. States is not only unauthorized to prevent the execution of a Decree sanctioned by the Supreme Court of the U. States, but is especially enjoined by statute to carry into effect any such decree, where opposition may be made to it.

Writings of Madison, Volume 2: 1794-1815, p.439

It is a propitious circumstance, therefore, that whilst no legal discretion lies with the Executive of the U. States to decline steps which might lead to a very painful issue, a provision has been made by the Legislative act transmitted by you adequate to a removal of the existing difficulty; and I feel great pleasure in assuring myself that the authority which it gives will be exercised in a spirit corresponding with the patriotic character of the State over which you preside.

Writings of Madison, Volume 2: 1794-1815, p.439

Be pleased, Sir, to accept the assurances of my respectful consideration.

To Thomas Jefferson.

WASHINGTON, Apl 24, 1809.

Writings of Madison, Volume 2: 1794-1815, p.439

DEAR SIR,——I have received your favor of the 19th. You will see in the newspapers the result of the advances made by G. Britain. Attempts were made to give shapes to the arrangement implying inconsistency and blame on our part. They were, however, met in a proper manner, and readily abandoned, leaving these charges in their full force, as they now bear on the other side. The British Cabinet must have changed its course under a full conviction that an adjustment with this country had become essential; and it is not improbable that this policy may direct the ensuing negociation, mingling with it, at the same time, the hope that it may embroil us with France. To this use, it may be expected, the federalists, will endeavour to turn what is already done, at the coming session of Congress. The steps deemed proper to give the proceeding a contrary turn will not be omitted. And if France be not bereft of common sense, or be not predetermined on war with us, she will certainly not play into the hand of her enemy. Besides the general motive to follow the example of G. Britain, she cannot be insensible of the dangerous tendency of prolonging the commercial sufferings of her Allies, particularly Russia, all of them already weary of such a state of things, after the pretext for enforcing it shall have ceased. She must be equally aware of the importance of our relations to Spanish America, which must now become the great object of Napoleon's pride and ambition. Should he repeal his decrees with a view to this object, the most probable source of conflict will be in his extending the principle on which he required a prohibition of the Trade with St Domingo to the case of the Spanish Colonies. Nor is it improbable that he may couple such a requisition with an offer to cede the Floridas, which would present a dilemma not very pleasant.

To Thomas Jefferson.

WASHINGTON, May 1, 1809.

Writings of Madison, Volume 2: 1794-1815, p.440

DEAR SIR,—I am just favored with yours of the 27th. Young Gelston is here, preparing to take his passage for France as bearer and expositor of despatches, in the Syren, sloop of war, which is waiting for him at Baltimore. He leaves this to-morrow morning. Mr. Gallatin has had a conversation with Turreau at his residence, near Baltimore. He professes to be confident that his Government will consider England broken down by the example she has given in repealing her orders, and that the French decrees will be repealed as a matter of course. His communications by the Syren will, if he be sincere, press the policy of an immediate repeal. No official accounts have been received from the French letters of Marque arrived at Boston. The difficulty most likely to threaten our relations with France lies in the effort she may make to render us in some way subservient to the reduction of Spanish America; particularly by withholding our commerce. This apprehension is corroborated by the language of Turreau. He alluded to his conversations with you relating to Cuba, on which he builds jealousies which he did not conceal. Cuba will, without doubt, be a cardinal object with Napoleon.

Writings of Madison, Volume 2: 1794-1815, p.440

The spirit which England, will bring into the ulterior negotiations must differ much from that which influenced former Treaties, if it can be moulded to our just views; and we must be prepared to meet it with a prudent adherence to our essential interests. It is possible, however, that the school of adversity may have taught her the policy of substituting for her arrogant pretensions somewhat of a conciliating moderation towards the United States. Judging from the tone lately used, a change of that sort would be the less wonderful. If she can be brought to a fair estimate of her real interest, it seems very practicable to surmount the obstacles which have hitherto kept us at variance, and, until surmounted, must continue to do so. The case of impressments, hitherto the great obstacle, seems to admit most easily of an adjustment, on grounds mutually advantageous.

To Thomas Evans.

WASHINGTON, May, 1809.

Writings of Madison, Volume 2: 1794-1815, p.441

SIR,—I have duly received from you a copy of the proceedings of the meeting of Citizens at Accomac Court House, the 1st instant, on the subject of the late negotiation with G. Britain, and of the Proclamation by which it was followed.

Writings of Madison, Volume 2: 1794-1815, p.441

Next to the consciousness of a faithful discharge of public duty, is the satisfaction afforded by a public approbation of it. I cannot be insensible, therefore, to the favorable views of my conduct expressed by my fellow-citizens, at whose meeting you presided; however feeble the title is felt to be which is limited to the honest execution of a duty contemplated by law, and enjoined by the policy which has been uniformly exemplified by our public Councils.

Writings of Madison, Volume 2: 1794-1815, p.441

It will be happy, if, as we hope, the further negotiation with G. Britain should be equally successful, as the means of fixing on a liberal and lasting basis friendship and commercial intercourse between the two Countries; and still more happy, if, in addition, a spirit of justice in other Governments with whom differences exist should concur with the conciliatory disposition of the United States in such a termination of them as will guaranty our tranquillity and commercial interests against future interruptions.

Writings of Madison, Volume 2: 1794-1815, p.442

In promoting this desirable state of our foreign relations, I trust there will be no failure of becoming endeavours on my part, and in that event only will the support be merited which is promised to the Administration of our Government.

Writings of Madison, Volume 2: 1794-1815, p.442

I tender to my fellow-citizens, who have made their communication through you, and to yourself, assurances of my respect and friendly wishes.

To Thomas Jefferson.

WASHINGTON, May 30, 1809.

Writings of Madison, Volume 2: 1794-1815, p.442

DEAR SIR,—Your favor of the 22d did not come to hand till the day before yesterday.

Writings of Madison, Volume 2: 1794-1815, p.442

The new-fangled policy of the Federal party, you will have noticed, has made a considerable figure in the newspapers. Some of the Editors are resuming the old cant, and the others will doubtless soon follow the example. Nothing could exceed the folly of supposing that the principles and opinions manifested in our foreign discussions were not, in the main at least, common to us; unless it be the folly of supposing that such shallow hypocrisy could deceive any one. The truth is, the sudden and unlooked-for turn of the British Cabinet has thrown the party entirely off the centre. They have at present no settled plan. There is reason to believe that the leaders are sound towards England, and much less disposed than heretofore to render our interests subservient to hers. Expressions have been used by one, at least, of the Essex Cabinet, whether sincerely or insidiously may not be absolutely certain, from which it is inferred that a disposition exists in that quarter not even to continue the non-intercourse act against France. Certain it is, that the desire of war with her is no longer manifested; that the deficiency of the English markets excites a keen appetite for a trade with the Continent; and that a real uneasiness is felt lest the negotiations with G. Britain should end in sacrifices on our part, which they have been reproaching the administration for not being ready to make. As one proof of their present feelings, the federal leaders shew a marked alienation from Erskine. The elections in Massachusetts, as well as in New Hampshire and New York, have issued unfavorably. But the smallness of the majority, and the overstrained exertions it has required, seem to repress rather than flatter the successful party. No confidence is felt in the permanency of the triumph.

Writings of Madison, Volume 2: 1794-1815, p.443

Not a line has been received of late from any one of our foreign agents. All that is known is, therefore, to be gathered from the ordinary and fallacious channels.

To Thomas Jefferson.

WASHINGTON, June 12, 1809.

Writings of Madison, Volume 2: 1794-1815, p.443

DR SIR,—The Pacific has just returned from G. Britain, bringing the accounts to be seen in the newspapers. The communications from Pinkney add little to them. The new orders, considering the time and that the act was known, on the passage of which the instructions lately executed by Erskine were predicated, present a curious feature in the conduct of the British Cabinet. It is explained by some at the expense of its sincerity. It is more probably ascribed, I think, to an awkwardness in getting out of an awkward situation, and to the policy of withholding as long as possible from France the motive of its example to have advances on her part towards adjustment with us. The crooked proceeding seems to be operating as a check to the extravagance of credit given to Great Britain for the late arrangement with us; and so far may be salutary.

To Thomas Jefferson.

WASHINGTON, June 20, 1809.

Writings of Madison, Volume 2: 1794-1815, p.443

DEAR SIR,—Yours of the 16th came to hand yesterday. The Gazette of. yesterday contains the mode pursued for reanimating confidence in the pledge of the British Government given by Mr. Erskine in his arrangement with this Government. The puzzle created by the order of April struck every one. Erskine assures us that his Government was under such impressions as to the views of this, that not the slightest expectation existed of our fairly meeting its overtures, and that the last order was considered as a seasonable mitigation of the tendency of a failure of the experiment. This explanation seems as extraordinary as the alternatives it shews. The fresh declarations of Mr. Erskine seem to have quieted the distrust, which was becoming very strong; but has not destroyed the effect of the ill grace stamped on the British retreat, and of the commercial rigor evinced by the new and insidious duties stated in the newspapers. It may be expected, I think, that the British Government will fulfil what its Minister has stipulated; and that if it means to be trickish, it will frustrate the proposed negotiation, and then say their orders were not permanently repealed, but only withdrawn, in the mean time.

Writings of Madison, Volume 2: 1794-1815, p.444

The only question likely now to agitate Congress will be on the Bill which opens our ports to French as well as British ships of war. The Senate have passed it unanimously. Whether the Federalists were sincere, or wished the debate, &c., to take place in the House of Representatives, remains to be seen.

To Thomas Jefferson.

WASHINGTON, June 27, 1809.

Writings of Madison, Volume 2: 1794-1815, p.444

DR SIR,—I have received a private letter of March 30 from Genl Armstrong, in which he desires me "to present him most respectfully and cordially to you, and inform you that, by the next public Ship that goes to America, he shall have the pleasure to send you an alteration of Mr. plough, which, in light soils, is a great improvement upon the old one."

Writings of Madison, Volume 2: 1794-1815, p.444

To me, he adds: "By the same vessel, I propose consigning, &c. a machine of prodigious consequence under present circumstances, combining great usefulness and little expence, and meant to take the place of the common, small spinning-wheel in the manufacture of flax, tow, and hemp. It occupies little more room than the old spinning-wheel, is put and kept in motion by any old or young negro wench, gives you twelve threads instead of one, and those of better texture, and (if you chuse it) of greater fineness than can be given by fingers. The maker, who is an American, will probably accompany it."

Writings of Madison, Volume 2: 1794-1815, p.445

On public affairs, he says that the French Government had made several favorable regulations; among them, one for restoring the cargoes, suggested under the municipal operation of the Berlin Decree: all of which had been arrested by a belief, founded on language used in the British Parliament, that the United States were about to make war on France. The Mentor, which is said to have arrived the latter end of April, will have given more correct, though possibly not satisfactory information, of the policy prevailing here. Nothing more is known of the late Battle in Germany than you will see in the newspapers. The Senate passed unanimously the Bill of non-intercourse with France, with a paragraph admitting French Ships of War, in common with British, into our waters. The House of Representatives rejected yesterday, by a large majority, a motion to discriminate in favor of the British ships.

To Thomas Jefferson.

July 4, 1809.

Writings of Madison, Volume 2: 1794-1815, p.445

DEAR SIR,—The inclosed letter accompanied the skin of an Animal, not named by the writer, which belongs to the Region of the Rocky Mountains. The bundle being too large for the Mail, I shall forward it by some other opportunity; perhaps as far as Orange by a wagon. I shall soon leave on the return thither.

Writings of Madison, Volume 2: 1794-1815, p.445

You will bare seen that a renomination of J. Q. Adams for Russia has succeeded with the Senate. In flaming his credence, it will be proper to adapt it to that given to Mr. Short, which deviated from the beaten form; and it appears that the original in that case passed on to Mr. Short, without being opened at the office of State. No copy, therefore, exists, but the one retained by yourself. Will you be so good as to lend me that, sending it to Orange Court House to await my arrival there, which will probably be at an early day next week? We continue without news from Europe later than the rumour from Holland of a defeat of the Austrians.

To Thomas Jefferson.

WASHINGTON, July 7, 1809.

Writings of Madison, Volume 2: 1794-1815, p.446

DEAR SIR,—The inclosed letter from Mr. Short came under cover to me. It was brought by the vessel lately arrived at Philadelphia from Dunkirk. It appears that he had not left Paris for Petersburgh, nor meant to do so until he should hear further from the United States, as he has probably explained to you. Mr. Coles had reached Paris, but in the absence of the French Court nothing could be said very interesting on the subject of his errand. From a paragraph in a letter from Genl Armstrong to Mr. Gallatin, it would seem that the French Ministers were disposed to patronize a relaxation of the commercial policy of the Emperor, and that he was disposed to listen to any expedient that would save him from the appearance of inconsistency, and retreat from his stand against G. Britain. There is some ground, therefore, to hope that the previous retreat of the latter may have a good effect, unless his new successes should inspire a pertinacity in his old projects. It is certain that great inconveniences are felt in France from the want of external commerce, and that the opening presented by the repeal of the British orders, not only for a reasonable trade with the United States, but through that between the different parts of the Continent itself, must render a continuance of the blockading system peculiarly grating every where. The arrival of Dashkoff makes it proper that I should not leave Washington before he reaches it, which I fear will not be for some days. My purpose was to have set out to-morrow, or on Monday at farthest.

To the City Council of New Orleans.

July 23d, 1809.

Writings of Madison, Volume 2: 1794-1815, p.447

I have received, fellow-citizens, your act of June 10th with the sensibility due to the kindness of its expressions towards me personally, and with all the gratification which the just and patriotic view it takes of the public welfare ought to inspire.

Writings of Madison, Volume 2: 1794-1815, p.447

The peace and plenty which have distinguished our Country, amid the convulsions and calamities forming the general character of the times, and under the perplexities resulting to our affairs, claim for the policy which has preserved those blessings the approbation you bestow on it. Such marks of attachment to the solid interest of our Country, and of confidence in the public Councils, are the more to be valued, as the trials imposed on us by foreign injustice have not yet ceased, and as it is among those who are most averse to war whilst it can be honourably avoided that we are, at all times, to look for the most unyielding support of the national rights when peace can no longer be preserved.

Writings of Madison, Volume 2: 1794-1815, p.447

I behold with the truest satisfaction the advantages which the Territory and City of New Orleans have reaped from their incorporation with the United States, and especially that you are so fully sensible of the degree in which they are the fruits of our free system of Government, administered in the spirit which belongs to it. The Nation into whose bosom you have been received must always rejoice in your prosperity, because it at once indicates and promotes the general prosperity. Never was such a connection more distinctly pointed out by nature herself, nor can the reciprocal benefits of it ever cease whilst the laudable and enlightened sentiments which you proclaim shall continue to pervade the great body of our fellow-citizens. I tender you my sincere respects and my best wishes.

To the Representatives of the Mississippi Territory.

July, 1809.

Writings of Madison, Volume 2: 1794-1815, p.448

I have duly received your address of July 5, and cannot be the less impressed by your friendly confidence in my principles and views, that it is entertained by a portion of my political brethren, under the circumstances incident to the Mississippi Territory.

Writings of Madison, Volume 2: 1794-1815, p.448

The Constitution of the United States is well entitled to the high character you assign to it. It is among the proofs of its merit that it is capable of inspiring with admiration and attachment the most distant members of the comprehensive family over whom its guardianship extends. And it is equally honorable to their enlarged patriotism to cherish those sentiments, whilst the immaturity of their situation suspends a part of the advantages common to their fellow-citizens of the elder communities.

Writings of Madison, Volume 2: 1794-1815, p.448

With my cordial respects, I offer a return of my best wishes for the prosperity and happiness of yourselves, and of the community which you represent.

To Thomas Jefferson.

MONTPELLIER, July 23d, 1809.

Writings of Madison, Volume 2: 1794-1815, p.448

DEAR SIR,—On my arrival at Orange Court House on Thursday, I found your favor of the 12th instant, with the document expected, and the letters from Short and Warden inclosed. The whole are now returned. No copy of the document was in the office of state, as you suppose must have been the case. This was owing to the letter being written by your own hand at Monticello, and being sent on to Mr. Short without being opened at Washington. Mr. Short's idea of leaving commerce to shift for itself is not as new as he seems to think; and is liable to greater objections in the case stated, at least. A decisive objection would have been, that the expedient would have given all the trade wanted to the power commanding the Sea, whilst this would have cut off the commerce with its enemy; and thus have found an adequate motive to keep in force its obnoxious orders, as answering all its purposes. It was to be considered, also, as a further objection, that such an expedient would have involved our ignorant and credulous mariners in the penalties incurred by the mercantile adventurers, without the indemnifying advantages which the latter would secure to themselves. It may be added, that so formal an abandonment of the national rights would not have borne an honorable appearance; though the discredit would have been mitigated by examples of powerful nations, and still more by the peculiarities of the actual state of the world.

Writings of Madison, Volume 2: 1794-1815, p.449

I have not received a line from any quarter, nor even a newspaper, since I left Washington. I can say nothing, therefore, on the score of news. I was detained at Washington some days, by an unwillingness to leave it at the moment Dashkoff was to be expected. Although titularly not more than a Chargé, he brought a letter of Credence from the Emperor himself. His conversation was in the spirit of this evidence of the respect and good will of his Sovereign towards the United States. Adams has accepted his appointment, and will embark as soon as practicable. Dashkoff was extremely anxious for an interview with him before his departure; and had proposed one at New York, if consistent with Mr. Adams' arrangements.

Writings of Madison, Volume 2: 1794-1815, p.449

It is a part of our plan to pay our respects to Monticello, but we can say nothing as yet of the time. It will afford us much gratification to welcome you here, and with all of your family that can accompany you.

To Thomas Jefferson.

MONTPELLIER, Aug. 3, 1809.

Writings of Madison, Volume 2: 1794-1815, p.449

DEAR SIR,—Herewith you will receive a packet, which being wrapt up in a large one for me, from the Department of State, was taken out of the mail yesterday, and not observed before the rider had set out.

Writings of Madison, Volume 2: 1794-1815, p.450

I find myself under the mortifying necessity of setting out to-morrow morning for Washington. The intricate state of our affairs with England, produced by the mixture of fraud and folly in her late conduct, and the important questions to be decided as to the legal effect of the failure of the arrangement of April on our commercial relations with her, are thought by the Heads of Department to require that I should join them. The main question is, whether the non-intercourse act, as continued at the last session, comes into force against England, thereby putting her on the same footing with France.

Writings of Madison, Volume 2: 1794-1815, p.450

You will see by the instructions to Erskine, as published by Canning, that the latter was as much determined that there should be no adjustment as the former was that there should be one. There must, however, have been other instructions, comprehending the case of the Chesapeake, and other communications from Canning accompanying the British orders of April 26, as referred to in Erskine's quieting declaration last made to Mr. Smith. I believe, also, that Erskine's letter to Canning, not disclosed by the latter, will not warrant his ascribing to Erskine the statement of conversations with Mr. Gallatin, Mr. Smith, and myself. Pinkney will also disavow what Canning has put in his mouth.

Writings of Madison, Volume 2: 1794-1815, p.450

I presume, from letters which reached me yesterday, that Mr. Smith has communications from Paris as late as the 10th or 12th of June; whether by the return of Mr. Coles or another conveyance is uncertain. The disavowal in England reached Paris the day after the arrival of the arrangement transmitted by Mr. Gelston. Our affairs with France had taken no decided turn; owing, as alledged, to the absence and occupation of the Emperor. The return of Gelston will probably put us in possession of a final estimate.

To Thomas Jefferson.

MONTPELLIER, Aug. 16, 1809.

Writings of Madison, Volume 2: 1794-1815, p.451

DEAR SIR,—I got home from my trip to Washington on Saturday last, having remained there three days only. You will have seen in the Proclamation issued the result of our consultations on the effect of what has passed on our commercial relations with G. Britain. The enforcement of the non-intercourse act against her will probably be criticized by some friends, and generally assailed by our adversaries, on the ground that the power given to the Executive, being special, was exhausted by the first exercise of it; and that the power having put out of force the laws to which it related, could, under no possible construction, restore their operation. In opposition to this reasoning, it was considered that the act of the last session continuing the non-intercourse no otherwise excepted G. Britain than by a proviso that it should not affect any trade which had been or might be permitted, in conformity with the section of the original act authorising a proclamation in favor of the nation revoking its Edicts; and that the proclamation in favor of G. Britain was not conformable to that section. It was not so in substance, because the indispensable prerequisite, a repeal of the Orders in Council, did not take place. It was not so even in form; the law requiring a past and not a future fact to be proclaimed, and the proclamation, on its face, pointing to a future, not a past fact. This difficulty was felt at the time of issuing the first proclamation; but it yielded to the impossibility of otherwise obtaining, without great delay, the coveted trade with G. Britain, and an example that might be followed by France; to the idea that the mode in which the repeal, though future, of the orders and of the law, was coupled by the proclamation, .might, on the occurrence of the former, give a constructive validity to the latter; and to the opportunity afforded by an intervening session of Congress for curing any defect in the proceeding. In one respect, it would have been clearly proper for Congress to have interposed its authority, as was frequently intimated to members; that is, to provide for the contingency, not so much of a disavowal by G. Britain, which was never suspected, as of her not receiving the act of her Minister till after the 10th of June. Congress, however, never could be brought to attend to the subject, although it was pressed by several members, I believe, certainly by ———, on the general ground, that the Proclamation, however acceptable, was not in a form, nor under the circumstances, contemplated by law. In some of the instructions given by Mr. Gallatin's circular, a liberty has been taken having no plea but manifest necessity, and as such will be before Congress.

Writings of Madison, Volume 2: 1794-1815, p.452

Erskine is in a ticklish situation with his Government. I suspect he will not be able to defend himself against the charge of exceeding his instructions, notwithstanding the appeal he makes to sundry others not published. But he will make out a strong case against Canning, and be able to avail himself much of the absurdity and evident inadmissibility of the articles disregarded by him. He can plead, also, that the difference between his arrangement and the spontaneous orders of April 26 is too slight to justify the disavowal of him. This difference seems, indeed, to limit its importance to the case of Holland, and to consist in the direct trade admitted by the arrangement, and an indirect one through the adjoining ports, required by the orders. To give importance to this distinction, the Ministry must avow, what, if they were not shameless, they never would avow, that their object is not to retaliate injury to an enemy, but to prevent the legitimate trade of the United States from interfering with the London smugglers of sugar and coffee.

To Thomas Jefferson.

MONTPELLIER, Aug, 23, 1809.

Writings of Madison, Volume 2: 1794-1815, p.452

DEAR SIR,—I see by the papers that Mr. Smith has probably received despatches from Mr. Pinkney by a late arrival; but being in Baltimore, I have not yet heard from him on the subject. The newspaper dates from London were not later than the 3d of July; of course give nothing from the Continent. It appears only, in confirmation of late accounts, that Russia, as well as Holland, adhere with rigor to the means of excluding British Trade. Colonial produce, even Dutch in neutral vessels, is to be warehoused in Holland.

To William Eustis, Secretary of War.

MONTPELLIER, August 30, 1809.

Writings of Madison, Volume 2: 1794-1815, p.453

DEAR SIR,—Several considerations appearing to render it expedient that the Commander-in-Chief, now in the Territory of Orleans, should be at the seat of Government, as soon as the prerequisites to his setting out will permit, you will please to transmit him instructions to that effect.

Writings of Madison, Volume 2: 1794-1815, p.453

Should the correspondence between the Navy Department and Captain Porter not have been otherwise communicated to you, the enclosed copy of it will give information proper to be possessed by you. Accept my respects and best wishes.

To Thomas Jefferson.

MONTPELLIER, Septr 11, 1809.

Writings of Madison, Volume 2: 1794-1815, p.453

DEAR SIR,—I send herewith a few papers which have come to my hands, along with those addressed to myself.

Writings of Madison, Volume 2: 1794-1815, p.453

Jackson, according to a note sent from Annapolis, to Mr. Smith, was to be in Washington on Friday evening last. The letters from Mr. Pinkney, brought by him, were dated June 23, and merely rehearsed a conversation with Canning; from which it would seem that Canning readily admitted that his second condition (Colonial trade) had no connection with the subject, and that it was not to be expected the United States would accede to the 3d, (G. Britain to execute our laws.) Why, then, make them ultimate? or if not ultimate, why reject the arrangement of Erskine for not including them? For as to the first article, if he does not fly from his language to Pinkney, the continuance of the non-intercourse against France cannot be denied to be a substantial fulfilment of it. From this view of the matter, it might be inferred that Jackson comes with a real olive in his hand. But besides the general slipperiness of his superior, some ideas fell from him in his conversation with Pinkney justifying distrust of his views.

To Doctor David Ramsay.

September 20, 1809.

Writings of Madison, Volume 2: 1794-1815, p.454

SIR,—I have received the Resolutions of the meeting of citizens in Charleston, on the 5th instant, covered by your favor of the same date.

Writings of Madison, Volume 2: 1794-1815, p.454

These Resolutions comprise too many circumstances enhancing the value of the patriotism they breathe not to afford particular satisfaction.

Writings of Madison, Volume 2: 1794-1815, p.454

However a difference of views may be indulged on subordinate questions of policy, a union of all, on such as evidently affect the Sovereignty, the honor, or the essential interests of the nation, is a duty to which every denomination of citizens will rally, whose love of Country elevates them above a spirit of party. Of this genuine patriotism, the meeting at which you presided has given a conspicuous example.

Writings of Madison, Volume 2: 1794-1815, p.454

The occasion which led to this proceeding of your fellow-citizens is as much regretted as it was little to be anticipated. It could the less have been anticipated, as, besides the respect due to an arrangement solemnly entered into by a plenipotentiary Minister, and not only strictly, but irrevocably, carried into execution by the other party, the arrangement itself was of a nature to claim a ready sanction, even if, contrary to every ground of confidence, it had not been within the scope of previous instructions.

Writings of Madison, Volume 2: 1794-1815, p.454

Whether the sequel may better correspond with the wishes and hopes of the United States, rounded on that attachment to peace which they have proclaimed, and on that exemplary justice which they have practised, remains to be seen. In no event can the citizens of Charleston lose the merit of having evinced a unanimity and zeal not less calculated to avert than to meet aggressions prompted by a misconception of the American character.

Writings of Madison, Volume 2: 1794-1815, p.455

For the confidence which the meeting has been pleased to express in my faithful pursuit of the public good, I feel all the obligations which it demands. In tendering this acknowledgment of them, I beg, at the same time, that you will accept for yourself assurances of my particular esteem.

To the General Republican Committee of the City and County of New York.

Septr 24, 1809.

Writings of Madison, Volume 2: 1794-1815, p.455

I have received, fellow-citizens, your address, bearing date the 15th instant, with a due sense of the kind sentiments it expresses, and of the favorable light in which it views my advancement to the Executive trust, and the several considerations which led to it.

Writings of Madison, Volume 2: 1794-1815, p.455

In proportion as the present situation of our Country is interesting, it is consoling to find the conviction becoming universal, that the difficulties rendering it so have resulted from the accumulated wrongs committed by the principal belligerent nations, in spite of the justice and forbearance of the United States, which ought to have averted them; and that the only remedy is to be found in a firm and patriotic support of the measures devised and pursued by the Constituted Authorities.

Writings of Madison, Volume 2: 1794-1815, p.455

The pledge and example of this duty presented in your address is entitled to the highest praise. Devoutly praying that a sympathy and emulation every where may, under the divine blessing, have the happy effect of preserving to our Country the advantages of peace, without relinquishing its rights or its honor, I tender to you, and to those whose sentiments you conveyed, my cordial respects and my best wishes.

To the Washington and Jefferson Artillery, at Richmond, Virga, Commanded By John H. Price.

Writings of Madison, Volume 2: 1794-1815, p.456

SIR,—I have received your letter of the 18th instant, communicating the unanimous resolution of the Washington and Jefferson Artillery, under your command, making a tender of their services, in case the exigencies of their Country should call for them.

Writings of Madison, Volume 2: 1794-1815, p.456

The best resource for the security of our Country, and the maintenance of its rights, being in the unanimity and patriotic zeal of its Citizens, no greater satisfaction can be afforded to a Government, faithful to its trust, than results from the confidence which is felt in that public spirit of which your communication presents so laudable a specimen.

Writings of Madison, Volume 2: 1794-1815, p.456

Should the painful necessity of appealing to the military virtues of the nation be rendered unavoidable by the future conduct of those whose past has been so little amicable or just, the services now proffered cannot fail to receive the attention due to them.

Writings of Madison, Volume 2: 1794-1815, p.456

With my thanks for the kind expressions for which I am personally indebted, I tender my respects and good wishes.

SEPTR 26, 1809.

To Matthew Walton.

Septr 27, 1809.

Writings of Madison, Volume 2: 1794-1815, p.456

SIR,—I have duly received the resolutions of the inhabitants of Washington County, in Kentucky, assembled on the 28th of August.

Writings of Madison, Volume 2: 1794-1815, p.456

The determination evinced by these Resolutions to maintain the National rights and honor, against aggressions from whatever quarter, cannot but be acceptable to those to whose responsibility those essential objects are in a material degree committed.

Writings of Madison, Volume 2: 1794-1815, p.456

Persuaded that the difference in the views taken on some points from those which may prevail in the Executive Councils is combined with the purest zeal for the public good, I perceive in such a motive, and in that reasonable confidence which is expressed in the constituted authorities, a sufficient assurance that the conduct of my fellow-citizens, at whose meeting you presided, will adapt itself to the course of measures which may result from a further development and a comprehensive survey of our foreign relations.

Writings of Madison, Volume 2: 1794-1815, p.457

For the expressions of personal regard and confidence towards me I tender my sincere thanks, and a return of my friendly wishes.

To Thomas Jefferson.

WASHINGTON, Oct. 6, 1809.

Writings of Madison, Volume 2: 1794-1815, p.457

DEAR SIR,—I inclose, for perusal, a letter from Mr. Dupont D.N. What does he mean by his desire "to contribute" to the execution of his project of Education? You will observe that he has sent for you a copy of the works of Turgot, as far as edited. Be so good as to point out the mode in which you wish them to be transmitted. I expect a wagon here next month which can take them to Orange, if you prefer that conveyance to a water one to Richmond.

Writings of Madison, Volume 2: 1794-1815, p.457

The late news from Europe will be found in the newspapers. Jackson has been presented, and is on the threshold of business. He is not deficient in the diplomatic professions, but nothing appears to contradict the presumption that he is so in the requisite instructions.

To John M. Creyon.

October 17, 1809.

Writings of Madison, Volume 2: 1794-1815, p.457

SIR,—I have received the Resolution unanimously entered into by the Citizens of Columbia, and covered by your letter of the 20th of September.

Writings of Madison, Volume 2: 1794-1815, p.457

The very unexpected and inauspicious turn given to our relations with G. Britain by the disavowal of the friendly arrangement concluded by her accredited Minister, could not fail to excite a lively sensibility among a people conscious of their own just purposes, and satisfied of the reasonable views and good faith which have been evinced by their own Government.

Writings of Madison, Volume 2: 1794-1815, p.458

In such a posture of our affairs, it is a happy consideration that a disposition more and more prevails to review the course which has been pursued in our foreign relations, with a due attention to the causes which have produced and prolonged the embarrassments which have distinguished them, and to unite in support of the public authorities in the measures which may be best adapted to the peculiarity of the crisis.

Writings of Madison, Volume 2: 1794-1815, p.458

Such a union alone can be wanted to command respect from foreign nations to our rights, or to vindicate them with success.

Writings of Madison, Volume 2: 1794-1815, p.458

I tender to my fellow-citizens of Columbia my respects and friendly wishes.

To Col. John McIntosh.

WASHINGTON, October 28, 1809.

Writings of Madison, Volume 2: 1794-1815, p.458

SIR,—I have just received, under your cover of September 25, the unanimous Resolutions of a Meeting of the Inhabitants of McIntosh County.

Writings of Madison, Volume 2: 1794-1815, p.458

In the present unsettled state of our external affairs, and particularly in that produced by the refusal of the British Government to fulfil an engagement, characterized as was that of its Minister Plenipotentiary, faithful citizens of every section of their Country cannot but be warmly alive to the multiplied wrongs which it has suffered, and to the important duty of supporting the Constituted Authorities in the discharge of theirs.

Writings of Madison, Volume 2: 1794-1815, p.458

The Resolutions which you have transmitted are a proof that the Citizens of the County of McIntosh are animated by such feelings. As far as these may be seconded by a confidence in the principles and views which guide the Executive Department, it becomes me to express the sensibility which is due to it, to which I add my respects and friendly wishes for those at whose meeting you presided.

To Thomas Jefferson.

WASHINGTON, Octr 30, 1809.

Writings of Madison, Volume 2: 1794-1815, p.459

DEAR SIR,—In the operation of removing from my former quarters, the Digest of the City Code and business, which you had been so good as to furnish me, has, by some unaccountable accident, been lost, or possibly so thrown out of place as not to be found. I have written to Capt. Coles to take Monticello in his way, and ask the favor of you to permit him to take another copy from your original. As that letter, however, may not reach him, I must beg you to signify my wishes to him, in case he should call on you, as he probably will.

Writings of Madison, Volume 2: 1794-1815, p.459

I inclose the latest accounts from Europe. Onis has returned to Philadelphia. The reality or degree of his disappointment is not easily ascertained. His last conversation with Mr. Smith did not manifest ill humour. How could he expect a different result, in the actual state of things? And what motive can Spain or the Colonies have, in any state of things, to make enemies of the United States? I see nothing to change the view of Jackson, which I formerly hinted to you.

To Thomas Jefferson.

WASHINGTON, Novr 6, 1809.

Writings of Madison, Volume 2: 1794-1815, p.459

DEAR SIR,—I received your letter from Eppington. I had not heard that either the Attorney General or the Governor of Illinois meant to resign.

Writings of Madison, Volume 2: 1794-1815, p.459

Inclosed are several letters for you, received from France by the return of the Wasp. You will see the propriety of my adding one to myself from Mr. Short, to be returned after perusal. Our information from Paris, of the 19th of September, gives no countenance to the rumoured renewal of hostilities in Austria. The delay of peace in form alone keeps alive such rumours. But why should such an event flatter the hopes of G. Britain? According to all the lessons of experience, it would quickly be followed by a more compleat prostration of her Ally. Armstrong had forwarded to the French Court the measure taken here in consequence of the disavowal of Erskine's arrangement, but there had not been time for an answer. The answer to the previous communication had been, let England annul her illegal blockade of France, and the Berlin decree will be revoked; let her then revoke her orders of November, and the Milan decree falls, of course. This state of the question between the two powers would promise some good, if it were ascertained that by the blockade of France previous to the Berlin decree was meant that of May, extending from the Elbe to Brest, or any other specific act. It is to be feared that there is an intentional obscurity, or that an express and general renunciation of the British practice is made the condition. From G. Britain we have only newspaper intelligence. The change in the Ministry seems likely to make bad worse, unless we are to look for some favorable change in the extremity to which things must rapidly proceed under the quackeries and corruptions of an administration headed by such a being as Perceval. Jackson is proving himself a worthy instrument of his patron, Canning. We shall proceed with a circumspect attention to all the circumstances mingled in our affairs, but with a confidence, at the same time, in a just sensibility of the nation to the respect due to it.

To Thomas Jefferson.

WASHINGTON, Decr 11, 1809.

Writings of Madison, Volume 2: 1794-1815, p.460

DEAR SIR,—I duly received your two letters of the 26 and 30 ult. The state of Col. Monroe's mind is very nearly what I had supposed. His willingness to have taken a seat in the Cabinet is what I had not supposed. I have written to Major Neely, according to your suggestion, and shall follow it, also, as to the distribution of Govr Lewis' papers when they arrive. Fayette, in a letter to me, has been equally urgent on the subject of his land titles, which are required as the basis of a loan. Owing to delays incident to the distance and the nature of the proceedings in consummating land titles, and more particularly to the miscarriage of a mail containing instructions from Mr. Gallatin, which was long unknown to him, the business has never been compleated. I have renewed my efforts to accelerate it, and have so written to Fayette, by the Ship John Adams, which carries a remittance from the Treasury to Holland, and will touch at France and England for collateral purposes. It was found cheaper to make the remittance in this way than by Bills of Exchange, at their present rate. The papers will tell you what Congress are about. There is not, as yet, any appearance by which their course can be foretold. The Republicans, as usual, are either not decided, or have different leanings. The Federalists are lying in wait to spring on any opportunity of checking or diverting the tide now setting so strongly against them.

To Thomas Hertell, N.Y.

Decr 20, 1809.

Writings of Madison, Volume 2: 1794-1815, p.461

DEAR SIR,—I have been some time a debtor for your favor of Novr 11th, accompanied by a copy of your Exposè. It reached me at a [time?] when my attention had some particular calls on it; and I was so unlucky as to lose, by an accident, the answer which I had prepared for a late mail.

Writings of Madison, Volume 2: 1794-1815, p.461

I now repeat the thanks it contained for your communication. I have read with pleasure the interesting lights in which you have placed a subject which had passed through so many able hands. The task of abolishing altogether the use of intoxicating, and even exhilarating drinks, is an arduous one. If it should not succeed in the extent at which you aim, your mode of presenting the causes and effects of the prevailing intemperance, with the obligation and operation of an improved police and of corrective examples, cannot fail to recompense your efforts, though it should not satisfy your philanthropy and patriotism.

Writings of Madison, Volume 2: 1794-1815, p.461

A compleat suppression of every species of stimulating indulgence, if attainable at all, must be a work of peculiar difficulty, since it has to encounter not only the force of habit, but propensities in human nature. In every age and nation some exhilarating or exciting substance seems to have been sought for, as a relief from the languor of idleness, or the fatigues of labor. In the rudest state of Society, whether in hot or cold climates, a passion for ardent spirits is in a manner universal. In the progress of refinement, beverages less intoxicating, but still of an exhilarating quality, have been more or less common. And where all these sources of excitement have been unknown, or been totally prohibited by a religious faith, substitutes have been found in opium, in the nut of the betel, the root of the ginseng, or the leaf of the tobacco plant.

Writings of Madison, Volume 2: 1794-1815, p.462

It would doubtless be a great point gained for our country, and a great advantage towards the object of your publication, if ardent spirits could be made only to give way to malt liquors, to those afforded by the apple and pear, and the lighter and cheaper varieties of wine. It is remarkable, that in the countries where the grape supplies the common beverage, habits of intoxication are rare; and in some places almost without example.

Writings of Madison, Volume 2: 1794-1815, p.462

These observations, as you may well suppose, are not made for notice in a new edition of your work, of which they are certainly not worthy, even if they would not too much vary from your own view of the subject. They are meant merely as an expression to yourself of that respect for the laudable object of the Exposè, and for its author, of which sincere assurances are tendered.

To the Revd William Bentley.

WASHINGTON, December 27th, 1809.

Writings of Madison, Volume 2: 1794-1815, p.462

SIR,—In consequence of your favor of the 11th instant I have addressed the few lines\* enclosed to General Stark. If the possession of this sincere testimony of my esteem be entirely satisfactory, it may, perhaps, be as well that it should not be followed by a publication; the sole object being to contribute in that form whatever gratification may be afforded him by learning the sentiments of one of whom he has been pleased to think and speak so favorably. With an entire confidence in your judicious estimate of the case, I limit myself to this intimation.

Writings of Madison, Volume 2: 1794-1815, p.463

Accept, Sir, assurances of my friendly respects.

1810

To Plantagenet Eccleston.

1810.

Writings of Madison, Volume 2: 1794-1815, p.463

SIR,—I have duly received the Medallion of General Washington accompanying your favor of Jany 1, and return my thanks for it. The high veneration in which his memory is held in his own Country renders such tokens of respect to it in others at once grateful in themselves, and just titles to esteem in those who, looking beyond a national horizon, can do justice to the worthies and benefactors of mankind, wherever seen or however distant.

To the General Assembly of the State of North Carolina.

January, 1810.

Writings of Madison, Volume 2: 1794-1815, p.463

The Address of the General Assembly of the 23d of December could not but be received with a satisfaction much enhanced by the unanimity with which they approve the course pursued by the Executive of the United States for maintaining the rights of the Nation, and the respect due to its Government.

Writings of Madison, Volume 2: 1794-1815, p.463

Whilst the unyielding injustice of Foreign Powers continues to render our situation perplexing, and the preservation of peace more and more uncertain, the Councils of the General Government must find their confidence in the spirit and faculties of the Nation greatly fortified by the co-operating patriotism of the States. Nor could this resource be more honorably or acceptably pledged than in the example now given.

Writings of Madison, Volume 2: 1794-1815, p.464

In the stress which the General Assembly have been pleased to lay on my capacities and endeavours to promote the welfare of our country, I perceive a partiality which claims the return of my affectionate acknowledgments; along with which I tender assurances of my high consideration and best wishes.

To the Surviving Military Characters of the Late Revolutionary Army and Navy, Residing in the City and County of Philadelphia.

January, 1810.

Writings of Madison, Volume 2: 1794-1815, p.464

I have received, fellow-citizens, with particular satisfaction, the sentiments you have thought fit to address to me at a moment so interesting to the honor and well-being of our country. The unjust proceedings of Foreign Governments have long been witnessed by the nation with feelings repressed only by a love of peace, and by hopes rounded on appeals to those principles of law and right which have been exemplified in its own conduct. These hopes having continually failed, our situation retains its perplexity, and the preservation of peace becomes more and more uncertain. At such a period, it is a precious consideration that the Government of the United States, instead of having provoked this inauspicious state of our foreign relations, has been as persevering as it has been sincere in efforts to avert it; and that as our wrongs become aggravated, the readiness to maintain our rights becomes more universal. From none was this patriotic spirit more to be looked for than from those who, knowing most, experimentally, the price paid for our Independence, must be the last to suffer its attributes to be impaired in its descent to their posterity. A free people, firmly united in a just cause, can never despond of either inspiring respect for their rights, or of maintaining them against hostile invasions. Should this last alternative, in spite of all our conciliatory endeavours, be forced upon us, it may well be expected, that however the capacity of our revolutionary champions for active service may be impaired by the infirmities of age, the deficiency will be amply made up by the animation given by their former example and present zeal to their fellow-citizens who have not before been compelled to rally to the banners and the defence of their Country.

Writings of Madison, Volume 2: 1794-1815, p.465

Accept assurances of my respects and friendly wishes.

To George Joy.

WASHINGTON, Jany 17th, 1810.

DEAR SIR,—I have received your favor of the 10th. Your anxiety that our Country may be kept out of the vortex of war is honorable to your judgment as a patriot, and to your feelings as a man. The same anxiety is, I sincerely believe, felt by the great body of the nation, and by its public councils; most assuredly by the Executive branch of them. But the question may be decided for us, by actual hostilities against us, or by proceedings leaving no choice but between absolute disgrace and resistance by force. May not, also, manifestations of patience under injuries and indignities be carried so far as to invite this very dilemma?

Writings of Madison, Volume 2: 1794-1815, p.465

I devoutly wish that the same disposition to cultivate peace by means of justice, which exists here, predominated elsewhere, particularly in G. Britain. But how can this be supposed, whilst she persists in proceedings which comprize the essence of hostility; whilst she violates towards us rules which she enforces against us in her own favor; more particularly whilst we see her converting the late reconciliation, through one of the Ministers, into a source of fresh difficulties and animosities through another? For in this light must be viewed her disavowal of Mr. Erskine, and the impressions made through his successor. Had the disavowal been deemed essential to her interests, a worse plaster could not have been devised for the wound necessarily inflicted here. But was the disavowal essential to her interests? was it material to them, taking for the test her own spontaneous change of system, and her own official language? By the former, I refer to her orders of April, restricting their original orders against neutrals to a trade with France and Holland; by the latter, to the conversation of Mr. Canning with Mr. Pinkney, in which he abandons, as he could not but do, two of the conditions which had been contemplated; and admits that a non-intercourse law here against Holland was not a sine qua non. So that the arrangement of Mr. Erskine was disavowed essentially for want of a pledge that our non-intercourse would be continued against France and her dominions. But why disavow absolutely, why at all, on this account? The law was known to be in force against France at the time of the arrangement. It was morally certain that, if put in force against France whilst she was pleading the British orders, it would not be withdrawn if she should persist in her decrees after being deprived of this plea. And there would be no fair ground to suppose that the condition would not be pledged and stipulated, if required, as soon as the requisite authorities here should be together. The disavowal is the more extraordinary, as the arrangement was to be respected till the 20th July, and, therefore, with the addition of four or five weeks only, would have afforded an opportunity of knowing the sense of this Government, and of supplying all that was wanted to satisfy the British ultimatum. This course was so obvious, and that pursued so opposite, that we are compelled to look to other motives for an explanation, and to include among these a disinclination to put an end to differences from which such advantages are extracted by British commerce and British cruisers.

Writings of Madison, Volume 2: 1794-1815, p.466

Notwithstanding all these grounds of discontent and discouragement, we are ready, as the British Government knows, to join in any new experiment, and through either our diplomatic channel there, or hers here, for a cordial and comprehensive adjustment of matters between the two countries.

Writings of Madison, Volume 2: 1794-1815, p.466

Let reparation be made for the acknowledged wrong committed in the case of the Chesapeake—a reparation so cheap to the wrong-doer, yet so material to the honor of the injured party; and let the orders in Council, already repealed as to the avowed object of retaliation, be repealed also, as an expedient for substituting an illicit commerce in place of that to which neutrals have, as such, an incontestable right. The way will then be open for negotiation at large; and if the British Government would bring into it the same temper as she would find in us, and the same disposition to insist on nothing inconsistent with the rule of doing as she would, or rather as she will, be done by, the result could not fail to be happy for both.

Writings of Madison, Volume 2: 1794-1815, p.467

Permit me to remark that you are under a mistake in supposing that the Treaty concluded by Messrs. Monroe and Pinkney was rejected because it did not provide that free ships should make free goods. It never was required, nor expected, that such a stipulation should be inserted. As to deserting seamen, you will find that G. Britain practises against us the principles we assert against her, and in fact goes further; that we have always been ready to enter into a convention on that subject, rounded on reciprocity; and that the documents long since in print show that we are willing, on the subject of impressment, to put an end to it, by an arrangement which most certainly would be better for the Britsh Navy than that offensive resource; and which might be so managed as to leave both parties at liberty to retain their own ideas of right. Let me add that the acceptance of that Treaty would have very little changed the actual situation of things with G. Britain. The orders in Council would not have been prevented, but rather placed on stronger ground; the case of the Chesapeake, the same as it is; so, also, the case of impressments, of factitious blockades, &c.; all, as at present, pregnant sources of contention and ill humour.

Writings of Madison, Volume 2: 1794-1815, p.467

From this view of the subject, I cannot but persuade myself that you will concur in opinion, that if, unfortunately, the calamity you so benevolently dread should visit this hitherto favored Country, the fault will not lye where you would not wish it to lye.

To William Pinkney.

Jany 20, 1810.

Writings of Madison, Volume 2: 1794-1815, p.468

DEAR SIR,—I received some days ago a letter of the 10th instant from Doctor Logan, containing observations on the posture and prospect of our foreign relations. Before the answer was out of my hands, I received another dated four days after, in which he merely informed me that he should embark for England in about eight days, with an offer to take charge of any communications for you. As his first letter did not glance at any such intention, it must be presumed to have been very suddenly formed. And as his last is silent as to the object of the trip, this is left to conjecture. From the anxiety expressed in his first letter for the preservation of peace with England, which appeared to him to be in peculiar danger, and from his known benevolence and zeal on the subject, it may reasonably be supposed that his views relate, in some form or other, to a mitigation of the hostile tendencies which distress him; and that his silence may proceed from a wish to give no handle for animadversions of any sort on the step taken by him.

Writings of Madison, Volume 2: 1794-1815, p.468-p.469

You will receive from the Secretary of State, unless, indeed, opportunity fail through the shortness of the notice, such communications and observations as may be thought useful to you. You will find that the perplexity of our situation is amply displayed by the diversity of opinions and prolixity of discussion in Congress. Few are desirous of war; and few are reconciled to submission; yet the frustration of intermediate courses seems tO have left scarce an escape from that dilemma. The fate of Mr. Macon's Bill, as it is called, is not certain. It will probably pass the House of Representatives, and, for aught I know, may be concurred in by the Senate. If retaliated by G. Britain, it will operate as a non-importation act, and throw exports into the circuit of the non-intercourse act. If not retaliated, it may be felt by the British navigation, and, thro' that interest, by the Government, since the execution of the law which relates to the ship, and not to the merchandize, cannot be evaded. With respect to the E. Indies, the proposed regulation will have the effect of compelling the admission of a direct and exclusive trade for our vessels, or a relinquishment of this market for India goods, farther than they can be smuggled into it. It just appears that a proposition has been made in the House of Representatives to employ our ships of war in convoys, and to permit merchantmen to arm. However plausible the arguments for this experiment, its tendency to hostile collisions is so evident that I think its success improbable. As a mode of going into war, it does not seem likely to be generally approved, if war was the object. The military preparations which have been recommended, and are under consideration, are what they profess to be, measures of precaution. They are not only justified, but dictated by the uncertainty attending the course which G. Britain may take, or, rather, by the unyielding and unamicable traits in her Cabinet and her countenance. Measures of that sort are also the more adapted to our situation, as, in the event of accommodation with G. Britain, they may possibly be wanted in another quarter. The long debates on the Resolution of Mr. Giles, on the subject of Mr. Jackson, have terminated in affirmative votes, by large majorities. This, with the refusal of the Executive to hold communication with him, it is supposed, will produce a crisis in the British policy towards the United States; to which the representations of the angry Minister will doubtless be calculated to give an unfavorable turn. Should this happen, our precautionary views will have been the more seasonable. It is most probable, however, that instead of expressing resentment by open war, it will appear in more extended depredations on our commerce; in declining to replace Mr. Jackson; and, perhaps, in the course observed with respect to you, in meeting which your own judgment will be the best guide. Should a change in the composition or calculations of the Cabinet give a favorable turn to its policy towards this country, it is desirable that no time may be lost in allowing it its effect. With this view, you will be reminded of the several authorities you retain to meet in negotiation, and of the instructions by which they are to be exercised; it being always understood that with the exception of some arrangement touching the orders in Council, reparation for the insult on the Chesapeake must precede a general negotiation on the questions between the two countries. At present, nothing precise can be said as to the condition on our part for the repeal of the orders in Council; the existing authority in the Executive to pledge one being expirable with the non-intercourse act, and no other pledge being provided for. As it is our anxious desire, however, if the British Government should adopt just and conciliatory views, that nothing may be omitted that can shew our readiness to second them, you may offer a general assurance that, as in the case of the Embargo and the non-intercourse acts, any similar power with which the Executive may be clothed will be exercised in the same spirit. You will doubtless be somewhat surprised to find among the communications to Congress, and in print, too, the confidential conversations with Mr. Canning, reserved from such a use by your own request. It was, in fact, impossible to resist the pointed call for them, without giving umbrage to some, and opportunity for injurious inferences to others. The difficulty was increased by the connection between those and other communications necessarily falling within the scope of the rule of compliance in such cases. Finally, there did not appear to be any thing in the conversations which could warrant British complaint of their disclosure, or widen the space between you and the British Ministry.

Writings of Madison, Volume 2: 1794-1815, p.470

As it may not be amiss that you should know the sentiments which I had expressed to Doctor Logan, and which, though an answer to his letter written previous to the notification of his intended trip, he will of course carry with him, I enclose a copy of the answer.

Writings of Madison, Volume 2: 1794-1815, p.470

The file of newspapers from the Department of State will give you the debates on the case of Jackson. I enclose, however, a speech I have just looked over, in a pamphlet form. Although liable to very obvious criticisms of several sorts, it has presented a better analysis of some parts of the subject than I have observed in any of the speeches.

To ———.

WASHINGTON, Jany 31, 1810.

Writings of Madison, Volume 2: 1794-1815, p.471

SIR,—I have received your letter of the 25th, inclosing the unanimous resolutions of a meeting of Citizens of Washington County, at Hager's Town on the 20th instant, approving the course lately taken by the Executive of the United States with respect to the British Minister Plenipotentiary, and pledging their support of the constituted authorities in such measures as may be required by the unjust conduct of the belligerent Powers. It must be agreeable at all times, to responsible and faithful functionaries, to find their proceedings attended with the confidence and support of their fellow-citizens. And the satisfaction cannot but be increased by unanimity in declarations to that effect. Among the means of commanding respect for our National character and rights, none can be more apposite than proofs that we are united in maintaining both; and that all hopes will be vain which contemplate those internal discords and distrusts from which encouragement might be derived to foreign designs against our safety, our honor, or our just interests.

To the Republican Citizens of the 1st Congressional District of the State of Pennsylvania.

Writings of Madison, Volume 2: 1794-1815, p.471

I have received, fellow-citizens, your Address of the 14th instant, with the impressions which its assurances of approbation and attachment could not fail to make; and with every participation in your sensibility to the extraordinary circumstances which continue to distinguish our foreign relations.

Writings of Madison, Volume 2: 1794-1815, p.471

You do no more than justice, as well to my predecessor as to myself, in referring the course which has been pursued to a steady purpose of withholding from each belligerent a pretext for disturbing our rightful intercourse with the other, by observing towards both the strictest impartiality in exercising our neutral rights, and in fulfilling our neutral obligations. This unexceptionable conduct, which ought to have shielded us from aggressions of every sort, has been followed by a perseverance in multiplying them, which no appeals to law, to reason, or to that policy which alone accords with the true interest of Nations, as of individuals, have succeeded in averting or arresting.

Writings of Madison, Volume 2: 1794-1815, p.472

In this state of things, it lies with the Legislative Councils to decide on the measures adapted to it. That their decision will duly consult the sense of the Nation, and faithfully pursue its best interests, is what I feel great satisfaction in presuming; as I do in witnessing the patriotism which, in your example, unites with a manly expression of your particular sentiments a confidence in the Constituted Authorities, and a determination to support them. Accept, fellow-citizens, my respects and friendly wishes.

WASHINGTON, Feby 21, 1810.

To Thomas Jefferson.

WASHINGTON, April 23, 1810.

Writings of Madison, Volume 2: 1794-1815, p.472

DEAR SIR,—Yours of the 16th has been received. Congress remain in the unhinged state which has latterly marked their proceedings, with the exception only that a majority in the House of Representatives have stuck together so far as to pass a Bill providing for a conditional repeal by either of [the] belligerents of their edicts; laying, in the mean time, 50 per cent. to the present duties on imports from G. Britain and France. What the Senate will do with the Bill is rendered utterly uncertain by the policy which seems to prevail in that branch. Our last authentic information from G. Britain is of the 28 February, and from France of the 2d of Feby. The information in both cases has an aspect rather promising, but far from being definite; and subsequent accounts, through the ordinary channels, do not favor a reliance on general professions or appearances. Bonaparte seems not to have yet attended to the distinction between the external and internal character of his decrees, and to be bending his augmented faculties for annihilating British Commerce with the Continent, with which our corrupt traders have confounded the American flag. And it will be a hard matter for Wellesley, should he be well disposed, to drag his anti-American colleagues into a change of policy; supported, as they will be, by the speeches and proceedings of Congress. From those, the inference will be that one party prefers submission of our trade to British regulation, and the other confesses the impossibility of resisting it. Without a change of Ministry, of which there is some prospect, it would be imprudent to count on any radical change of policy. For the moment, I understand that the Merchants will not avail themselves of the unshackled trade they have contended for; a voluntary Embargo being produced by the certainty of a glutted market in England, and the apprehension of British blockades and French confiscations. The experiment about to be made will probably open too late the eyes of the people to the expediency and efficacy of the means which they have suffered to be taken out of the hands of the Government, and to be incapacitated for future use.

To Thomas Jefferson.

WASHINGTON, May 7, 1810.

Writings of Madison, Volume 2: 1794-1815, p.473

DEAR SIR,—The inclosed letter from Jarvis accompanied one to me, on the subject of the Merinos. I learn that they have arrived safe, but the vessel is aground .a few miles below Alexandria. Jos Doherty is gone to bring them up, making the selections warranted by Mr. Jarvis. As the means I shall employ to have my pair conveyed to Virginia will suffice for yours, it will be unnecessary for you to attend to the matter till you hear of their arrival in Orange. Although there have been several late arrivals from England, we remain in the dark as to what has passed between Wellesley and Pinkney. The same as to the French Government and Armstrong. You will notice the footing on which Congress has left our relations with these powers. Unless G. Britain should apprehend an attempt from France to revive our non-intercourse against her, she has every earthly motive to continue her restrictions against us. She has our trade, in spite of France, as far as she can make it suit her interest, and our acquiescence in cutting it off from the rest of the world, as far as she may wish to distress her adversaries, to cramp our growth as rivals, or to prevent our interference with her smuggling monopoly. New England and New York are rallying to the Republican ranks. In New Jersey, every branch of the Government is again sound. The election in Massachusetts, now going on, will probably have a like issue with their late one. There is some danger, however, from the federal artifice of pushing the federal towns to their maximum of Representation. Boston is to send forty.

To William Pinkney.

WASHINGTON, May 23d, 1810.

Writings of Madison, Volume 2: 1794-1815, p.474

DEAR SIR,—You will learn from the Department of State, as you must have anticipated, our surprise that the answer of Lord Wellesley to your very just and able view of the case of Jackson corresponded so little with the impressions of that Minister manifested in your first interviews with him. The date of the answer best explains the change; as it shows that time was taken for obtaining intelligence from this Country, and adapting the policy of the answer to the position taken by the advocates of Jackson. And it must have happened that the intelligence prevailing at that date was of the sort most likely to mislead. The elections which have since taken place in the Eastern States, and which have been materially influenced by the affair of Jackson, and the spirit of party connected with it, are the strongest of proofs that the measure of the Executive coincided with the feelings of the Nation. In every point of view, the answer is unworthy of the source from which it comes.

Writings of Madison, Volume 2: 1794-1815, p.474

From the manner in which the vacancy left by Jackson is provided for, it is inferred that a sacrifice is meant of the respect belonging to this Government, either to the pride of the British Government, or to the feelings of those who have taken side with it against their own. On either supposition, it is necessary to counteract the ignoble purpose. You will accordingly find that on ascertaining the substitution of a Chargé to be an intentional degradation of the diplomatic intercourse on the part of Great Britain, it is deemed proper that no higher functionary should represent the United States at London. I sincerely wish, on every account, that the views of the British Government, in this instance, may not be such as are denoted by appearances, or that, on finding the tendency of them, they may be changed. However the fact may turn out, you will, of course, not lose sight of the expediency of mingling in every step you take as much of moderation, and even of conciliation, as can be justifiable; and will, in particular, if the present despatches should find you in actual negotiation, be governed by the result of it in determining the question of your devolving your trust on a Secretary of Legation.

Writings of Madison, Volume 2: 1794-1815, p.475-p.476

The act of Congress, transmitted from the Department of State, will inform you of the footing on which our relations to the belligerent powers were finally placed. The experiment now to be made, of a commerce with both, unrestricted by our laws, has resulted from causes which you will collect from the debates and from your own reflections. The new form of appeal to the policy of Great Britain and France, on the subject of the Decrees and Orders, will most engage your attention. However feeble it may appear, it is possible that one or other of those powers may allow it more effect than was produced by the overtures heretofore tried. As far as pride may have influenced the reception of these, it will be the less in the way, as the law in its present form may be regarded by each of the parties, if it so pleases, not as a coercion or a threat to itself, but a promise of attack on the other. Great Britain, indeed, may conceive that she has now a compleat interest in perpetuating the actual state of things, which gives her the full enjoyment of our trade, and enables her to cut it off with every other part of the world; at the same time that it increases the chance of such resentments in France at the inequality as may lead to hostilities with the United States. But, on the other hand, this very inequality, which France would confirm by a state of hostilities with the United States, may become a motive with her to turn the tables on G. Britain, by compelling her either to revoke her orders, or to lose the commerce of this country. An apprehension that France may take this politic course would be a rational motive with the British Government to get the start of her. Nor is this the only apprehension that merits attention. Among the inducements to the experiment of an unrestricted commerce now made, were two which contributed essentially to the majority of votes in its favor; first, a general hope, favoured by daily accounts from England, that an adjustment of differences there, and thence in France, would render the measure safe and proper; second, a willingness in not a few to teach the advocates for an open trade, under actual circumstances, the folly as well as degradation of their policy. At the next meeting of Congress: it will be found, according to present appearances, that instead of an adjustment with either of the belligerents, there is an increased obstinacy in both; and that the inconveniences of the embargo and non-intercourse have been exchanged for the greater sacrifices, as well as disgrace, resulting from a submission to the predatory systems in force. It will not be wonderful, therefore, if the passive spirit which marked the late session of Congress should at the next meeting be roused to the opposite point; more especially as the tone of the nation has never been as low as that of its Representatives, and as it is rising already under the losses sustained by our commerce in the Continental ports, and by the fall of prices in our produce at home, under a limitation of the market to G. Britain. Cotton, I perceive, is down at 10 or 11 cents in Georgia. The great mass of Tobacco is in a similar situation. And the effect must soon be general, with the exception of a few articles which do not at present glut the British demand. Whether considerations like these will make any favorable impression on the British Cabinet, you will be the first to know. Whatever confidence I may have in the justness of them, I must forget all that has past before I can indulge very favorable expectations. Every new occasion seems to countenance the belief that there lurks in the British Cabinet a hostile feeling towards this Country, which will never be eradicated during the present reign; nor overruled, whilst it exists, but by some dreadful pressure from external or internal causes.

Writings of Madison, Volume 2: 1794-1815, p.477

With respect to the French Government, we are taught by experience to be equally distrustful. It will have, however, the same opportunity presented to it, with the British Government, of comparing the actual state of things with that which would be produced by a repeal of its Decrees, and it is not easy to find any plausible motive to continue the former, as preferable to the latter. A worse state of things than the actual one could not exist for France, unless her preference be for a state of war. If she be sincere, either in her late propositions relative to a chronological revocation of illegal Edicts against neutrals, or to a pledge from the United States not to submit to those of Great Britain, she ought at once to embrace the arrangement held out by Congress, the renewal of a non-intercourse with Great Britain being the very species of resistance most analogous to her professed views.

Writings of Madison, Volume 2: 1794-1815, p.477

I propose to commit this to the care of Mr. Parish, who is about embarking at Philadelphia for England; and finding that I have missed a day in my computation of the opportunity, I must abruptly conclude, with assurances of my great esteem, &c.

To Thomas Jefferson.

WASHINGTON, May 25, 1810.

Writings of Madison, Volume 2: 1794-1815, p.477

DEAR SIR,—I have duly received your favor of the 13th. The general idea or disposing of the supernumerary Merino Rams for the public benefit had occurred to me. The mode you propose for the purpose seems well calculated for it. But as it will be most proper as you suggest, to let our views be developed to the public by the execution of them, there will be time for further consideration. When the sheep came into my hands, they were so infected with the scab that I found it necessary, in order to quicken and ensure their cure, to apply the mercurial ointment. I hope they are already well. One of the ewes has just dropt a ewe lamb, which is also doing well. I expect my overseer every day to conduct them to Orange. As he will have a wagon with him, the trip, I hope, may be so managed as to avoid injury to his charge.

Writings of Madison, Volume 2: 1794-1815, p.478

A former National Intelligencer will have given you our last communications from G. Britain. That of this morning exhibits our prospects on the side of France. The late confiscations by Bonaparte comprise robbery, theft, and breach of trust, and exceed in turpitude any of his enormities not wasting human blood. This scene on the continent, and the effect of English monopoly on the value of our produce, are breaking the charm attached to what is called free trade, foolishly by some, and wickedly by others. We are hourly looking for the "John Adams." There is a possibility that the negotiations on foot at Paris may vary our prospects there. The chance would be better, perhaps, if the last act of Congress were in the hands of Armstrong; which puts our trade on the worst possible footing for France but, at the same time, puts it in the option of her to revive the non-intercourse against England. There is a possibility, also, that the views of the latter may be somewhat affected by the recent elections; it being pretty certain that the change in the tone of Wellesley from that first manifested to Pinkney was, in part, at least, produced by the intermediate intelligence from the United States, which flattered a fallacious reliance on the British party here.

To Thomas Jefferson.

WASHINGTON, June 4, 1810.

Writings of Madison, Volume 2: 1794-1815, p.478

DEAR SIR,—I have received your two letters of the 25 and 30 ultimo. I have not yet seen any of the Secretaries to whom you have written on the subject of the papers relating to the Batture. I take for granted they will readily comply with your request. Mr. Gallatin is absent on a visit to his farm, in the western part of Pennsylvania. But his chief Clerk will, I presume, be able to furnish the papers, if any, lying in that Department. The argument of Moreau de Lislet has never been printed, nor, as I believe, fully translated. The original manuscript, if not in the hands of Mr. Rodney, will be forwarded from the Department of State. What Poydras has said on the subject is herewith inclosed. Although the ground to be taken in the suit against you is not disclosed, I think it not difficult to conjecture it. The act of Congress will be represented as unconstitutional, and the case of the Batture as not within its scope; and misconstructions as too obvious to be resolvible into official error of judgment. In any event there will be the chance of an obiter opinion of the Court on the merits of the case, strengthening the cause of Livingston. Till I received your letter, I had scarcely yielded my belief that a suit had been really instituted. If the Judiciary should lend itself for such a purpose, it cannot fail, I think, to draw down on itself the unbounded indignation of the Nation, and a change of the Constitution, under that feeling, carried, perhaps, too far in the opposite direction. In a Government whose vital principle is responsibility, it never will be allowed that the Legislative and Executive Departments should be compleatly subjected to the Judiciary, in which that characteristic feature is so faintly seen.

To Thomas Jefferson.

WASHINGTON, June 15, 1810.

Writings of Madison, Volume 2: 1794-1815, p.479

DEAR SIR,—The inclosed letters were brought, together with the separate packet now forwarded, by the John Adams. The official communications received by her from France and G. Britain you will find in the National Intelligencer of this date. The Editor, I perceive, passes over the obnoxious refusal of G. Britain to comply with the reasonable course of putting an end to the predatory Edicts of both Nations; and it is not improbable that a like sensibility to the atrocity of the French Government may direct the public attention from what would otherwise strike it with due force.

To Thomas Jefferson.

WASHINGTON, June 22, 1810.

Writings of Madison, Volume 2: 1794-1815, p.480

DEAR SIR,—On the first publication of the despatches by the John Adams, so strong a feeling was produced by Armstrong's picture of the French robbery, that the attitude in which England was placed by the correspondence between Pinkney and Wellesley was overlooked. The public attention is beginning to fix itself on the proof it affords that the original sin against Neutrals lies with G. Britain, and that, whilst she acknowledges it, she persists in it.

Writings of Madison, Volume 2: 1794-1815, p.480

Have you received a copy of Cooper's (the Pennsylvania Judge) masterly opinion on the question whether the sentence of a foreign Admiralty Court in a prize cause be conclusive evidence in a suit here between the Underwriter and Insured? It is a most thorough investigation and irrefragable disproof of the British doctrine on the subject, as adopted by a decision of the Supreme Court of the United States. If you are without a copy, I will provide and forward one.

To Governor Snyder.

WASHINGTON, July 5th, 1810.

Writings of Madison, Volume 2: 1794-1815, p.480

SIR,—I have duly received your letter of June 9, covering the Resolutions of the General Assembly of the Commonwealth of Pennsylvania, adopted at their last session.

Writings of Madison, Volume 2: 1794-1815, p.480

The principles and purposes avowed in these Resolutions are such as were to be expected from a State which has given so many proofs of its readiness to maintain the rights and honor of the nation against foreign aggressions and insults.

Writings of Madison, Volume 2: 1794-1815, p.480

In this renewed pledge of their co-operation, whenever, in the opinion of the National Councils, an appeal to the patriotism and force of the American people becomes necessary, the General Assembly afford an example equally animating to those charged with the interests of the Union and worthy the emulation of every member of it.

Writings of Madison, Volume 2: 1794-1815, p.481

Accept, sir, assurances of my high respect.

To Thomas Jefferson.

MONTPELLIER, July 17, 1810.

Writings of Madison, Volume 2: 1794-1815, p.481

DEAR SIR,—Among the papers relating to the Convention of 1787, communicated to you, that copies in your hands might double the security against destructive casualties, was a delineation of Hamilton's plan of a Constitution. On looking for it among the Debates, &c., which were returned to me, this particular paper does not appear.\* I conclude, therefore, that it had not then been copied, or was at the time in some separate situation. I am very sorry to trouble you on such a subject, but being under an engagement to furnish a copy of that project, I must ask the favor of you to see whether it be not among your papers, and if so, to forward it by the mail.

To Thomas Jefferson.

Writings of Madison, Volume 2: 1794-1815, p.481

DEAR SIR,—Yours of the 13th was duly received. I cannot account for your not getting Moreau's Memoir. I have given a hint for it now to be sent from the Department of State. His view of the case ought certainly to be comprized in your examination of it. I shall peruse this, when received, with pleasure, though not for all the reasons you enumerate, and for some which you do not; and I shall be particularly happy in the visit with which you flatter me.

To Mr. Gallatin.

MONTPELLIER, August 29, 1810.

Writings of Madison, Volume 2: 1794-1815, p.482

DEAR SIR,—Your letter of the 8th instant came duly to hand, and I have since been favored with that of the 17th.

Writings of Madison, Volume 2: 1794-1815, p.482

It seems that in the decreasing amount of the Treasury deposits, any distributive transfer of them to the State Banks would not be convenient to the public, and must soon become unimportant to them. Nothing better, therefore, is practicable in that mode than a temporary relief of particular Banks, particularly affected by the demands of the National Bank. Application has been made, on this ground, in behalf of the Bank of Columbia, and equal attention would be due to any other applications.

Writings of Madison, Volume 2: 1794-1815, p.482

The Spaniard who dined with me last winter, and was lately executed at the Havanna, was not the one introduced by Doctr Thornton. His particular title to my civilities was a letter of strong recommendation from Doctr Rush. The other Spaniard was never at my table.

Writings of Madison, Volume 2: 1794-1815, p.482

If the French decree releasing the American property in the warehouses of Holland be authentic, may it not be the result of apprehended reprisal here?

To Judge Toulmin.

MONTPELLIER, Sepr 5, 1810.

Writings of Madison, Volume 2: 1794-1815, p.482

DEAR SIR,—Your favor of July 28 has been duly received, The particulars which it communicates are of a nature to claim the attention of the Executive, and I thank you for yours in transmitting them. I am glad to find, by subsequent information, that the indications of a purpose to carry into effect the enterprise on Florida had become less decisive. There can be no doubt of its unlawfulness, nor as to the duty of the Executive to employ force, if necessary, to arrest it, and to make examples of the authors. These are the less to be excused, as there never was a time when private individuals should more distrust their competency to decide for the Nation, nor a case in which there was less ground to distrust the dispositions of the Government, regulated as they must be by the limits of its authority, and by the actual state of its foreign relations.

Writings of Madison, Volume 2: 1794-1815, p.483

Be pleased to accept my esteem and friendly wishes.

To J. Q. Adams.

WASHINGTON, October 16th, 1810.

Writings of Madison, Volume 2: 1794-1815, p.483

DEAR SIR,—Previous to my return to this city, I received a letter from Mrs. Adams, your highly respectable mother, communicating your anxiety to leave a situation rendered insupportable by the ruinous expenses found to be inseparable from it, and taking for granted that you had written, or would write, to the Secretary of State to the same effect. The answer to her was, that as it was not the intention of the Executive to expose you to unreasonable sacrifices, it could not withhold a permission to retire from them, and that you would be so informed from the Department of State. You will accordingly receive a letter of leave, and a blank commission, providing for the care of our affairs till a successor may be appointed. As no communication of your wishes, however, has yet been received from yourself, I cannot but hope that the peculiar urgency manifested in the letter of Mrs. Adams was rather hers than yours, or that you have found the means of reconciling yourself to a continuance in your station. Besides that confidence in the value of your services which led to the call upon them, there are considerations, which you will readily appreciate, bearing against a sudden return from a short mission, the occasion for which has been made the subject of so much lucubration. Among them, is the difficulty of shielding the step against unfavorable conjectures as to its cause in the mind of the Emperor; and the evil might become the greater, from the possibility of a protracted intermission, if not entire discontinuance, of a representation of the United States at St Petersburg, corresponding with the grade of the Russian Minister here. It will, for this reason, be particularly expedient, in case you should make immediate use of the document sent you, to spare no pains in guarding against a misconstruction of your departure, and in preparing the Russian Government for a delay in filling the vacancy, which may be unavoidable, notwithstanding the purpose of preventing it. As far as assurances of unabated friendship here can be of aid to you, they may be given with every emphasis which the sincerity of these sentiments can warrant.

Writings of Madison, Volume 2: 1794-1815, p.484

I will add, that whilst I do not disguise my wish that the continuance of your valuable services may be found not inconsistent with your other and undeniable duties, I cannot, on the other hand, wish that the latter should be sacrificed beyond a reasonable measure, and within that measure I am entirely persuaded that your patriotism will cheerfully make the sacrifice.

To Thomas Jefferson.

WASHINGTON, October 19, 1810.

Writings of Madison, Volume 2: 1794-1815, p.484

DEAR SIR,—I have received your favor of the 15th. All we know of the step taken by France towards a reconciliation with us is through the English papers sent by Mr. Pinkney, who had not himself received any information on the subject from Genl Armstrong, nor held any conversation with the British Ministry on it, at the date of his last letters. We hope from the step the advantage at least of having but one contest on our hands at a time. If G. Britain repeals her orders, without discontinuing her mock blockades, we shall be at issue with her on ground strong in law, in the opinion of the world, and even in her own concessions. And I do not believe that Congress will be disposed, or permitted by the Nation, to a tame submission; the less so as it would be not only perfidious to the other belligerent, but irreconcilable with an honorable neutrality. The crisis in West Florida, as you will see, has come home to our feelings and our interests. It presents, at the same time, serious questions as to the authority of the Executive, and the adequacy of the existing laws of the United States for territorial administration. And the near approach of Congress might subject any intermediate interposition of the Executive to the charge of being premature and disrespectful, if not of being illegal. Still, there is great weight in the considerations that the Country to the Perdido, being our own, may be fairly taken possession of, if it can be done without violence; above all, if there be danger of its passing into the hands of a third and dangerous party. The successful party at Baton Rouge have not yet made any communication or invitation to this Government. They certainly will call in either our aid or that of G. Britain, whose conduct at the Caraccas gives notice of her propensity to fish in troubled waters. From present appearances, our occupancy of West Florida would be resented by Spain, by England, and by France, and bring on not a triangular, but quadrangular contest. The vacancy in the Judiciary is not without a puzzle in supplying it. Lincoln, obviously, is the first presented to our choice, but I believe he will be inflexible in declining it.

To William Pinkney.

WASHINGTON, October 30, 1810.

Writings of Madison, Volume 2: 1794-1815, p.485

DEAR SIR,—Your letter of August 13 was duly received. Its observations on the letter and conduct of Lord Wellesley are an interesting comment on both. The light in which the letter was seen by many in this Country was doubtless such as gave to its features an exaggerated deformity. But it was the natural effect of its contrast to the general expectation founded on the tenor of your private letter to Mr. Smith, and on the circumstances, which, in the case of Jackson, seemed to preclude the least delay in repairing the insults committed by him. It is true, also, that the letter, when viewed in its most favorable light, is an unworthy attempt to spare a false pride on one side at the expence of just feelings on the other, and is in every respect infinitely below the elevation of character assumed by the British Government, and even to that ascribed to Lord Wellesley. It betrays the consciousness of a doubt, with a wish to discharge it in false coin. Had the letter been of earlier date, and accompanied by the prompt appointment of a successor to Jackson, its aspect would have been much softened. But every thing was rendered as offensive as possible by evasions and delays, which admit no explanation without supposing a double game, by which they were to cheat us into a reliance on fair promises, whilst they were playing into the hands of partisans here, who were turning the delays into a triumph over their own Government. This consideration had its weight in the decision last communicated, with respect to your continuance at London, or return to the United States.

Writings of Madison, Volume 2: 1794-1815, p.486

The personal sensibilities which your letter expresses are far greater than I can have merited by manifestations of esteem and confidence which it would have been unjust to withhold. As a proof of your partiality, they ought not, on that account, to excite less of a return. As little ought your readiness to retire from your station, from the honorable motives which govern you, to be viewed in any other light than as a proof of the value which attaches itself to your qualifications and services. It is not to be denied that a good deal of dissatisfaction has issued through the press against some of your intercourse with the British Government. But this could have the less influence on the Executive mind, as the dissatisfaction, where not the mere indulgence of habitual censure, is evidently the result of an honest misconstruction of some things, and an ignorance of others, neither of which can be lasting. I have little doubt that if your sentiments and conduct could be seen through media not before the public, a very different note would have been heard; and as little, that the exhibitions likely to grow out of the questions and discussions in which you are at present engaged will more than restore the ground taken from you.

Writings of Madison, Volume 2: 1794-1815, p.486

The sole question on which your return depends, therefore, is whether the conduct of the Government where you are may not render your longer stay incompatible with the honor of the United States. The last letter of the Secretary of State has so placed the subject for your determination, in which the fullest confidence is felt. Waiving other depending subjects, not of recent date, a review of the course pursued in relation to Jackson and a successor excites a mixture of indignation and contempt, which ought not to be more lightly expressed than by your immediately substituting a Secretary of Legation for the grade you hold; unless the step be absolutely forbidden by the weighty consideration which has been stated to you, and which coincides with the sound policy to which you allude, of putting an adversary compleatly in the wrong. The prevailing opinion here is, that this has been already abundantly done.

Writings of Madison, Volume 2: 1794-1815, p.487

Besides the public irritation produced by the persevering insolence of Jackson in his long stay, and his conduct during it, there has been a constant heart-burning on the subject of the Chesapeake, and a deep and settled indignation on the score of impressments, which can never be extinguished without a liberal atonement for the former, and a systematic amendment of the latter.

Writings of Madison, Volume 2: 1794-1815, p.487

You have been already informed that the Proclamation would issue giving effect to the late act of Congress, on the ground of the Duke de Cadore's letter to Genl Armstrong, which states an actual repeal of the French Decrees. The letter of W. to you is a promise only, and that in a very questionable shape; the more so, as G. Britain is known to have founded her retaliating pretensions on the unprecedented mode of warfare against her; evidently meaning the exclusion of her trade from the Continent. Even the blockade of May, 1806, rests on the same foundation. These considerations, with the obnoxious exercise of her sham blockades in the moment of our call for their repeal, backed by the example of France, discourage the hope that she contemplates a reconciliation with us. I sincerely wish your next communications may furnish evidence of a more favorable disposition.

Writings of Madison, Volume 2: 1794-1815, p.487

It will not escape your notice, and is not undeserving that of the British Government, that the non-intercourse, as now to be reviewed, will have the effect of giving a monopoly of our ex-portations to G. Britain to our own vessels, in exclusion of hers; whereas, in its old form, G. Britain obtained a substantial monopoly for hers through the entrepots of N. Scotia, E. Florida, &c. She cannot, therefore, deprive our vessels, which may now carry our exports directly to G. Britain, of this monopoly, without refusing the exports altogether, or forcing them into difficult and expensive channels, with the prospect of a counteracting interposition of Congress, should the latter experiment be resorted to. Nothing would be necessary to defeat this experiment but to prohibit, as was heretofore contemplated, the export of our productions to the neighboring ports belonging to Great Britain or her friends.

Writings of Madison, Volume 2: 1794-1815, p.488

The course adopted here towards West Florida will be made known by the Secretary of State. The occupancy of the Territory as far as the Perdido was called for by the crisis there, and is understood to be within the authority of the Executive. East Florida, also, is of great importance to the United States, and it is not probable that Congress will let it pass into any new hands. It is to be hoped G. Britain will not entangle herself with us by seizing it, either with or without the privity of her allies in Cadiz. The position of Cuba gives the United States so deep an interest in the destiny, even, of that Island, that although they might be an inactive, they could not be a satisfied spectator at its falling under any European Government, which might make a fulcrum of that position against the commerce and security of the United States. With respect to Spanish America generally, you will find that G. Britain is engaged in the most eager, and, if without the concurrence of the Spanish authority at Cadiz, the most reproachful grasp of political influence and commercial preference. In turning a provident attention to the new world, as she loses ground in the old, her wisdom is to be commended, if regulated by justice and good faith; nor is her pursuit of commercial preferences, if not seconded by insidious and slanderous means against our competitions, as are said to be employed, to be tested by any other standard than her own interest. A sound judgment of this does not seem to have been consulted in the specimen given in the Treaty at Caraccas, by which a preference in trade over all other nations is extorted from the temporary fears and necessities of the Revolutionary Spaniards. The policy of the French Government at the epoch of our Independence, in renouncing every stipulation against the equal privileges of all other nations in our trade, was dictated by a much better knowledge of human nature, and of the stable interest of France.

Writings of Madison, Volume 2: 1794-1815, p.489

The elections for the next Congress are nearly over. The result is another warning against a reliance on the strength of a British Party, if the British Government be still under a delusion on that subject. Should France effectually adhere to the ground of a just and conciliatory policy, and G. Britain bring the United States to issue on her paper blockades; so strong is this ground ia right of opinion here, and even in the commitment of all the great leaders of her party here, that G. Britain will scarce have an advocate left.

To Thomas Jefferson.

WASHINGTON, Decr 7, 1810.

Writings of Madison, Volume 2: 1794-1815, p.489

DEAR SIR,—The letter inclosed came to me as you see it; and though probably meant more for me than you, is forwarded according to its ostensible destination.

Writings of Madison, Volume 2: 1794-1815, p.489

We have nothing from abroad more than has been made public. The latest date from Pinkney is the 3d of October. The arrival of November will have been some test, positive or negative, of the views of England. Her party here seems puzzled more than usual. If they espouse her Blockades, they must sink under the odium. And this course is the more desperate, as it is possible that she may abandon them herself, under the duress of events.

Writings of Madison, Volume 2: 1794-1815, p.489

Lincoln does not yield to the call I made in a private and pressing letter. Still, some wish him to be appointed, hoping he may serve for a time.

1811

To the Society of Arts, Philadelphia.

WASHINGTON, Jany 28, 1811.

Writings of Madison, Volume 2: 1794-1815, p.490

GENTLEMEN,—I have received your letter of the 27th instant, communicating, in the name of the Society of Artists established at Philadelphia, its appointment of me as Patron of the Institution. I accept it with due sensibility to the value the Society has attached to my friendship for its laudable objects; but not without regret that this will consist more in favorable inclinations than in the usefulness, which would be the best title to the distinction. I can only, therefore, return my thanks, through you, for a flattering testimony, made the more so by the terms in which you have presented it, with an assurance to the Society, that regarding the Arts which it cherishes as among the endowments and enjoyments which characterize human Society under its highest and happiest destinies, it is one of my ardent wishes, that the tendency of our free system of Government may he portrayed, as well in what may contribute to embellish the mind and refine the manners, as in those primary blessings of which it already affords so many grateful proofs and presages.

To Thomas Jefferson.

WASHINGTON, March 18, 1811.

Writings of Madison, Volume 2: 1794-1815, p.490

DEAR SIR,—I have received yours inclosing two letters improperly addressed to you.

Writings of Madison, Volume 2: 1794-1815, p.490

A sketch, in manuscript, was brought by yesterday's mail from New York, saying that a vessel just arrived stated that the Prince Regent had appointed his Cabinet; that Lord Holland was Prime Minister, Grenville Secretary of State, Moira Commander-in-Chief, &c., and that a new Parliament was to be called. Whether these details be correct or not, it is highly probable that some material change in the general policy of tho Government, in relation to this Country, as well as in other respects, will result from the change of the men in power. Nor is it improbable that a repeal of the Orders in Council will be accompanied by a removal, in some form or other, of the other condition required by the act of May last. Still, the attachment to maritime usurpations on public law, and the jealousy of our growing commerce, are sources from which serious difficulties must continue to flow, unless controuled by the distress of the Nation, or by a magnanimity not to be expected even from the personification of Fox in Lord Holland. Grenville is known to be very high in his notions of British rights on the Ocean; but he has never contended for more on the subject of Blockades than that cruising squadrons, creating a manifest danger in entering particular ports, was equivalent to a stationary force, having the same effect. His principle, however, though construable into an important restriction of that modern practice, may be expanded so as to cover this abuse. It is, as you remark, difficult to understand the meaning of Bonaparte towards us. There is little doubt that his want of money and his ignorance of Commerce have had a material influence. He has also distrusted the stability and efficacy of our pledge to renew the non-intercourse against G. Britain, and has wished to execute his in a manner that would keep pace only with the execution of ours; and at the same time leave no interval for the operation of the British orders, without a counter operation in either his or our measures. In all this his folly is obvious. Distrust on one side produces and authorizes it on the other, and must defeat every arrangement between parties at a distance from each other, or which is to have a future or a continued execution. On the whole, our prospects are far from being very flattering; yet a better chance seems to exist than, with the exception of the adjustment with Erskine, has presented itself for closing the scene of rivalship in plundering and in-suiting us, and turning it into a competition for our commerce and friendship.

Writings of Madison, Volume 2: 1794-1815, p.491

In the midst of other perplexities, foreign and internal, a source has been opened very near me, and where co-operation against them was to have been rightfully expected, from personal obligations, as well as public duty. I find, also, that the appointment of Warden is to draw forth the keenest resentments of Armstrong. I have no doubt, however, that the ground on which we stand is sufficiently firm to support us with the nation, against individual efforts of any sort, or from any quarter.

To Thomas Jefferson.

WASHINGTON, April 1, 1811.

Writings of Madison, Volume 2: 1794-1815, p.492

DEAR SIR,—I intimated to you the offence taken by Armstrong at the reinstatement of Warden. It is not improbable that it will be the ground of an open hostility. This will call into view his present denunciations of Warden, which are pointed against him as an adventurer and impostor, from the commencement to the end of his career, in comparison with the patronage so long continued to him, and the sentiments heretofore expressed of him. Will you be so good as to send me the extract from Armstrong's letter, written in the Summer or Fall of 1808, which notifies the appointment of Warden as Consul, and gives the favorable side of his character, as well as the objections to a confirmation of the appointment? That letter was the only communication made on the subject.

Writings of Madison, Volume 2: 1794-1815, p.492

You will have inferred the change which is taking place in the Department of State. Col. Monroe agrees to succeed Mr. Smith, who declines, however, the mission to Russia, at first not unfavorably looked at. I was willing, notwithstanding many trying circumstances, to have smoothed the transaction as much as possible, but it will be pretty sure to end in secret hostility, if not open warfare. On account of my great esteem and regard for common friends, such a result is truly painful to me. For the rest, I feel myself on firm ground, as well in the public opinion as in my own consciousness.

Writings of Madison, Volume 2: 1794-1815, p.492

Wilkinson, I find, has lately received a letter from you, which he has shewn to his friends with much apparent gratification. I understand, at the same time, that the letter is cautious, and limited to the charge of privity with Burr. Did he disown to you the anonymous letter printed in Clark's Book, or say any thing relative to that subject ?

Writings of Madison, Volume 2: 1794-1815, p.493

The latest information from Europe will be found in the in-closed papers. The indications from France are rather favorable. Should the old King displace the Regent in England, little is to be hoped from that quarter, unless forced on the Cabinet by national distress. In the last correspondence of Pinkney with Wellesley, the latter sufficiently shewed his teeth, and received the severest scourging that was ever diplomatically inflicted.

To Thomas Jefferson.

WASHINGTON, April 19th, 1811.

Writings of Madison, Volume 2: 1794-1815, p.493-p.494

DEAR SIR,—I have received your favor of ———— , containing the requested extract from Armstrong's letter relating to Warden. Armstrong has entangled himself in such gross inconsistencies, that he may, perhaps, not execute his threat to vindicate his removal of Warden against my reinstatement of him. This consideration alone will restrain his enmity against both of us. You will see the conflict in which he is engaged with Fulton. Pinkney is weekly expected by the return of the Essex. Previous to his taking leave of the Prince Regent, he ascertained, by a correspondence with Wellesley, that his stay was wished for the mere purpose of delay and delusion. The mission of Foster, like that of Rose, plays the same game. The convalescence of the King renders the Prince a cypher, and his Cabinet is inflexible in its folly and depravity. The inclosed paper of Poulson publishes from the "Courier," a Cabinet paper, the doctrine which is to be maintained and modified for the purposes of plunder. We have been long without official intelligence from France. The last was not unfavorable. Appearances and reports have of late engendered suspicions of foul play. The arrival of two vessels from Bayonne, in the Delaware, with the notice of others to follow, indicate a renewal of trade. On the other hand, extracts of letters seem to imply a continuance of the Iron policy in that quarter. The symptoms of approaching war between France and Russia seem to multiply. I am sorry to trouble you with a recurrence to your dormant files, but as I know the facility afforded by the method of them, I will ask the favor of you to look under the "anonymous" head for a long letter or letters, written from London in the beginning of 1809, in a disguised hand, and signed "A Man." If received at all, it probably was forwarded by Lyman.

Robert Smith, Ex-Secretary of State.\*

Writings of Madison, Volume 2: 1794-1815, p.495

HAVING seen in the Aurora of the 5th inst., [April, 1811,] and since copied into other Gazettes, an explanation which the Editor says he was authorized to make "of the rupture which has taken place between Mr. Madison and Mr. R. Smith," I have thought it proper, whilst the circumstances are fresh in remembrance, to preserve them in the following memorandum:

Writings of Madison, Volume 2: 1794-1815, p.495-p.500

On the —— day of March Mr. S. called on me, as was common, on some point of official business. In the conversation, he alluded to the account in the newspapers of the dismission of Mr. Pickering by Mr. Adams, as just published for the first time by the former. Altho' the manner of Mr. S. did not denote any purpose beyond the ordinary conversation incident to such a topic, it happened to be the very day on which I meant to have sent for him, in order to communicate the necessity of making a change in the head of the Department of State. Dropping, therefore, the case of Mr. Pickering, and breaking its apparent relation to his own by the interposition of other subjects, I intimated that, in coming over, he had anticipated my intention of sending for him, with a view to a conversation, which would be as candid and explicit on my part as it was, in some respects, delicate and disagreeable in itself. After remarking that I had delayed the execution of my purpose for some time after I had formed it, in order that my communication might have the character of being, not the result of any sudden impulse, but of a deliberate regard to public considerations and official duty, I proceeded to state to him, that it had long been felt, and had at length become notorious, that the administration of the Executive Department laboured under a want of the harmony and unity which were equally essential to its energy and its success; that I did not refer to the evil as infecting our Cabinet consultations, where there had always been an apparent cordiality, and even a sufficient concurrence of opinion, but as shewing itself in language and conduct out of doors, counteracting what had been understood within to be the course of the administration and the interest of the public; that truth obliged me to add, that this practice, as brought to my view, was exclusively chargeable on him; and that he had not only counteracted what had been the result of consultations apparently approved by himself, but had included myself in representations calculated to diminish confidence in the administration committed to me. He expressed surprise that I should have yielded to such impressions; declared that he had given no cause for them; observing, that it was not to be conceived that a motive could be felt by him to be otherwise than friendly, personally, as well as to the credit of my administration. I told him that I had long resisted such impressions, well knowing that my conduct to him had merited a very different return; but that they were the result of facts and circumstances brought to my knowledge from so many sources and with so many corroborations, that it was impossible to shut my mind against them. I assured him that I had struggled against the belief as long as I could; that it was painful, as well as difficult, for me to suppose that, conscious, as he must be, of the friendship he had experienced in my nomination of him to the Department of State, and in the constant aids I had given him in discharging its duties, he should privately set himself against me in any respect; but that what had harassed my feelings in a degree equalled by no occurrence in a long political life, was the reflection that there were among those most nearly connected with him a number of individuals whom I had always felt a gratification in classing among the best of my friends, political and personal, and for whom I felt the highest esteem and sincerest affection; and that the idea of distressing them was most severely so to myself. He repeated his solemn denial of unfriendly conduct in any way towards me, or having done any thing tending to obstruct or embarrass the administration; that, on the contrary, he had been always personally my friend, and had contributed, as far as he could, to the credit and support of the administration. What motive could he have to be otherwise, being himself a member of it, and having neither pretensions nor expectations of any higher sort? What could have given rise to the unfavorable sentiments I had expressed he was at a loss even to conjecture. I told him I was aware of the awkwardness of my situation, in being obliged to refer to information and evidence which had come to me in ways not permitting me to name to him the sources; but I could assure him that the sources were such as made it my duty not to disregard them; and that, unquestionably, he would himself, in my situation, yield to the accumulated statements which had their effect on me. In what instances had he set himself against me, or against measures espoused by the administration? I reminded him of a conversation with Mr. ———, reported by the latter, in which he had indulged himself in disparaging remarks on my official character, and that of others in the Cabinet; on the general course of my policy, which he signified he disapproved; and in which he had communicated certain Cabinet proceedings, some of which were of so confidential a nature that the gentleman did not consider himself at liberty to repeat them. I had taken occasion before to drop him a hint that such a conversation had been given out, observing, at the time, that I did it, not because I lent an ear to it, but, that it might suggest circumspection. He slighted then the report, as proceeding from a source not likely to be listened to; and now repeated the denial of the conversation, with an allusion to a report from the same source as to a conversation with another member of the Cabinet, where it appeared that no interview could have taken place. I admitted that if this had been a solitary case, it would have been entirely dismissed from my recollection; but this was far from being the fact, altho' I could not equally enter into a specification of other cases. For examples in which he had counteracted what he had not himself disapproved in the Cabinet, I referred to the Bills called Macon's bills, and the non-intercourse bill, on the consultations on which he appeared to concur in their expediency; that he well knew the former, in its outline, at least, had originated in the difficulty of finding measures that would prevent what Congress had solemnly protested against, to wit, a compleat submission to the belligerent edicts; that the measure was considered as better than nothing, which seemed to be the alternative, and as part only of whatever else might, in the progress of the business, be found attainable; and that he neither objected to what was done in the Cabinet, (the time and place for the purpose,) nor offered any thing in the place of it; yet it was well understood that his conversations and conduct out of doors had been entirely of a counteracting nature; that it was generally believed that he was in an unfriendly disposition, personally and officially; and that, altho' in conversations with different individuals he might not hold .the same unfavorable language, yet with those of a certain temper it was no secret that he was very free in the use of it; and had gone so far as to avow a disapprobation of the whole policy of commercial restrictions, from the Embargo throughout. I intimated to him, also, that it was a complaint among our friends in Congress that the Federalists frequently quoted him for communications from our Ministers abroad which were unknown to others, the disclosures being sometimes such as to be deemed confidential, and to be turned against the administration. I glanced, also, at the report of his conversation with Mr. Morier, in which he (Mr. S.) had expressed his disapprobation of the whole course of policy observed by the U. States towards G.B. All these facts he repelled by a repetition of what he had before said. With respect to his motives for dissatisfaction, I acknowledged that I had been, for the reasons given by him, much puzzled to divine any natural ones, without looking deeper into human nature than I was willing to do; and it was on this account that I had so long resisted the impression which had at length been made on me; that instead of having any just motives to become an adversary, I knew, and he must be conscious, that in my confidential intercourse with him, in my kindness in general, and, above all, in the labor I had taken upon myself in behalf of his official duties, and for his credit, as well as that of the administration, I ought to have found an opposite return. On this subject, as well as every other, I told him I meant, as I ought, to be entirely frank, and must, therefore, say, that it was an imperious consideration for a change in the Department of State, that whatever talents he might possess, he did not, as he must have found by experience, possess those adapted to his station; that this had thrown the business more into my hands than was proper, or consistent with my own duties; that as long as I considered him in the light I once did I had cheerfully given him my aid, but that it was too much to be expected under actual circumstances, and that, moreover, the increase of the public business had put it out of my power to do his share as well as my own; and that, indeed, throughout, it was not done as well as might have been by a mind appropriated thereto. I observed that I could appeal to himself for the face that the business of the Department had not been conducted in the systematic and punctual manner which was necessary, particularly in the foreign correspondence, and that I had become daily more dissatisfied with it. He did not admit that complaint was well founded, intimating that I had a particular way of thinking on this subject, and that his conduct of the business would fully justify itself on examination. I told him he could not but be in a great error, reminding him of the condition in which his correspondence, more particularly, was brought to me; which was almost always so crude and inadequate, that I was in the more important cases generally obliged to write them anew myself, under the disadvantage, sometimes, of retaining, thro' delicacy, some mixture of his draft; that he must recollect that in the cases of Erskine and Jackson, the correspondence on his part had, in a manner, fallen entirely on my hands. I reminded him, also, of important failures to make seasonable communications to our foreign agents; particularizing the case of neglecting, tho' repeatedly desired, to make known to our Minister at Paris, as was done to our Minister at London, that in case the letter of the Duke de Cadore of Aug. 5, to Genl Armstrong, as reaching us through English newspapers, should it be officially confirmed, it would be the ground of a Proclamation as authorized by the act of May, 1810; and the case of not keeping Mr. Shaler, at the Havanna, duly. informed of the state of our foreign relations, in consequence of which, as appeared by Mr. Shaler's letters, he was unable to pursue the object of his mission with advantage. I observed that if he had transmitted at once, in multiplied copies, and thro' different channels, the same information for the French Government as to the B. Government as to the light in which the letter of the D. de Cadore was viewed, it might, by removing uncertainty and distrust as to the course here, have prevented the delay and embarrassment resulting from the course there. The impression made by these remarks was shewn rather by his manner than his comment, which was limited to a general disclaimer of the justness of them; and to allusions to a report that he had expressed to Mr. — Ingersoll lately in Washington, a disapprobation of the Proclamation putting in force the non-importation act against G. B., which he denied to be fact, and said that he had sought out that gentleman, and had obtained from him a satisfactory explanation.

Writings of Madison, Volume 2: 1794-1815, p.500-p.503

In this stage of the conversation, but in what particular connection is not recollected, it was noticed, as a mark of his disinclination to co-operate in promoting measures for the better fulfilling of the Executive trust, that altho' the Act of Congress at the session preceding that just closed relating to our diplomatic establishment, and of course particularly affecting his department, had been found so very inconvenient, and it had been so often suggested to him as desirable that some active member of Congress should be apprized of the expediency of amending or repealing the act, yet no such hint had been ever given, till at length I had availed myself of an opportunity of explaining the matter to a member of the Senate, who readily introduced it to the Senate, but too late in the session to receive an effectual attention. He signified that he had not been in the habit of proceeding in such a way with business belonging to the Legislature, and seemed to disapprove or doubt the propriety of it. I remarked that where the intention was honest, and the object useful, the conveniency of facilitating business in that way was so obvious that it had been practised under every past administration, and would be so under every future one; that Executive experience would frequently furnish hints and lights for the Legislature; that nothing was more common than for members of Congress to apply for them; and that, in fact, such communications, in cases not calling for formal messages, were indispensable to the advantageous conduct of the public business. A resort to formal messages, on every occasion where executive information might be useful, was liable to obvious objections. He made no particular reply, but did not seem to acquiesce. Returning to the necessity of harmony and unity in the Executive Councils, in providing for which I expressed a disposition to wound feelings any where as little as possible, he said he had himself regretted my situation, in reference to the want of cordiality among members of the Cabinet, declaring, at the same time, that whilst he was aware of intrigues and hostilities carried on against himself, he had abstained from every thing of that sort against others, disdaining, at all times, to stoop to such practices. I told him it was unnecessary to repeat observations which I had already made; that such was the state of things, that a remedy had become essential in the view of the most considerate friends of the administration; and that I wished, for the reasons given, to make it as lenient as would answer the purpose. It had occurred to me that he might not be disinclined to serve his country in a foreign mission, and that St. Petersburg, where there was a vacancy, might be an eligible, as it certainly was an important situation. London more so, he remarked quickly. For London, I replied, another arrangement was thought of; adding, with a view to repress miscalculations, that it was a place of discussions and negotiations, calling for appropriate talents and habits of business. He said he had for a considerable time entertained thoughts of retiring from the Department of State, and had looked towards a vacancy on the Bench of the Supreme Court, likely to be produced ere long by a death in Baltimore, (alluding to Judge Chase.) I observed that in that event it might be found most proper to seek a successor elsewhere; intimating, also, that he had been long out of the practice and study of the law, and that the Senate would probably be hard to please in such a case. He made light of that consideration, with an expression of confidence in his standing there, which led me to remark that he was not aware how much room there was for a different estimate; that he had assuredly lost ground extremely with the members of both Houses of Congress, in so much that the prevailing sentiment, as brought to my knowledge in the most direct manner, and from some quarters not unfriendly to himself, called for some arrangement that would at least vary the composition of the Cabinet. He ascribed unfavorable impressions against him, as far as they might exist, to intrigues and calumnies; signifying that there was, however, a body of firm friends, personal and political, who would not desert him, whatever course things might take. I did not admit that any considerable body of the Republicans would, in any event, take side against the administration; that, on the contrary, many on whom he might perhaps count had become dissatisfied with the course he had pursued; that it was not so much, therefore, the consideration alluded to by him which weighed with me, tho' not without weight, especially at the present crisis in Maryland, [the approaching elections of Senatorial Electors,] as the one I had before mentioned, namely, the personal friends common to both of us, that made me desirous of smoothing the change become necessary by proposing a mission to Russia, which I sincerely wished him to accept. I remarked that the services there, tho' neither difficult nor laborious, might be important; that the station was respectable, and that it was desirable to find a minister whose political grade here had been such as would satisfy the expectations of the Emperor, and whose private resources would also aid his salary in bearing the expensiveness of that Metropolis and Court. He admitted an inclination towards a trip to Europe as more eligible than his situation here; and, after a few uninteresting observations, concurred in the measure, with a mutual understanding that the appointment would be postponed for some days, till he could wind up the business of his Department, and prepare for his departure from Washington. I observed that as the 1st of April closed a quarter, it might be a convenient epoch for the date of his Commission, in which he acquiesced. He said he supposed there would be no impropriety in letting it be known that the mission was on foot; none at all. After a short pause—May I say that the appointment is offered to me? I have no objection, it being of course understood that it is to take place on the 1st of April, and that you will let me be at liberty, as many days previous as may be convenient, to take overt measures for supplying the vacancy; which he promised. The conversation closed with his proposal that it should be considered as entirely confidential, and my acquiescence in it.

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From his conversations and conduct for several days, in his office and elsewhere, it was not doubted that he persisted in his intention to accept the mission, and was making preparations accordingly. Circumstances soon, however, began to denote and strengthen doubts, particularly his declining, after accepting my invitation, to dine with a party, including the Russian Legation; and as I did not hear from him as was expected, and the 1st of April approached, I sent for him.

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On his arrival, I told him my object, and that I had, according to the understanding between us, caused a commission to be made out for him. He said he was himself on the point of coming over to me, with the view of returning into my hands his Commission of Secretary of State, (handing it to me at the same time,) and to inform me that he had determined to decline the other which had been proffered to him. However disposed he might have been to accept it under other circumstances, it was impossible he could do so under such as would give it the appearance of a mere expedient to get rid of him as Secretary of State. He had learned from Baltimore that a removal of him was believed to have been determined on, under the influence of intrigues against him, and that this intention was known even to federal members of Congress, as was evinced by their language on their return home; that the same impression existed elsewhere; that he had, in fact, received letters from his friends, not only in Baltimore, but in Pennsylvania and N. York, advising him by no means to make himself a party to the transaction by accepting the Russian Mission, which would be regarded as a mere cover for his removal. I told him I could not be answerable for the reports or assertions that might be propagated; that the course I had pursued was the one deemed proper in the circumstances which had resulted from that pursued by him, and had been as delicate and favorable to him as could be reconciled with what I owed to the public and to myself; that in tendering him the commission for Russia, I wished him to accept it for the reasons explained to him; that what the Federalists said on the occasion must have grown out of the conversations which had, as was well known, been frequent and free among the friends of the administration, on the necessity of a change in the Department of State. I availed myself of this turn of the conversation to allude anew to the reports and complaints that the Federalists were the first to get from him information of our foreign affairs; and to its being understood that he had told Mr. Morier that the whole policy of the Government towards G. B. had been contrary to his opinion and advice. This he denied. I assured him there was full evidence that Morier had said so; that this was known to and believed by sundry members of Congress, and had contributed, with other causes, to strengthen the current running against him. I reminded him of the official letter from Mr. Morier to him, complaining of the non-intercourse being enforced against G. B. during the actual conduct of France, in which he (M.) referred to a conversation in which he (S.) admitted that G. B. had a right to complain; I told him I had been surprised, when he communicated the letter to me, to find no apparent intention of a formal disavowal of that circumstance till I had pressed it on him, as material to himself in case the correspondence should be brought before the public or Congress; and that I did not approve of the course finally taken by him, of getting Morier to withdraw the letter and substitute another omitting the passage; a course less eligible than the one I had suggested, of a written disavowal, as Morier's communications to his Government might correspond with his first letter, and might find their way to the public thro' a call for papers by the British Parliament, in which case the statement would be without his contradiction. These, I observed, were disagreeable topics and I willingly turned from them to repeat to him, that, with a wish to consult the sensibility of common friends, I had been ready to give him, in exchange for an office which he professed no longer to relish, a foreign mission, which in itself did not appear to be unacceptable to him; and that it was still in his option, and would remain so for a short time longer, if he wished to deliberate further on the subject. He said he had made up his mind, and meant to be understood as having given his final answer to the proposal. He recurred to the aspect it wore of an indirect removal of him from the Department of State, and to the allegation of intrigues against him, which had been mistaken for a loss of confidence with the public and with Congress; regretted the tendency of what was taking place to injure the Republican cause; observing, again, that he should be supported by a body of friends, and that he knew he could stand on good ground in justifying himself to his Country. I assured him that neither my sentiments nor conduct in relation to him were in the least tho effect of intrigues, to which I should never listen, but of the facts and considerations I had unfolded to him; that I did not doubt the friendship for him of a number of respectable and weighty characters; but it was not less true, however disagreeable it might be to dwell on the circumstance, that with the Public, as well as among the members of Congress in both Houses, the tide was setting strongly and extensively against him; that I regretted as much as himself a tendency in any occurrence to impair harmony among the Republicans, more especially at this time and in this State, but that I believed this was not likely to be much the case; conceiving that the administration rested on ground as solid as at any preceding period; and that for myself, I was entirely confident that what I had done in relation to him could be justified, not only to the public, if it should become there necessary, but even to the most partial of his personal friends; that I could have no personal objection, therefore, to any step he might take which would call the public attention to it. He said it was not his wish, however confident he might be of the ground on which he stood, to introduce any public discussion. The conversation being at an end, he took his leave with a cold formality, and I did not see him afterwards.

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On reading over the above, I recollect nothing worth mentioning which is omitted; unless it be thought an exception, that in some stage of the conversation I alluded to the pretty general opposition made by his brother in the Senate to the measures proposed or supposed to be approved by the Executive, and its effect in strengthening the presumption with many of a like spirit in the Secretary of State; explicitly declaring, at the same time, that however I might be sometimes disappointed at the part taken by his brother, or regret it on account of his talents and his weight, I had always considered myself bound to suppose him actuated by a just respect for the independence of his station and his character; and that as he stood in no official connection with the Executive rendering him anywise responsible for his political conduct, I had never permitted myself to complain of it.

Writings of Madison, Volume 2: 1794-1815, p.506

J.M.

APRIL, 1811.

To Thomas Jefferson.

LETTERS, ETC.

To Thomas Jefferson.

WASHINGTON, May 3, 1811.

Writings of Madison, Volume 2: 1794-1815, p.507

DEAR SIR,—I have received yours of the 24th April, and return the letter inclosed in it, after having made the communication intended for Mr. Gallatin. Your expostulations with Duane could not be improved; but he gives proofs of a want of candor, as well as of temperance, that will probably repel advice, however rational or friendly. The great fulcrum of his attacks on Mr. Gallatin is Erskine's statement of his favorable dispositions toward England; and these attacks he obstinately reiterates and amplifies, notwithstanding the public and solemn denial of Mr. Gallatin; whilst Mr. Smith and myself, though included in a like statement, under which we have both remained silent, have not been reproached on that account, and Mr. Smith is become an object even of favor. A like want of candor is seen in the comments of the Aurora, on the putative explanation of the rupture between Mr. Smith and myself. Of the alledged points of difference, the main one, viz: the non-intercourse, it appears as his opinion on my side; yet he takes the other side generally, without alluding to the exception; and, of late, restricts his comments to Macon's bills, or smothers the "non-intercourse" under an &c., or confounds the measure with the manner of its execution. Again, whilst he admits occasionally that the non-intercourse, or rather non-importation, now in force, is the best and the only adequate resort against the aggressions of G. Britain, he continues his abuse on the Government for abandoning the interests and rights of the nation. I have always regarded Duane, and still regard him, as a sincere friend of liberty, and as ready to make every sacrifice to its cause but that of his passions. Of these, he appears to be compleatly a slave.

Writings of Madison, Volume 2: 1794-1815, p.508

Our expected frigate is not yet arrived from Europe, nor is there any account of the departure either of Pinkney or Foster from G. Britain. The last account from Pinkney was of March 13, when he was packing up for his passage in the Frigate. Whether the delays proceed from the approach of the Equinox, the posture of the Regency, or a wish to learn the result of things in Congress, or from some other cause, is unknown. From the jumble of accounts from France, it is probable that the repeal of the Decrees is professedly adhered to; and that an exchange of the productions of the U. States and France, with an exception of certain articles, is permitted by the municipal laws, under vexatious precautions against British forgeries and American collusions; and, perhaps, under some distrust of the views of this Government.

To the Inhabitants of the Town of New Haven.

Writings of Madison, Volume 2: 1794-1815, p.508

I have received, fellow-citizens, the petition which you have addressed to me, representing the inconveniences experienced from the existing non-importation law, and soliciting that the National Legislature may be speedily convened.

Writings of Madison, Volume 2: 1794-1815, p.508

It is known to all that the commerce of the United States has, for a considerable period, been greatly abridged and annoyed by Edicts of the belligerent powers; each professing retaliation only on the other, but both violating the clearest rights of the United States as a neutral nation. In this extraordinary state of things, the Legislature, willing to avoid a resort to war, more especially during the concurrent aggressions of two great powers, themselves at war, the one with the other, and determined, on the other hand, against an unqualified acquiescence, have endeavoured, by successive and varied regulations affecting the commerce of the parties, to make it their interest to be just.

Writings of Madison, Volume 2: 1794-1815, p.508

In the act of Congress out of which the existing non-importation has grown, the state of commerce was no otherwise qualified than by a provision, that in case either of the belligerents should revoke its unlawful Edicts, and the other should fail to do the same, our ports should be shut to the vessels and Merchandize of the latter. This provision, which, like our previous offers, repelled the very pretext set up by each, that its Edicts against our trade with the other was required by our acquiescence in like Edicts of the other, was equally presented to the attention of both. In consequence of the communication, the French Government declared that its Decrees were revoked. As the British Government had expressed reluctance in issuing its orders, and repeatedly signified a wish to find in the example of its adversary an occasion for putting an end to them, the expectation was the more confident that the occasion would be promptly embraced. This was not done; and the period allowed for the purpose having elapsed, our ports became shut to British ships and merchandize. Whether the conduct of the French Government has been and will be such as to satisfy the authorized expectations of the United States; or whether the British Government may have opened, or will open, the way for the Executive removal of the restrictions on British Commerce with the United States, which it continues in its power to do by revoking its own unlawful restrictions on our commerce, is to be ascertained by further information, which will be received and employed by the Executive with the strict impartiality which has been invariably maintained towards the two belligerents.

Writings of Madison, Volume 2: 1794-1815, p.509

Whatever may be the inconveniences resulting, in the mean time, from the non-importation act, it was not to have been supposed, that whilst it falls within the necessary power and practice of regulating our commercial intercourse with foreign Countries according to circumstances, the act would be regarded as not warranted by the Constitution; or that whilst it was a partial restriction only, and had for its object an entire freedom of our commerce, by a liberation of it from foreign restrictions unlawfully imposed, it could be viewed as destroying commerce; and least of all, that a likeness could be seen between a law enacted by the representatives of the Country, with a view to the interest of the Country, and Acts of a Government in which the Country was not represented, framed with a view to the interest of another Country at the expense of this.

Writings of Madison, Volume 2: 1794-1815, p.510

If appeals to the justice of the belligerents, through their interests, involve privations on our part also, it ought to be recollected that this is an effect inseparable from every resort by which one nation can right itself against the injustice of others.

Writings of Madison, Volume 2: 1794-1815, p.510

If sacrifices made for the sake of the whole result more to some than to other districts or descriptions of citizens, this also is an effect which, though always to be regretted, can never be entirely avoided. Whether the appeal be to the sword or to interruptions or modifications of customary intercourse, an equal operation on every part of the community can never happen. Nor would an unqualified acquiescence in belligerent restrictions on our commerce, if that could be reconciled with what the nation owes to itself, be less unequal in its effect on different local situations and interests.

Writings of Madison, Volume 2: 1794-1815, p.510

In estimating the particular measure which has been adopted by the National Councils, it may be reasonably expected, therefore, from the candor of enlightened citizens, that with the peculiarity of the public situation, they will be impressed, also, with the difficulty of selecting the course most satisfactory, and best suited to diminish its evils or shorten their duration; that they will keep in mind that a resort to war must involve necessary restrictions on commerce; and that were no measure whatever opposed to the belligerent acts against our commerce, it would not only remain under the severe restrictions now imposed by foreign hands, but new motives would be given for prolonging and invigorating them.

Writings of Madison, Volume 2: 1794-1815, p.510

These observations are not meant to anticipate the policy which the Legislature may henceforward find best adapted to support the honor or promote the interest of the Nation; or to prejudge questions relative to particular changes which may be pointed out by experience, or be called for by the state of our foreign relations. Neither do they imply any predetermination as to the measure of convening the Legislature, which it will be a duty to adopt or decline as our national affairs may appear to require. The view of our situation presented to your patriotic reflections has been suggested by that contained in your address; and it will have its desired effect, if it recalls your attention to the peculiar embarrassments with which the National Councils have had to contend, and enforces the importance of manifesting that union of all in supporting the measures of the constituted authorities whilst actually in force, which is as necessary to their effect at home and abroad as it is consistent with the right and with the legitimate modes of seeking a revisal of them. In the mode which the Town of New Haven has employed, I witness with satisfaction, that in exercising the right of freemen, the obligation of Citizens has not been forgotten; and that it affords a pledge and an example which I am far from undervaluing.

Writings of Madison, Volume 2: 1794-1815, p.511

I tender you my respects and my friendly wishes.

WASHINGTON, May 24, 1811.

To the Baptist Churches on Neal's Creek and on Black Creek, North Carolina.

Writings of Madison, Volume 2: 1794-1815, p.511

I have received, fellow-citizens, your address, approving my objection to the Bill containing a grant of public land to the Baptist Church at Salem Meeting House, Mississippi Territory. Having always regarded the practical distinction between Religion and Civil Government as essential to the purity of both, and as guarantied by the Constitution of the United States, I could not have otherwise discharged my duty on the occasion which presented itself. Among the various religious societies in our Country, none has been more vigilant or constant in maintaining that distinction than the Society of which you make a part, and it is an honorable proof of your sincerity and integrity, that you are as ready to do so in a case favoring the interest of your brethren as in other cases. It is but just, at the same time, to the Baptist Church at Salem Meeting House, to remark that their application to the National Legislature does not appear to have contemplated a grant of the land in question but on terms that might be equitable to the public as well as to themselves.

Writings of Madison, Volume 2: 1794-1815, p.512

Accept my friendly respects.

JUNE 3d, 1811.

To Thomas Jefferson.

WASHINGTON, June 7, 1811.

Writings of Madison, Volume 2: 1794-1815, p.512

DEAR SIR,—I return the letter from you to Duane, on the subject of Mr. Gallatin: he seems to be incorrigible. If I am not misinformed, his eyes are opening to the conduct and character of Mr. Smith, with respect to both of which he has suffered himself to be misled, partly by his own passions, partly by those who took advantage of them. You see the new shapes our foreign relations are taking. The occurrence between Rodgers and the British ship of war, not unlikely to bring on repetitions, will probably end in an open rupture or a better understanding, as the calculations of the British Government may prompt or dissuade from war. Among the items in these will be the temper here, as reported by its partizans. The state of parties in Massachusetts is in this view important, especially as it will attract particular notice by its effect in degrading Pickering, who has made himself so conspicuous in the British service. On the other hand, much impatience is shewing itself in the Eastern States under the non-importation. The little embarrassment which occurs in procuring returns for the articles sent from Connecticut to the W. Indies is generating remonstrances, as in the case of the Embargo. I have been obliged to answer one from New Haven, headed by Hillhouse, which they have not yet published. The protracted delay of the Essex still leaves us a prey to the ignorance and interested falsehoods which fill our newspapers. It would seem that G. Britain is determined against repealing her orders, and that Bonaparte is equally so on the destruction of her commerce, to which he readily sacrifices his own commerce with the United States. As to the blockade of England, (the decree to which alone the act of Congress and the Proclamation have reference,) there is no evidence of its being continued in force. All the official evidence is on the other side. And yet, by a confusion of ideas or artifice of language, the appearance is kept up that the ground of the non-importation has failed, and that it is consequently a wrong to G. Britain. After all, we must remain somewhat in the dark till we hear more on the subject; probably till the return of the vessel that carried to France the act of Congress putting in force the non-importation, for which Bonaparte seems to be waiting.

To Edward Tiffin, Grand Sachem.

WASHINGTON, June 23, 1811.

Writings of Madison, Volume 2: 1794-1815, p.513

SIR,—I have received the letter of the 14th instant, which you have addressed to me, in the name of the Taminy Society of Wigwam No. 1, in the State of Ohio.

Writings of Madison, Volume 2: 1794-1815, p.513

The circumstances in our National situation to which you refer could not but render it peculiarly embarrassing to those entrusted with the National rights and interests. Whilst Justice, however, continues to be the basis of our policy, and the great body of our fellow-citizens remain firm in sentiments and determinations such as are expressed by the society of which you are the organ, our Country will be found adequate to every trial to which it may be exposed. The approbation which the Society bestows on the share I have had in the public transactions, and its confidence in my further efforts for the public good, are entitled to my thankful acknowledgments, to which I add a tender of my respects and friendly wishes.

To Thomas Jefferson.

WASHINGTON, July 8, 1811.

Writings of Madison, Volume 2: 1794-1815, p.513

DEAR SIR,—Your favor of the 3d came duly to hand. You will have noticed in the National Intelligencer that the wicked publication of Mr. Smith is not to escape with impunity. It is impossible, however, that the whole turpitude of his conduct can be understood without disclosures to be made by myself alone, and, of course, as he knows, not to be made at all. Without these his infamy is daily fastening itself upon him; leaving no other consolation than the malignant hope of revenging his own ingratitude and guilt on others. The case of Erving will probably be better explained in the newspaper than I can here do it. The general facts of it, I believe, are, that the three offices at London were centered in him, with one of the salaries only, it being understood at the time that he would be made assessor to the Board under Jay's Treaty, in which case he would be well recompensed. The Board declined to appoint him, giving preference to Cabot. Still, however, a certain portion of business passed through his hands. On this he charged the usual commission of 2 1/2 per cent., accruing from the individuals, and not from a public fund. Having paid over the whole of the money of individuals in his hands to the public, instead of retaining his commission, a resort to Congress became necessary. Whilst the subject was before them, doubts were excited as to the merits of the case, and a call made on Mr. Gallatin for information. His report put an end to the difficulty; the appropriation was immediately made; and, but for the perverted view of the matter now before the public, would never more have been thought of. The Treasury officers, though politically adverse to Mr. Erving, do him much justice on the occasion, declaring that his official transactions throughout, as presented in his accounts, are models of clearness and exactness; that he appears to have saved or gained to the public by his vigilance and assiduity sixty or seventy thousand dollars; that there remains a surplus of unclaimed monies to a considerable amount, the greater part of which will probably never be claimed; and, finally, that the only error committed by Mr. Erving was his not avoiding the necessity of asking Congress to give back the amount of his commission, by deducting it himself from the sums paid into the public coffers.

Writings of Madison, Volume 2: 1794-1815, p.514

It has been thought best, whilst Mr. Monroe is in communication with the British and French Ministers here, to be silent on the subject. As the latest information from Russell is prior to the arrival of the non-importation act, the state of our affairs at Paris may be conjectured. Pinkney brings, of course, nothing, Foster being the channel of English news. I do not know that he has yet opened himself compleatly to Mr. Monroe; but from the conciliatory disposition of the Prince Regent, and the contrary one of his Cabinet, still deriving an ascendency from the convalescence of the King, you will be very able to dive into the character of the mission. You will perceive in the printed paper inclosed a step by the British Minister, which, very unseasonably it would seem, denotes an increasing rigor towards this Country. According to a preceding interposition with the Court of Admiralty, cases under the orders in Council had been suspended.

To Jonathan Russell.

WASHINGTON, July 24, 1811.

Writings of Madison, Volume 2: 1794-1815, p.515

SIR,—I have received your letter of Jany 2d, with the sketch of a convention arranged between you and the Marquis Almanara. The purity of your views is attested by the guarded manner of your proceeding, as well as by the explanations in your letter. But it is proper you should be apprized that such a transaction would be deemed inadmissible on different grounds, were it without the feature given to it by the individual agencies and interests so justly denounced by you.

Writings of Madison, Volume 2: 1794-1815, p.515

For information on other subjects which it may be interesting for you to receive, I refer to the communications of the Secretary of State.

To J. Q. Adams.

WASHINGTON, Novr 15, 1811.

Writings of Madison, Volume 2: 1794-1815, p.515

DEAR SIR,—I have received your several favors of Feby 8th, Apl 19th, June 3d, and Aug. 17th, all of them in triplicates or duplicates.

Writings of Madison, Volume 2: 1794-1815, p.516

I need not say how agreeable it would have been to me, and I am persuaded satisfactory to the public, if your inclination and circumstances had favored the new allotment of your services. Being ignorant of the obstacle arising from the particular state of your family, and inferring, from considerations known to you, that such an exchange might not be unwelcome, I had proceeded so far in anticipating a decision different from that which took place in your mind as to hold out the station at St Petersburg to another. It has happened that no disappointment of any sort ensued to your contemplated successor. But I ought not to omit that I did not so far lose sight of the possibility that you might be induced to decline the new appointment as not to have meditated a provision for that event, which would have probably deprived, it of its embarrassments. In the present state of things, I have only to wish that your diplomatic situation may continue to be less incommodious than it was at first found, and that opportunities of rendering it useful to your Country may equal her confidence in the fidelity and ability which you will apply to them.

Writings of Madison, Volume 2: 1794-1815, p.516

Count Pahlen has just delivered his letter of leave, in pursuance of the order of the Emperor, which translates him to Rio Janeiro. His excellent dispositions and amicable deportment have justly rendered him so highly and universally agreeable here, that we take for granted that no doubt on that point can have been among the reasons of his sovereign for this change of his destination.

Writings of Madison, Volume 2: 1794-1815, p.516

You will receive by this conveyance from the Department of State the late communications to Congress, including the adjustment of the rusty and corrosive affair of the Chesapeake. The pretension of G. Britain, which requires us, as a neutral nation, to assert against one belligerent an obligation to open its markets to the products of the other, shews a predetermination to make her Orders in Council co-durable with the war, if even that will fulfil the condition annexed to their repeal. The question to be decided, therefore, by Congress, according to present appearances, simply is, whether all the trade to which the orders are and shall be applied is to be abandoned, or the hostile operation of them be hostilely resisted. The apparent disposition is certainly not in favor of the first alternative, though it is more than probable that if the second should be adopted, the execution of it will be put off till the close of the session approaches; with the exception, perhaps, of a licence to our Merchantmen to arm in self-defence, which can scarcely fail to bring on war in its full extent, unless such an evidence of the declaration of the United States to prefer war to submission should arrest the cause for it. The reparation made for the attack on the American frigate Chesapeake takes one splinter out of our wounds; but besides the provoking tardiness of the remedy, the moment finally chosen deprives it of much of its effect, by giving it the appearance of a mere anodyne to the excitements in Congress and the Nation produced by the cotemporary disclosures.

Writings of Madison, Volume 2: 1794-1815, p.517

It will afford you pleasure to know that the aggregate of our crops was never greater than for the present year. The grain part of them is particularly abundant.

To Jonathan Russell.

WASHINGTON, Novr 15, 1811.

Writings of Madison, Volume 2: 1794-1815, p.517

DEAR SIR,—Your letter of June 10th was duly delivered. I feel a pleasure in being able to say that the information conveyed to you, with respect to an unfriendly language having been held by Mr. Pinkney against you, is not confirmed by any thing heretofore known to me. He has certainly lodged no complaint with me, nor have I ever heard that he has censured you to others. If the reports to you, therefore, be not destitute of all foundation, I am persuaded they are great exaggerations, if not perversions, of expressions escaping from him, under his anxiety for further information from Paris, and his ignorance of the prudential considerations which governed your correspondence.

Writings of Madison, Volume 2: 1794-1815, p.517

I have been always equally aware of the delicate situation in which you were placed, having in view the importance, on one hand, of obtaining from the French Government confirmations of the repeal of its decrees, and, on the other, that of not weakening the ground on which the British repeal was urged; and this delicacy was increased by the mixed character of the French decrees, some parts of them relating to Great Britain only, others to the United States; and these, again, affecting our neutral character, so as to give G. Britain a plea for interposing; and partly our National rights or interests, with which G. Britain had nothing to do. Under this last head might, in truth, be placed the very case of the N.O. packet, which must have been seized under a part of the Decrees which did not violate our neutral rights. She entered voluntarily into a French port, and violated conditions only which France, as respects G. Britain, had an indisputable right to annex to our trade with herself. The conditions, with respect to us, no otherwise violated our rights than as they were enforced under Circumstances giving them a retrospective effect. With a previous notice, they would only have contravened the dictates of friendship and reciprocity.

Writings of Madison, Volume 2: 1794-1815, p.518

Referring you to communications from the Department of State, I tender you my esteem and friendly respects.

To Joel Barlow.

(Private.)

WASHINGTON, Novr 17, 1811.

Writings of Madison, Volume 2: 1794-1815, p.518-p.519

DEAR SIR,—You will receive by this conveyance the proper communications from the Department of State. You will see in them the ground now avowed for the British orders in Council. It must render them co-durable with the war; for nothing but a termination of it will re-open the continental market to British products. Nor is it probable that peace will do it in its former extent. The pretension which requires the United States, as a neutral power, to assert an obligation on one belligerent to favor, by its internal regulations, the manufactures of another, is a fitter subject for ridicule than refutation. It accordingly has no countenance here, even among the most devoted champions of Great Britain. Whether some of them, by arming themselves with simulated facts and sophistical distinctions, may not be emboldened to turn out in her defence, will soon be seen. Nothing has yet passed in Congress disclosing the sense of that body with respect to the moment and manner of meeting the conduct of Great Britain in its present hostile shape. A disposition appears to enter at once on preparations, which will probably be put in force, or not, as the effect of them on the British Councils shall be ascertained in the course of the session. In the mean time, it is not improbable that the merchant vessels may be permitted to arm for self-defence. This can scarcely fail to bring on maritime reprisals, and to end in the full extent of war, unless a change in the British system should arrest the career of events. All proceedings, however, relating to Great Britain, will be much influenced by the conduct of France, not only as it relates to a violation of our neutral rights, but of our national ones also; and to justice for the past as well as for the future, and that, too, not only in cases strictly French, but in those in Naples and elsewhere indirectly so. Altho', in our discussions with Great Britain, we have been justified in viewing the repeal of the French Decrees as sufficiently substantiated to require a fulfilment of the pledge to repeal the orders in Council; yet the manner in which the French Government has managed the repeal of the decrees, and evaded a correction of other outrages, has mingled with the conciliatory tendency of the repeal as much of irritation and disgust as possible. And these sentiments are not a little strengthened by the sarcastic comments on that management with which we are constantly pelted in our discussions with the British Government, and for which the French Government ought to be ashamed to furnish the occasion. In fact, without a systematic change from an appearance of crafty contrivance and insatiate cupidity, for an open, manly, and upright dealing with a nation whose example demands it, it is impossible that good will can exist; and that the ill-will which her policy aims at directing against her enemy should not, by her folly and iniquity, be drawn off against herself. The late licentiousness of the French privateers in the Baltic, the ruinous transmission of their cases to Paris, and the countenance said to be there given to such abuses, are kindling a fresh flame here; and if a remedy be not applied, and our merchantmen should arm, hostile collisions will as readily take place with one nation as the other. Were it not that our frigates would be in danger of rencounters with British ships of superior force in that quarter, there could be no scruple at sending thither some of them, with orders to suppress by force the French and Danish depredations. I am aware that a pretext for these has been sought in the practice of our vessels in accepting British convoy; but have they not, in many instances, at least, been driven to this irregular step by the greater irregularities practised against them? We await the return of the Constitution, not without a hope of finding the good effect of your remonstrances in a radical change of the French policy towards this Country.

Writings of Madison, Volume 2: 1794-1815, p.520

The reparation for the outrage on the Chesapeake frigate, which you will find in the correspondence between Mr. Foster and Mr. Monroe, tho' in a stile and extent sufficiently admissible under actual circumstances, has been so timed as to lose its conciliatory effect, by wearing the appearance of a diplomatic ruse. Those who value it most do so on the calculation that Mr. Foster is authorized to go forward in the road from which he has removed the stumbling-block. In this they allow their wishes to mislead their judgments.

Writings of Madison, Volume 2: 1794-1815, p.520

From a late communication of Mr. Russell to the Secretary of State, it appears that the French Emperor has very wisely made up his mind for the Independence of Spanish America; and for the possession of East as well as West Florida by the United States. It is to be hoped that no unworthy attempt will be made to extract money from the occasion: 1. Because it is incompatible with the assumed idea that Spanish America must be independent. 2. Because, without our occupancy, that of Great Britain would be interposed. 3. And essentially, because the pecuniary value of the territory is due from Spain to the United States. You ought to know that there is good reason to believe that an agent (Keene) for certain grasping land-jobbers of New Orleans, and possibly elsewhere, has been treating with the Cortes, for the vacant lands in East Florida, and it may be counted on that equal art and avarice will mingle themselves with every opportunity for corrupt speculations.

Writings of Madison, Volume 2: 1794-1815, p.521

Hitherto the Continental Colonies of Spanish America have masked their views of independence under a nominal adherence to Ferdinand, as the head of the whole empire, in contradistinction to the Cortes, governing the European part of it only. Venezuela, however, has thrown off this mask, has communicated to us its declaration of Independence, and solicits our acknowledging it by receiving a public Minister, &c. Mexico, according to our intelligence, which is difficult and obscure, is still in the struggle between the revolutionary and royal parties.

Writings of Madison, Volume 2: 1794-1815, p.521

In what manner Great Britain will proceed in the case of Venezuela, and other districts following its example, does not yet appear. Whilst Ferdinand was acknowledged, it was less difficult to steer between the Cortes and the Colonies. It will require more dexterity to reconcile her political connections with the former, and her commercial views towards the latter. If our information from Cadiz be not very erroneous, she is doing us all the mischief there which her influence can effect. What her conduct may be in the event of our taking possession of East Florida cannot yet be said. The game she will play with Cuba may more readily be conjectured. But, like most of her others, it may in the end be a losing one.

Writings of Madison, Volume 2: 1794-1815, p.521

You will receive from the Department of State a set of Newspapers, and will see the public countenance as reflected in that mirror. I add one or two which happen to be at hand, and to contain some things worth perusal.

Writings of Madison, Volume 2: 1794-1815, p.521

Accept my great esteem and most friendly respects.

Writings of Madison, Volume 2: 1794-1815, p.521

To JOEL BARLOW, &C., &C.

To —————.

WASHINGTON, Decr 10, 1811.

Writings of Madison, Volume 2: 1794-1815, p.522

SIR,—I have received your letter of November 23d, covering an Address from the Legislature of the State of Tennessee.

Writings of Madison, Volume 2: 1794-1815, p.522

The patriotic sentiments which it expresses are an honorable sample of those which animate the great body of our fellow-citizens. The wrongs which have been so long borne by our Country, in the hope that a sense of justice, and the true policy inseparable from it, would have put an end to them, are persisted in, with aggravations which leave to a nation determined not to abandon its rights no appeal but to its own means of vindicating them. The necessity will be deplored by a people who have cherished peace in sincerity, because they are alive to the calamities which begin where peace ends. But they will meet those as not the greatest calamities, when a surrender of their sacred rights and vital interests are the alternative. They will meet them with the intrepid firmness inspired by a consciousness that the issue has been unsought on their part, and, I trust, with the unanimity also which such a cause ought to produce.

Writings of Madison, Volume 2: 1794-1815, p.522

In the measures by which the navigable streams proceeding from the neighborhood of Tennessee were secured to the United States, the Executive paid a just regard to the importance of them, in both a local and national view, without losing sight of the principles of justice and right on one hand, and of those of the Constitution on the other. The sequel rests with the National Councils, on which the Legislature of Tennessee properly rely for all the attention to the particular interests of that State which may be compatible with a comprehensive regard to the whole.

Writings of Madison, Volume 2: 1794-1815, p.522

For the confidence which the Legislature and yourself have been pleased to express in my views and endeavours for the public good I tender my acknowledgments, with assurances of my high respects, and a return of my best wishes.

1812

To Govr Hawkins,

(N. Carolina.)

WASHINGTON, Jany 4, 1812.

Writings of Madison, Volume 2: 1794-1815, p.523

SIR,—I have received your letter of the 26th ult., inclosing the Resolutions of the General Assembly of North Carolina, approving the sentiments contained in the Message to Congress of November 5, and declaring their readiness to co-operate in vindicating the violated rights of their Country.

Writings of Madison, Volume 2: 1794-1815, p.523

Approbation from such a source could not fail, under any circumstances, to strengthen the satisfaction arising from a consciousness of faithful purposes. In the present conjuncture it is the more gratifying, as it is accompanied by a pledge of cooperation in the measures by which such sentiments may be effectuated.

Writings of Madison, Volume 2: 1794-1815, p.523

I heartily join in the hopes you express that the state of our national affairs will have its proper influence in converting party feelings and prejudices into united exertions against the aggressions and insults which the just conduct of our Country has failed to avert, and I tender you assurances of my great respect.

To the House of Representatives of the State of South Carolina.

Jany 8, 1812.

Writings of Madison, Volume 2: 1794-1815, p.523

I have received, fellow-citizens, your address, transmitted on the 22d of December, 1811.

Writings of Madison, Volume 2: 1794-1815, p.523

Under the circumstances which impose on the National Councils the duty of resorting to other means for obtaining respect to the National rights than a continuation of the unavailing appeals to the justice of the aggressors, it is an animating consideration that the great body of the Nation appear to be united in the convictions and feelings which you have expressed.

Writings of Madison, Volume 2: 1794-1815, p.523

Our Country, faithful to the principles which it professed, and studious of the blessings of peace, omitted no pacific effort to engage the belligerents to abandon their anti-neutral systems, persevering in file authorized expectation that if the example should be given by either, it would be followed by the other. When the repeal of the French Edicts, therefore, was officially declared, it was reasonably inferred that the occasion would be seized by G. Britain to demonstrate the sincerity of her professions, and to remove the obstructions to our commercial intercourse with her which had resulted from the obstructions of our commerce with her adversary. Far from making good the pledge to proceed, even step by step with France, in returning to a respect for our neutral rights, her Government contended for formalities in the French proceeding not observed even in her own practice, and disputed an evidence of facts which any other than a reluctant party would have promptly embraced; until, forced into a distrust of these pretexts for adhering to her orders, she has at length made it a condition of their repeal that the markets shut by her enemy shall be opened to her productions and manufactures; a condition which, being equally beyond our right to demand, and our means to effect, involves a continuance of the system levelled against our lawful trade during a war itself of indefinite duration.

Writings of Madison, Volume 2: 1794-1815, p.524

The alternative thus presented to the American Nation is rallying it to a vindication of its violated rights; and it would be injustice to its character to doubt that its energy and perseverance, when rendered necessary, will be proportioned to the justice and moderation by which that necessity ought to have been prevented.

Writings of Madison, Volume 2: 1794-1815, p.524

Acquiescence in the practice and pretensions of the British Government is forbidden by every view that can be taken of the subject. It would be a voluntary surrender of the persons and property of our citizens sailing under the neutral guaranty of an Independent flag. It would recolonize our commerce, by subjecting it to a foreign authority; with the sole difference that the regulations of it formerly were made by acts of Parliament, and now by orders in Council. And whatever benefits might be reaped by particular portions of the community, whose products are favored by contingent demands, but whose patriotism will not the less make a common cause with every other portion, experience warns us of the fatal tendencies of a commerce unrestricted with Great Britain, and restricted by her pleasure and policy elsewhere. Whilst the limited market would continue overcharged with our exports, the disproportionate imports from it would drain from us the precious metals, endanger our monied institutions, arrest our internal improvements, and would strangle in the cradle the manufactures which promise so vigorous a growth. Nor would the evil be confined to our commerce, our agriculture, or our manufactures. The ship owners and ship builders and mariners must be equally sufferers. Should the regulating power submitted to afford no new preferences to British Navigation, those derived from existing laws and orders would exclude American vessels from the carriage of the products of their own country from its own ports. Finally, an acquiescence in the regulation of our Commerce by the belligerent having the command of the sea would be the surest method of perpetuating its destructive edicts. In a state of things so favorable to its interests, and so flattering to its power, the motives to a change would cease, if a change were otherwise likely to take place.

Writings of Madison, Volume 2: 1794-1815, p.525

It is with a just discernment, therefore, that you have regarded a dereliction of our National rights as not less ruinous than dishonorable, and, with an exemplary patriotism, that you have unanimously resolved to co-operate in maintaining them.

To Thomas Jefferson.

WASHINGTON, Feby 7, 1812.

Writings of Madison, Volume 2: 1794-1815, p.525

DEAR SIR,—I have received several letters from you, which, not requiring special answers, I now beg leave to acknowledge in the lump. I have delayed it in the hope that I might add something on our public affairs not uninteresting. If there be any thing at present of this character, it will be found in the inclosed paper from New York. We have no late official information from Europe; but all that we see from Great Britain indicates an adherence to her mad policy towards the United States. The newspapers give you a sufficient insight into the measures of Congress. With a view to enable the Executive to step at once into Canada, they have provided, after two months' delay, for a regular force requiring twelve to raise it, and after three months' for a volunteer force, on terms not likely to raise it at all for that object. The mixture of good and bad, avowed and disguised motives, accounting for these things, is curious enough, but not to be explained in the compass of a letter. Among other jobs on my hands is the case of Wilkinson. His defence fills 6 or 700 pages of the most colossal paper. The minutes of the Court, oral, written, and printed testimony, are all in proportion. A month has not yet carried me through the whole.

Writings of Madison, Volume 2: 1794-1815, p.526

We have had of late a hard winter and much ice, which still lies on the water in view. The reiteration of Earthquakes continues to be reported from various quarters. They have slightly reached the State of New York, and been severely felt West and South Westwardly. There was one here this morning at 5 or 6 minutes after 4 o'clock. It was rather stronger than any preceding one, and lasted several minutes; with sensible though very slight repetitions throughout the succeeding hour.

To Joel Barlow.

WASHINGTON, February 24, 1812.

Writings of Madison, Volume 2: 1794-1815, p.526

DEAR SIR,—Mr. Morris delivered yesterday morning the dispatches committed to him, including your letters to me.

Writings of Madison, Volume 2: 1794-1815, p.526

The reasons for hastening the departure of the vessel now ordered to France will not permit the Secretary of State to do much more than acknowledge the receipt of your communications. The instructions you wish relative to the question of a commercial Treaty with France at this time, as well as the requisite terms, should such an one be admissible, will be subjects of due consideration and early communication.

Writings of Madison, Volume 2: 1794-1815, p.526

I see with pleasure the auspicious attentions which have distinguished your intercourse with the French Government, and the convincing views presented, on your part, of the commercial policy which it ought to adopt towards the United States. From these sources encouragement is drawn. In other respects, the prospect suggests distrust rather than expectation. The delay in answering your note; the vagueness of the answer when given; the refusal to sign the contents of the paper presented by you, even in the ordinary and unexceptionable form proposed; and the substitution of a verbal for a written notification of the orders to the Custom-houses, &c., &c., by which our merchants were to be invited to the French market, are circumstances which necessarily attract serious notice. The reserve manifested on the subject of the paper alluded to is the more remarkable, as a written sanction to it would have so little committed them. Beyond a freedom of the French ports to the products of the United States, under all the existing limitations and in-cumbrances, it pledged nothing more than a melioration of formalities as to ownership and origin; leaving Colonial produce on the old footing of special licences. The liberation of the remaining ships and cargoes could surely have created no difficulty, if any real purpose of friendship or good faith be entertained. It would seem, therefore, that the objection must have lain against the clause forbidding captures and seizures for other cause than forged papers. The recent condemnations in the Baltic cases, and the avowal of the French Consul in Denmark that all vessels, whithersoever bound, with Colonial produce, were taken within the orders to capture, favor this conjecture; and if it be the true one, adjustment is hopeless, and the consequences obvious. I do not forget that your understanding of all these particulars was better than mine can be, and that my constructions may be merely colorable. I wish this may be the case; but we find so little of explicit dealing or substantial redress mingled with the compliments and encouragements, which cost nothing because they may mean nothing, that suspicions are unavoidable; and if they be erroneous, the fault does not lie with those who entertain them.

Writings of Madison, Volume 2: 1794-1815, p.527

From the scanty attention I can now give to the subject of a commercial treaty with France I am at a loss for the necessity of it, or the motives of France to set it on foot, if it be not meant to gain time, and be guided by events. On our side we have nothing to stipulate which is not secured to her, as long as she merits it, by our general system, which leaves our exports and imports free, without any duties on the former, and with moderate ones on the latter. It is on her side that changes and securities are necessary to a friendly reciprocity; and these will for the present be satisfactory to us in the form of stable regulations, fairly executed. Among them, a reduced tariff favoring all our great staples, and a transit thro' French ports to inland markets, are indispensable to a continued admission of French staples. The system of licences must be abolished, if not by France, by us. The neglect of the subject by Congress is remarkable, but the event cannot be doubtful. Such a mode of commerce corrupts one class of citizens and disgusts all the rest; and when the trade licensed is in foreign, not native articles, the evil preponderates still more over the profit. The French Government seems to have taken up a radical error with regard to the commercial interests of the two Countries. It overrates our desire of her commodities. The present footing of the commerce is intolerable to the United States, and it will be prohibited if no essential change takes place. At all times it will be a barter of food and raw materials for superfluities in great part; and altogether so (with the temporary exception of Colonial re-exports) as long as a balance in money is prevented by the existing policy of France, and a return of useful fabrics by the war. Why might not certificates of origin from French Consuls, or, still better, of direct shipments from our ports, take the place of licenses? The advantages of the change are numerous and obvious. Mr. Gallatin promises to say something to Mr. Lee on this head.

Writings of Madison, Volume 2: 1794-1815, p.528

I am concerned that the prospect of indemnity for the Rambouillet and other spoliations is so discouraging as to have led to the idea of seeking it thro' King Joseph. Were there no other objection than the effect on the public mind here, this would be an insuperable one. The gratification of the sufferers by the result would be lost in the general feeling against the measure. But Joseph is not yet settled on the Spanish Throne; when so, de facto, he will be sovereign neither de facto nor de jure of any Spanish part of this Continent; the whole of which, if it had not on other accounts a right to separate from the peninsula, would derive it from the usurpation of Joseph. So evident is it that he can never be King of a Spanish Province, either by conquest or consent, that the independence of all of them is avowedly favored by the policy which rules him. Nor would a purchase under Joseph place us an inch nearer our object. He could give us neither right nor possession; and we should be obliged to acquire the latter by means which a grant from him would be more likely to embarrass than promote. I hope, therefore, that the French Government will be brought to feel the obligation and the necessity of repairing the wrongs, the flagrant wrongs in question, either by payments from the Treasury or negotiable substitutes. Without one or other, or some fair equivalent, there can be neither cordiality nor confidence here; nor any restraint from self-redress in any justifiable mode of effecting it; nor any formal Treaty on any subject. With justice on this subject, formal stipulations on others might be combinable.

Writings of Madison, Volume 2: 1794-1815, p.529

As the Hornet had reached France before the sailing of the Constitution, and the latter had not a very short passage, we shall soon look for further communications from you. I hope they will correspond equally with your patriotic exertions and the public calculations. If they do not exhibit the conduct of the French Government in better colours than it has yet assumed, there will be but one sentiment in this Country, and I need not say what that will be.

Writings of Madison, Volume 2: 1794-1815, p.529

Be assured of my affectionate esteem.

To Thomas Jefferson.

WASHINGTON, March 6, 1812.

Writings of Madison, Volume 2: 1794-1815, p.530

DEAR SIR,—You will see that Congress, or rather the House of Representatives, have got down the dose of taxes. It is the strongest proof they could give that they do not mean to flinch from the contest to which the mad conduct of Great Britain drives them. Her perseverance in this seems to be sufficiently attested by the language of Lord Liverpool and Mr. Perceval in their parliamentary comments on the Regent's Message. The information from France is pretty justly described in the paragraph inserted in the National Intelligencer after the arrival of the Constitution. The prints herewith inclosed are forwarded to you at the request of Thomas Gimbrede, (of N. York,) the author.

To Thomas Jefferson.

March 9, 1812.

Writings of Madison, Volume 2: 1794-1815, p.530

DEAR SIR,—As the Intelligencer will not publish the Message and documents just laid before Congress for the present mail, I send you a copy of the former. It is justified by the Documents, among which are the original credential and instructions from the Governor of Canada, and an original despatch from the Earl of Liverpool to him approving the conduct of the secret agent. This discovery, or rather formal proof, of file co-operation between the Eastern Junto and the British Cabinet, will, it is to be hoped, not only prevent future evils from that source, but extract good out of the past.

To Thomas Jefferson.

WASHINGTON, April 3, 1812.

Writings of Madison, Volume 2: 1794-1815, p.530-p.531

DEAR SIR,—I have received your favor of the 26th, and have made to the members of the Cabinet the communication you suggest with respect to your printed Memoir on the Batture. I learn from the Department of State that some books were received for you, and duly forwarded. What they were was not ascertained or remembered. If they do not, on their arrival, correspond with your expectation, let me know, and further enquiry will be made. Meantime, there is in my possession a very large packet addressed to you, which is probably a continuation of Humboldt's draughts, or other maps. It was accompanied by no letter to me, and, being unfit for the mail, waits for the patronage of some trusty traveller bound in the stage towards Monticello. A late arrival from G. Britain brings dates subsequent to the maturity of the Prince Regent's authority. It appears that Perceval, &c., are to retain their places, and that they prefer war with us to a repeal of their Orders in Council. We have nothing left, therefore, but to make ready for it. As a step to it, an embargo for sixty days was recommended to Congress on Wednesday, and agreed to in the House of Representatives by about 70 to 40. The bill was before the Senate yesterday, who adjourned about 4 or 5 o'clock without a decision. Whether this result was produced by the rule which arms a single member with a veto against a decision in one day on a bill, or foretells a rejection of the Bill, I have not yet heard. The temper of that body is known to be equivocal. Such a measure, even for a limited and short time, is always liable to adverse, as well as favorable considerations; and its operations at this moment will add fuel to party discontent and interested clamor. But it is a rational and provident measure, and will be relished by a greater portion of the Nation than an omission of it. If it could have been taken sooner, and for a period of 3 or 4 months, it might have enlisted [?] an alarm of the British Cabinet for their Peninsular system on the side of concessions to us, and would have shaken their obstinacy, if to be shaken at all; the successes on that theatre being evidently their hold on the Prince Regent, and the hold of both on the vanity and prejudices of the Nation. Whether, if adopted for 60 days, it may beget apprehensions of a protraction, and thence lead to admissible overtures before the sword is stained with blood, cannot be foreknown with certainty. Such an effect is not to be counted upon. You will observe that Liverpool was secretary for the Foreign Department ad interim, and that Castlereagh is the definitive successor of Wellesley. The resignation of this last, who has received no other appointment, is a little mysterious. There is some reason for believing that he is at variance with Perceval, or that he distrusts the stability of the existing Cabinet, and courts an alliance with the Grenville party, as likely to overset it. If none of that party desert their colours, the calculation cannot be a very bad one; especially in case of war with the U. States, in addition to the distress of British trade and manufactures, and the inflammation in Ireland; to say nothing of possible reverses in Spain and Portugal, which alone would cut up the Perceval ascendency by the roots. From France we hear nothing. The delay of the Hornet is inexplicable, but on the reproachful supposition that the French Government is waiting for the final turn of things at London before it takes its course, which justice alone ought to prescribe towards us. If this be found to be its game, it will impair the value of concessions, if made, and give to a refusal of them consequences it may little dream of.

Writings of Madison, Volume 2: 1794-1815, p.532

I understand the Embargo will pass the Senate to-day, and possibly with an extension of the period to 75 or 90 days.

To Thomas Jefferson.

WASHINGTON, April 24, 1812.

Writings of Madison, Volume 2: 1794-1815, p.532

DEAR SIR,—I have just received your favor of the 17th. The same mail brings me the "Proceedings of the Government of the United States relative to the Batture," for which you will accept my thanks.

Writings of Madison, Volume 2: 1794-1815, p.532

I had not supposed that so great a proportion of produce, particularly of wheat and flour, was still in the hands of the farmers. In Pennsylvania, it was known to be the case. In New York, almost the whole of the last crop is in the country, though chiefly in the hands of the Merchants and Millers. The measure of the Embargo was made a difficult one, both as to its duration and its date, by the conflict of opinions here, and of local interests elsewhere; and to these causes are to be added that invariable opposition, open with some and covert with others, which has perplexed and impeded the whole course of our public measures. You will have noticed that the Embargo, as recommended to Congress, was limited to 60 days. Its extension to 90 proceeded from the united votes of those who wished to make it a negotiating instead of a war measure; of those who wished to put off the day of war as long as possible, if ultimately to be met; and of those whose mercantile constituents had ships abroad, which would be favored in their chance of getting safely home. Some, also, who wished and hoped to anticipate the expiration of the terms, calculated on the ostensible postponement of the war question as a ruse against the Enemy. At present, great differences of opinion exist as to the time and form of entering into hostilities; whether at a very early or later day, or not before the end of the 90 days, and whether by a general declaration, or by a commencement with letters of Marque and Reprisal. The question is also to be brought forward for an adjournment for 15 or 18 days. Whatever may be the decision on all these points, it can scarcely be doubted that patience in the holders of wheat and flour at least will secure them good prices, such is the scarcity all over Europe, and the dependence of the W. Indies on our supplies. Mr. Maury writes me, on the 21st of March, that flour had suddenly risen to 16 1/2 dollars, and a further rise looked for. And it is foreseen that, in a state of war, the Spanish and Portuguese flags and papers, real or counterfeit, will afford a neutral cover to our produce, as far as wanted, in ports in the favour of G. Britain. Licences, therefore, on our part, will not be necessary; which, though in some respects mitigating the evils of war, are so pregnant with abuses of the worst sort as to be liable, in others, to strong objections. As managed by the belligerents of Europe, they are sources of the most iniquitous and detestable practices.

Writings of Madison, Volume 2: 1794-1815, p.533

The Hornet still loiters. A letter from Barlow to Granger fills us with serious apprehensions that he is burning his fingers with matters which will work great embarrassment and mischief here, and which his instructions could not have suggested. In East Florida, Mathews has been playing a strange comedy, in the face of common sense, as well as of his instructions. His extravagances place us in the most distressing dilemma.

To the Inhabitants of the

Town of Milton, in Massachusetts.

Writings of Madison, Volume 2: 1794-1815, p.534

I have received the memorial of the Inhabitants of the Town of Milton on the subject of vaccination, and the interesting papers sent with it. These have been distributed as desired, and I return my thanks for the setts allotted to myself.

Writings of Madison, Volume 2: 1794-1815, p.534

In acknowledging the communication, I cannot withhold the tribute due to the exertions made by the Town; of Milton for verifying and diffusing that propitious antidote to one of the severest scourges to the health and the lives of their fellow-men. I wish them all the success to which their benevolence is entitled; and have the satisfaction to inform them, that the precaution which occurred to them, in behalf of such of their fellow-citizens as may be more particularly exposed in the public service to the infectious malady against which vaccination protects them, has been already attended to.

Writings of Madison, Volume 2: 1794-1815, p.534

The sympathy of the Inhabitants of Milton with the cause of their injured Country, as well as with that of individual humanity, is a proof that they add the merit of good citizens to that of good men. The patriotic sentiments which they express will, I trust, be found, on trial, to pervade the great body of the Nation; and I join fervently in their prayer, that our public Councils may in every vicissitude be under the direction of that Almighty Being who alone can ensure a happy success to them.

MAY 18, 1812.

To Thomas Jefferson.

WASHINGTON, May 25, 1812.

Writings of Madison, Volume 2: 1794-1815, p.535

DEAR SIR,—The inclosed letters came under cover to me by the Hornet. France has done nothing towards adjusting our differences with her. It is understood that the Berlin and Milan Decrees are not in force against the United States, and no contravention of them can be established against her. On the contrary, positive cases rebut the allegation. Still, the manner of the French Government betrays the design of leaving G. Britain a pretext for enforcing her Orders in Council. And in all other respects, the grounds of our complaints remain the same. The utmost address has been played off on Mr. Barlow's wishes and hopes; in so much that at the departure of the Hornet, which had been so long detained for a final answer without its being obtained, he looked to the return of the Wasp, which had just arrived, without despair of making her the bearer of some satisfactory arrangement. Our calculations differ widely. In the mean time, the business is become more than ever puzzling. To go to war with England and not with France arms the Federalists with new matter, and divides the Republicans, some of whom, with the Quids, make a display of impartiality. To go to war against both presents a thousand difficulties; above all, that of shutting all the ports of the Continent of Europe against our Cruisers, who can do little without the use of them. It is pretty certain, also, that it would not gain over the Federalists, who would turn all those difficulties against the administration. The only consideration of weight in favor of this triangular war, as it is called, is, that it might hasten through a peace with G. Britain or France; a termination for a while, at least, of the obstinate questions now depending with both.

Writings of Madison, Volume 2: 1794-1815, p.535

But even this advantage is not certain. For a prolongation of such a war might be viewed by both belligerents as desirable, with as little reason for the opinion as has prevailed in the past conduct of both.

To Thomas Jefferson.

June 22, 1812.

Writings of Madison, Volume 2: 1794-1815, p.536

DEAR SIR,—The inclosed letter was sent to me, with a request that I would forward it. The reason assigned was, that the one of which it is a duplicate was presumed to have miscarried, no answer to it having been received. An answer will, of course, be expected.

Writings of Madison, Volume 2: 1794-1815, p.536

I inclose a paper containing the Declaration of war, &c., merely to supply a possible miscarriage of others usually received by you. It is understood that the Federalists in Congress are to put all the strength of their talents into a protest against the war, and that the party at large are to be brought out in all their force.

Writings of Madison, Volume 2: 1794-1815, p.536

It is impossible to say what effect will follow the assassination of Perceval. In England, it is doubted whether there will be a successor of the same kidney; whether Wellesley will be the man, with some modifications not affecting the character of the Cabinet; or whether he will be allowed to make one for himself, in which case it is supposed he will bring in the Tax party. All this will depend on the Prince, who, it seems, is ruled at present by Lady Holbert, [Hertford ?] who, at the age of 60 years, has some secret fascination for his vitiated caprice.

To ————.

WASHINGTON, July 25, 1812.

Writings of Madison, Volume 2: 1794-1815, p.536

SIR,—I have received the address from "The Convention of Republican Delegates from the several Counties of the State of New Jersey," explaining the sentiments entertained, at this crisis, by that portion of my Constituents. The sentiments are worthy the character of Citizens who know the value of the National rights at stake in the present contest, and who are willing to do justice to the sincere and persevering efforts which have been employed to obtain respect to them without a resort to arms.

Writings of Madison, Volume 2: 1794-1815, p.537

The conduct of the nation against whom this resort has been proclaimed left no choice but between that and the greater evil of a surrender. of our Sovereignty on the Element on which all nations have equal rights, and in the free use of which the United States, as a nation whose agriculture and commerce are so closely allied, have an essential interest.

Writings of Madison, Volume 2: 1794-1815, p.537

The appeal to force in opposition to the force so long continued against us had become the more urgent, as every endeavor short of it had not only been fruitless, but had been followed by fresh usurpations and oppressions. The intolerable outrages committed against the crews of our vessels, which, at one time, were the result of alleged searches for deserters from British ships of war, had grown into a like pretension, first, as to all British seamen, and next, as to all British subjects; with the invariable practice of seizing on all neutral seamen of every Nation, and on all such of our own seamen as British officers interested in the abuse might please to demand.

Writings of Madison, Volume 2: 1794-1815, p.537

The Blockading orders in Council, commencing on the plea of retaliating injuries indirectly done to G. Britain, through the direct operation of French Decrees against the trade of the United States with her, and on a professed disposition to proceed step by step with France in revoking them, have been since bottomed on pretensions more and more extended and arbitrary, till at length it is openly avowed as indispensable to a repeal of the Orders as they affect the U. States, that the French Decrees be repealed as they affect G. Britain directly, and all other neutrals, as well as the United States. To this extraordinary avowal is superadded abundant evidence that the real object of the Orders is, not to restore freedom to the American Commerce with G. Britain, which could, indeed, be little interrupted by the Decrees of France, but to destroy our lawful commerce, as interfering with her own unlawful commerce with her enemies. The only foundation of this attempt to banish the American flag from the highway of Nations, or to render it wholly subservient to the commercial views of the British Government, is the absurd and exploded doctrine that the ocean, not less than the land, is susceptible of occupancy and dominion; that this dominion is in the hands of G. Britain; and that her laws, not the law of Nations, which is ours as well as hers, are to regulate our maritime intercourse with the rest of the world.

Writings of Madison, Volume 2: 1794-1815, p.538

When the United States assumed and established their rank among the nations of the Earth, they assumed and established a common Sovereignty on the high seas, as well as an exclusive sovereignty within their territorial limits. The one is as essential as the other to their character as an Independent Nation. However conceding they may have been on controvertible points, or forbearing under casual and limited injuries, they can never submit to wrongs irreparable in their kind, enormous in their amount, and indefinite in their duration; and which are avowed and justified on principles degrading the United States from the rank of a sovereign and independent power. In attaining this high rank, and the inestimable blessings attached to it, no part of the American people had a more meritorious share than the people of New Jersey. From none, therefore, may more reasonably be expected a patriotic zeal in maintaining by the sword the unquestionable and unailenable rights acquired by it, and which it is found can no otherwise be maintained.

To General Dearborn

WASHINGTON, August 9, 1812.

Writings of Madison, Volume 2: 1794-1815, p.538

DEAR SIR,—The last of your favors which I have to acknowledge is that of the 3d ultimo, from Boston. I am glad to find that you are again at Albany, where your presence will aid much in doing all that can be done for the reputation of the campaign. The lapse of time, and the unproductiveness of the laws contemplating a regular force, and volunteers for an entire year, and under Federal commissions, compel us to moderate some of our expectations. It was much to have been desired that simultaneous invasions of Canada, at several points, particularly in relation to Malden and Montreal, might have secured the great object of bringing all Upper Canada, and the channels communicating with the Indians, under our command; with ulterior prospects towards Quebec flattering to our arms. This systematic operation having been frustrated, it only remains to pursue the course that will diminish the disappointment as much as possible. Hull, as you will have learnt, is preparing a force for the attack of Malden; and that he may descend towards Niagara with greater effect and be the more secure against Indian dangers, a reinforcement of 1,500 men is ordered, which will be promptly supplied by the overflowing zeal of the detached militia of Ohio and Kentucky. We hope that your arrangements with Governor Tompkins will have provided an effective co-operation for subduing the hostile force opposite ours at Niagara, and preparing the way for taking possession of the country at the other extremity of Lake Ontario. In these events, we shall have in our hands not only all the most valuable parts of the Upper province, but the important command of the Lakes. It appears that Hull was making an effort to overpower the British force on Lake Erie, his success in which will be critically useful in several respects.

Writings of Madison, Volume 2: 1794-1815, p.539

In addition to these measures, it is essential, notwithstanding the advance of the season, and the difficulties thrown in our way, that the expedition against Montreal should be forwarded by all the means in your power. The number of regulars that can be procured for it cannot even yet be ascertained; but it is sufficiently ascertained that an extensive auxiliary force will be wanted; and it is nearly as certain that this will not be furnished by the Volunteer Act of February, unless a sudden ardor overcoming the objections to it should be inspired by the vicinity of the object and the previous conquests. The last resource, therefore, on which we are to depend, is that portion of the detached and other militia which may be within reach, will comply with the call, and voluntarily unite with their officers in rejecting geographical limits to their patriotism. To this resource I hope you will turn your full attention, with a view to the immediate steps proper to be taken to enable it to supply the deficit of regulars and volunteers; with respect to the latter of which, as far as they are within a practicable distance, the number known here to be in readiness is very inconsiderable. From the Vermont and New Hampshire militia favorable expectations are indulged, the State authorities being well disposed to promote the service. As to Massachusetts and Connecticut, even, notwithstanding the obstructions created by the Governors, it is not yet decided that the spirit of some of the detached and other corps may not give effect to your requisitions. Should an adequate force be attainable from the whole or part of the sources referred to, you will be the best judge how far a demonstration towards Quebec will be proper in aid of the measures against Montreal; which, if we can take by any means of any sort, we shall find the means of holding. Should it be found impracticable to take it this campaign, will it be possible to occupy any other post that will cut off the intercourse with the Indians thro' the Ottowas river?

Writings of Madison, Volume 2: 1794-1815, p.540

You will have noticed the arrival of a dispatch vessel from the British Government. Nothing is disclosed from that quarter that ought in the slightest degree to slacken our military exertions.

Writings of Madison, Volume 2: 1794-1815, p.540

The Secretary of State is on a visit to his farm, where he will leave his family. On his return, which will take place in a few days, I propose a like respite. I find myself much worn down, and in need of an antidote to the accumulating bile, of which I am sensible, and which I have never escaped in August on tidewater.

To Joel Barlow.

WASHINGTON, August 11, 1812.

Writings of Madison, Volume 2: 1794-1815, p.540

DEAR SIR,—As I write on short notice and in cypher, I must be very brief.

Writings of Madison, Volume 2: 1794-1815, p.540

The conduct of the French Government, explained in yours of the ——, on the subject of the decree of April, 1811, will be an everlasting reproach to it. It is the more shameful as, departing from the declaration to General Armstrong, of which the enforcement of the non-importation was the effect, the revoking decree assumes this as the cause, and itself as the effect; and thus transfers to this Government the inconsistency of its author.

Writings of Madison, Volume 2: 1794-1815, p.541

The decree of April may, nevertheless, be used by Great Britain as a pretext for revoking her orders, notwithstanding the contrary language of Lord Castlereagh in Parliament. An authentic, tho' informal, communication has just arrived in a despatch vessel from Great Britain importing that the orders were to be revoked on the 1st of August, subject to renewal if required by the conduct of France and the United States, particularly if the non-importation act should not be forthwith rescinded on the arrival of the act of revocation. As this pledge was given before the declaration of war was known, it may not be adhered to. It is not improbable, however, that it was hurried off, as a chance for preventing an apprehended war; and the same dislike to the war muff possibly produce advances for terminating it, which, if the terms be admissible, will be readily embraced.

Writings of Madison, Volume 2: 1794-1815, p.541

In the event of a pacification with Great Britain, the full tide of indignation with which the public mind here is boiling will be directed against France, if not obviated by a due reparation of her wrongs. War will be called For by the nation almost una voce. Even without a peace with England, the further refusal or prevarications of France on the subject of redress may be expected to produce measures of hostility against her at the ensuing session of Congress. This result is the more probable, as the general exasperation will coincide with the calculations of not a few, that a double war is the shortest road to peace.

Writings of Madison, Volume 2: 1794-1815, p.541

I have been the more disposed to furnish you with these prospects that you may turn them to account, if possible, in prosecuting your discussions with the French Government, and be not unprepared to retire from them altogether on a sudden notice so to do. Your return home may possibly be directed even before the meeting of Congress, if the intermediate information should continue to present the French conduct in the provoking light in which it has hitherto appeared.

Writings of Madison, Volume 2: 1794-1815, p.541

The Secretary of State is absent. But you will receive from Mr. Graham the usual supply of current intelligence, to which I refer you. I have not time to write to General La Fayette. With my best regards to him, tell him that Congress rose without deciding as to the validity of the remaining locations near Point Coupee.

Writings of Madison, Volume 2: 1794-1815, p.542

Affectionate respects.

To Thomas Jefferson.

WASHINGTON, August 17, 1812.

Writings of Madison, Volume 2: 1794-1815, p.542

DEAR SIR,—I have received yours of the 10th, and return, as you request, the letter of Mr. Higginbotham. He will probably have understood from Col. Monroe that the Consulate of Lisbon is the object of numerous and respectable candidates.

Writings of Madison, Volume 2: 1794-1815, p.542

The seditious opposition in Massachusetts and Connecticut, with the intrigues elsewhere insidiously co-operating with it, have so clogged the wheels of the war that I fear the campaign will not accomplish the object of it. With the most united efforts in stimulating volunteers, they would have probably fallen much short of the number required by the deficiency of regular enlistments. But under the discouragements substituted, and the little attraction contained in the volunteer act, the two classes together leave us dependent for every primary operation on militia, either as volunteers or draughts for six months. We are, nevertheless, doing as well as we can in securing the maritime frontier, and in providing for an effective penetration into Upper Canada. It would probably have been best, if it had been practicable in time, to have concentrated a force which could have seized on Montreal, and thus, at one stroke, have secured the upper Province, and cut off the sap that nourished Indian hostilities. But this could not be attempted without sacrificing the Western and North Western Frontier, threatened with an inundation of savages, under the influence of the British establishment near Detroit. Another reason for the expedition of Hull was, that the unanimity and ardor of Kentucky and Ohio promised the requisite force at once for that service, whilst it was too distant from the other points to be assailed. We just learn, but from what cause remains to be known, that the important post of Michilimackinac has fallen into the hands of the enemy. If the reinforcement, of about 2,000, ordered from the Ohio, and on the way to Hull, should not enable him to take Malden and awe the savages, emboldened by the British success, his situation will be very ineligible. It is hoped that he will either be strong enough, as he has cannon and mortars, to reduce that Fort, or to leave a force that will justify him in passing on towards the other end of Lake Erie, and place the British troops there between him and those embodied, under arrangements of Dearborn and Tompkins, at Niagara, for the purpose of occupying the central part of Upper Canada. In the mean time, the preparations against Montreal are going on, and perhaps may furnish a feint towards it that may conspire with the other plan. I find that Kingston, at the East end of Lake Ontario, is an object with Genl Dearborn. The multiplication of these offensive measures has grown out of the defensive precautions for the Frontiers of New York.

Writings of Madison, Volume 2: 1794-1815, p.543

We have no information from England since the war was known there, or even seriously suspected, by the public. I think it not improbable that the sudden change in relation to the Orders in Council, first in yielding to a qualified suspension, and then a repeal, was the effect of apprehensions in the Cabinet that the deliberations of Congress would have that issue; and that the Ministry could not stand against the popular torrent against the Orders in Council, swelled, as it would be, by the addition of a war with the United States to the pressure of the non-importation act. What course will be taken when the declaration here shall be known is uncertain, both in reference to the American shipments instituted under the repeal of the Orders, and to the question between vindictive efforts for push. ing the war against us, and early advances for terminating it. A very informal and, as it has turned out, erroneous communication of the intended change in the Orders was hurried over, evidently with a view to prevent a declaration of war, if it should arrive in time. And the communication was accompanied by a proposal from the local authorities at Halifax, sanctioned by Foster, to suspend hostilities, both at sea and on land. The late message of Prevost to Dearborn, noticed in the newspapers, has this for its object. The insuperable objections to a concurrence of the Executive in the project are obvious. Without alluding to others, drawn from a limited authority, and from the effect of patriotic ardor, the advantage over us in captures would be past before it could take effect. As we do not apprehend invasion by land, and preparations on each side were to be unrestrained, nothing could be gained by us, whilst arrangements and reinforcements adverse to Hull might be decisive; and on every supposition the Indians would continue to be active against our frontiers, the more so in consequence of the fall of Michilimackinac. Nothing but triumphant operations on the theatre which forms their connection with the enemy will controul their bloody inroads.

Writings of Madison, Volume 2: 1794-1815, p.544

I have been indulging my hopes of getting away from this place in the course of the present week. It is quite possible, however, that my stay here may be indispensable. As yet, I have less of bilious sensations than I could have expected.

To Revd S. Spring.

MONTPELIER, Septr 6, 1812.

Writings of Madison, Volume 2: 1794-1815, p.544

REVD SIR,—I have received your favor of August 26. I recollect our collegiate friendship with the same impressions which it gives me pleasure to find you still retain. Nor have I forgotten the pleasant hours that passed between us, at a much later day, under my own roof.

Writings of Madison, Volume 2: 1794-1815, p.544

We all feel the weight of the times, and it is to be regretted that all cannot unite in the measures opposed [?] to them. If it were proper for me, it might not be agreeable to you, to discuss the subject; but I will not conceal the surprize and the pain I feel at declarations from any portion of the American people that measures resulting from the national will, constitutionally pronounced, and carrying with them the most solemn sanctions, are not to be pursued into effect without the hazard of civil war. This is surely not the legitimate course. Neither is it the language on other occasions heard from the same quarter, nor a course consistent with the duration or efficacy of any Government.

Writings of Madison, Volume 2: 1794-1815, p.545

Permit me to express equal surprise that this extraordinary opposition to the war declared against Great Britain is most emphatically rested on an alliance or a connection with France, presumed to exist, or be intended, in the face of demonstrations to the contrary with which the slightest degree of candor ought to be satisfied.

Writings of Madison, Volume 2: 1794-1815, p.545

Without entering into comparisons between different districts of the Union with respect to the suffering which led to the war, or the objects at stake in it, it is clear that every district felt more or less the evils which produced it, and is more or less deeply interested in the success of it. It is equally certain that the way to make it both short and successful, would be to convince the enemy that he has to contend with the whole, and not a part of the Nation. Can it be doubted that if, under the pressure added by the war to that previously felt by G. Britain, her Government declines an accommodation on terms dictated by justice, and compatible with, or rather conducive to, her interest, it will be owing to calculations drawn from our internal divisions? If she be disposed to such an accommodation, it will be evinced in due time, to the most prejudiced and misinformed, that the earliest and fairest opportunities are not withheld.

Writings of Madison, Volume 2: 1794-1815, p.545

I need scarcely remark that this is a letter altogether private, and written in confidence that it will be so received.

To Majr Genl Dearborn.

WASHINGTON, October 7, 1812.

Writings of Madison, Volume 2: 1794-1815, p.545-p.546

DEAR SIR,—I have received your favor of Sepr 30. I am glad to find that you have succeeded in producing such apprehensions at Montreal as to prevent reinforcements from that quarter to the posts above. It would have been fortunate if you could have derived such Militia and Volunteer aids from Vermont and Eastward of it as might have substantially a like controul on Prevost, and thereby have augmented the regular force ordered to Niagara. Appearances denote a better spirit, or rather, perhaps, a better use of it, in the Eastern quarter; but it may be too late and too distant to answer immediate purposes; unless, indeed, the Volunteers of Maine, and the Militia or Volunteers of New Hampshire, should be in sufficient numbers and forwardness to prevent descents on our maritime frontier by a show towards Nova Scotia, which would excite defensive attention at Halifax. The advance of the season would, I presume, render a measure of that sort unavailing at Quebec. Yet there is undubitably the sensorium to which projects of alarm may be most successfully addressed, when not too palpably chimerical. You will receive from the War Office the last information from Genl Harrison. He has a prospect of doing something towards retrieving the campaign. The promptitude and numbers of the force under his command will at least save the Military character of that part of the nation, will satisfy G. Britain that the tendency of defeat is to rouse, not depress, the American spirit, and will stamp deep on the Indian mind the little security they have in British protection. As Harrison seems to be making sure of food for his army, and the measures taken promise seasonable supplies of other necessaries, I see nothing to prevent his reaching Detroit early in this month. And if the great exertions on feet to give him cannon should not fail, it may be hoped he will not only be in possession of that place, but of Malden also, and proceed towards a still more effectual co-operation with the forces at Niagara. Nor do we despair of his success should the cannon not reach him in time, if the British garrisons be such as are represented, and he can carry with him the force he has in view; since he will be able to proceed with a very impressive portion, and leave sufficient investments and precautions behind. The artillery sent from this place had travelled nearly to Pittsburg, at a rate which promised a good chance for its reaching Detroit before November, if not by the 20th of this month. As Hull's army was lost, it is to be regretted that the misfortune did not take place a little earlier, and allow more time, of course, for repairing it within the present season. This regret is particularly applicable to the Great Lakes. What is now doing for the command of them proves what may be done. And the same means would have been used in the first instance, if the easy conquest of them by land held out to us had not misled our calculation. The command of the Lakes by a superior force on the water ought to have been a fundamental point in the national policy from the moment the peace took place. Whatever may be the future situation of Canada, it ought to be maintained, without regard to expense. We have more means for the purpose, and can better afford the expense than G. Britain. Without the ascendency over those waters we can never have it over the savages, nor be able to secure such posts [as] Makinaw. With this ascendency we command the Indians, can controul the companies trading with them, and hold Canada, whilst in foreign hands, as a hostage for peace and justice.

Writings of Madison, Volume 2: 1794-1815, p.547

I do not wonder you are oppressed with labour, as well from the extent of your command, rendered necessary by the mutual relations between its objects, as from the deficiency of General Officers, and particularly the difficulty and delay in bringing the staff department even into its present state. The effect of these circumstances in burdening you with details has been severely felt here, in throwing them where they as little belonged. To carry on the war with due advantage, more effectual inducements, at least, must be put into the hands of recruiting officers. The volunteer system must be essentially improved, the use of the militia seemed to the constitutional authority, and an addition made to the General Officers, both of Divisions and Brigades. It will be equally essential to discriminate better the functions of the several staff Departments, and to have heads of them in immediate contact with the War Department. Experience enforces these truths; and nothing but that will ever sufficiently inculcate them. We have nothing important from abroad but what is in the Newspapers.

To the Senate and House of Representatives of the State of South Carolina.

October 10th, 1812.

Writings of Madison, Volume 2: 1794-1815, p.548

I have received, fellow-citizens, your joint address, transmitted by the President and Speaker.

Writings of Madison, Volume 2: 1794-1815, p.548

In the unanimous determination to support the war in which our country is engaged, you have given a conspicuous proof of your fidelity to the National rights and sensibility to the National character. It is a war worthy of such a determination; having its origin neither in ambition nor in vain-glory; and for its object, neither an interest of the Government distinct from that of the people, nor the interest of a part of the people in opposition to the welfare of the whole. It is a war which was forced by persevering injustice on exhausted forbearance. And having been called for by the public voice, every motive ought to be felt to bear its necessary pressure with cheerfulness, and to prosecute it with zeal to a successful issue.

Writings of Madison, Volume 2: 1794-1815, p.548

The approbation you have been pleased to express of the agency which fell to my lot in resorting to the only mode left of maintaining for our Country the rights and the rank of an independent Nation, claims my acknowledgments. I tender them, with my fervent wishes that a general emulation and exertion of the patriotism exhibited by the Legislature of South Carolina may speedily secure to the United States the blessings of a just and honorable peace.

To Thomas Jefferson.

WASHINGTON, October 14, 1812.

Writings of Madison, Volume 2: 1794-1815, p.548

DEAR SIR,—I received your favor of the 2d, inclosing the letter from Mr. Meigs. The place he wishes has been long allotted to Mr. Mansfield, who preferred it to that of the surveyorship held by him, and who has just obtained the exchange; and a commission for the place vacated has just been sent to Mr. Meigs, who was long ago recommended for it, and who, it was understood, wished it. It is the more probable that it will be acceptable to him as he has connections in the Western Country, particularly the Governor of Ohio.

Writings of Madison, Volume 2: 1794-1815, p.549

I see so little chance of being able to peruse the lucubrations of Faronde you were so good as to send me, that I replace them, for the present at least, in your hands.

Writings of Madison, Volume 2: 1794-1815, p.549

The last intelligence from the Westward left a military crisis near Fort Defiance. Winchester, with about half the army, was encamped within 3 miles of the encampment of about 300 British troops, with some field pieces, and a body of Indians, stated at 2,000 or 2,500. It is probable they were destined against Fort Wayne, with the general view of finding employment for our forces on their way to Detroit, until the season should be spent, or Brock could send troops from below. Of our affairs at Niagara and the neighbourhood of Montreal it is difficult [to] judge, the force of the enemy being imperfectly known, and that under General Dearborn depending so much on circumstances. Our best hopes for the campaign rest on Harrison; and if no disaster, always to be feared from Indian combats, befall him, there is a probability that he will regain Detroit, and perhaps do more. He has a force of 8 or 10,000 men at least, enthusiastically confiding in him, and a prospect of adequate supplies of every sort, unless it be cannon, which, though on the way, may possibly encounter fatal delays. This article, however, he appears not to make a sine qua non; nor will it be wanted for Detroit, if it be true, as is reported, that every piece has been withdrawn by the British.

Writings of Madison, Volume 2: 1794-1815, p.549

The latest accounts from Europe are in the newspapers. The ideas of which Foster and Russell are put in possession will soon draw from the British Government some evidence of their views as to peace. From France we hear nothing, and shall probably meet Congress under the perplexity of that situation.

Writings of Madison, Volume 2: 1794-1815, p.549

The current elections bring the popularity of the war, or of the Administration, or both, to the Experimentum crucis. In this State the issue is not favorable, though less otherwise than would appear. In the Congressional Districts the Republicans, I believe, have not lost ground at all, notwithstanding the auxiliaries to Federalism. In the State Legislature they will be in a minority on a joint vote. Pennsylvania, although admitted to be shaken, is represented to be safe. New Jersey is doubtful, at least. The same is the case with New Hampshire. North Carolina, also, is reported to be in considerable vibration. The other States remain pretty decided on one hand or on the other.

To Governor Galusha.

WASHINGTON, November 30, 1812.

Writings of Madison, Volume 2: 1794-1815, p.550

SIR,—I have received your letter of the 7th instant, communicating a Resolution of the General Assembly of Vermont, pledging their co-operation with the General Government and with the nation in the present contest with a Foreign power. Had this contest originated in causes appealing with a less indiscriminate force to the common interests and honorable feelings of every portion of our fellow-citizens, that respect for the will of the majority regularly proclaimed, which is the vital principle of our free Constitution, would have imposed on all the sacred duty which is thus laudably recognised by the State of Vermont; and the discharge of which is enforced by the powerful consideration, that nothing can more contribute to prolong the contest and embarrass the attainment of its just objects, than the encouragement afforded to the hopes of the enemy by appearances of discord and discontent among ourselves.

Writings of Madison, Volume 2: 1794-1815, p.550

In doing justice to the patriotism which dictated the Resolution transmitted, I take a pleasure in remarking that it is heightened by the particular exposure of Vermont to the pressure which the war necessarily brings with it, and in assuring myself that proportionate exertions of her citizens will add new lustre to their character. In the war which made us an Independent nation their valor had a conspicuous share. In a war which maintains the rights and attributes of Independence on the Ocean, where they are not less the gift of nature and of nature's God than on the land, the same zeal and perseverance may be confidently expected from the same pride of liberty and love of Country.

Writings of Madison, Volume 2: 1794-1815, p.551

Accept the assurances of my high respect and best wishes.

To William Eustis Secretary of War.

WASHINGTON, December 4, 1812.

Writings of Madison, Volume 2: 1794-1815, p.551

DEAR SIR,—I have received your letter of yesterday, with the impressions which could not but result from your purpose of retiring from an office so nearly related to that which has been entrusted to me, in which your services have been coeval with mine, and in which I have witnessed the zeal and constancy of your exertions for the public good under difficulties peculiarly arduous and trying. In bearing this testimony, I indulge my own feelings as well as pay a tribute which is so justly due.

Writings of Madison, Volume 2: 1794-1815, p.551

I take the liberty of adding a hope that it will not be inconsistent with your arrangements to continue your official attentions until they can be replaced by a successor.

Writings of Madison, Volume 2: 1794-1815, p.551

I thank you for the kind wishes you have expressed, and I offer you the best of mine for your welfare and happiness.

To Paul Hamilton.

December 31, 1812.

Writings of Madison, Volume 2: 1794-1815, p.551

DEAR SIR,—I have received your letter of yesterday, signifying your purpose to retire from the Department which has been under your care.

Writings of Madison, Volume 2: 1794-1815, p.551

On an occasion which is to terminate the relation in which it placed us, I cannot satisfy my own feelings, or the tribute due to your patriotic merits and private virtues, without bearing testimony to the faithful zeal, the uniform exertions, and unimpeachable integrity, with which you have discharged that important trust; and without expressing the value I have always placed on that personal intercourse, the pleasure of which I am now to lose.

Writings of Madison, Volume 2: 1794-1815, p.552

With these recollections and impressions, I tender you assurances of my affectionate esteem, and of my sincerest wishes for your welfare and happiness.

Talk of the President to the

Deputies from Several Tribes,

Washington, 1812.

LETTERS.

Talk of the President to the

Deputies from Several Tribes,

Washington, 1812.

Writings of Madison, Volume 2: 1794-1815, p.553

MY RED CHILDREN,—You have come through a long path to see your father, but it is a straight and a clean path, kept open for my red children who hate crooked walks. I thank the Great Spirit that he has brought you in health through the long journey, and that he gives us a clear sky and a bright sun for our meeting. I had heard from General Clarke of the good dispositions of several of the Nations on and West of the Mississippi, and that they shut their ears to the bad birds hovering about them for some time past. This made me wish to see the principal chiefs of those bands. I love to shake hands with hearts in them.

Writings of Madison, Volume 2: 1794-1815, p.553

The red people who live on this same great Island with the White people of the 18 fires are made by the Great Spirit out of the same earth, from parts of it differing in colour only. My regard for all my red children has made me desirous that the bloody tomahawk should be buried between the Osages, the Cherokees, and the Choctaws. I wished, also, that the hands of the Shawenoe and the Osage should be joined in my presence, as a pledge to cherish and observe the peace made at St Louis. This was a good peace for both. It is a chain that ought to hold them fast in friendship. Neither blood nor rust should ever be upon it.

Writings of Madison, Volume 2: 1794-1815, p.553

I am concerned at the war which has long been kept up by the Sacs and Foxes against the Osages, and that latterly a bloody war is carried on between the Osages and Ioways. I now tell my red children now present that this is bad for both parties. They must put under my feet their evil intentions against one another, and henceforward live in peace and good will, each hunting on their own lands, and working their own soils.

Writings of Madison, Volume 2: 1794-1815, p.554

Your father loves justice. He extends it to all the red tribes. When they keep the chain of friendship with the 18 fires bright, he will protect them and do them good. If any make the chain bloody, it must be broken on their heads. The Winebagoes, and some other tribes between the Mississippi and Lake Michigan and the Wabash, have shut their ears to my Councils. They have killed men, women, and children, and have plundered the white people. They refuse to give up the murderers, and to return the stolen property. Time enough has been allowed them. When they feel the punishment, they must blame their own folly and the bad counsels to which they have listened. I will not suffer my white children to be killed without punishing the murderers.

Writings of Madison, Volume 2: 1794-1815, p.554

A father ought to give good advice to his children, and it is the duty of his children to hearken to it. The people composing the 18 fires are a great people. You have travelled through their Country. You see they cover the land as the stars fill the sky, and are thick as the trees in your forests. Notwithstanding their great power, the British King has attacked them on the great water beyond which he lives. He robbed their ships, and carried away the people belonging to them. Some of them he murdered. He has an old grudge against the 18 fires, because, when he tried to make them dig and plant for his people beyond the great water, not for themselves, they sent out warriors who beat his warriors; they drove off the bad chiefs he had sent among them, and set up good chiefs of their own. The 18 fires did this when they had not the strength they now have. Their blows will now be much heavier, and will soon make him do them justice. It happened when the 13 fires, now increased to 18, forced the British King to treat them as an independent nation, one little fire did not join them. This he has held ever since. It is there that his agents and traders plot quarrels and wars between the 18 fires and their red brethren, and between one red tribe and another. Malden is the place where all the bad birds have their nests. There they are fed with false tales against the 18 fires, and sent out with bloody belts in their bills to drop among the red people, who would otherwise remain at peace. It is for the good of all the red people, as well as the people of the 18 fires, that a stop should be put to this mischief. Their warriors can do it. They are gone and going to Canada for this purpose. They want no help from their red brethren. They are strong enough without it. The British, who are weak, are doing all they can by their bad birds to decoy the red people into the war on their side. I warn all the red people to avoid the ruin this must bring upon them. And I say to you, my children, your father does not ask you to join his warriors. Sit still on your seats, and be witnesses that they are able to beat their enemies and protect their red friends. This is the fatherly advice I give you.

Writings of Madison, Volume 2: 1794-1815, p.555

I have a further advice for my red children. You see how the Country of the 18 fires is filled with people. They increase like the corn they put in the ground. They all have good houses to shelter them from all weathers, good clothes, suitable to all seasons, and as for food of all sorts, you see they have enough and to spare. No man, woman, or child of the 18 fires ever perished of hunger. Compare all this with the condition of the red people. They are scattered here and there in handfuls. Their lodges are cold, leaky, and smoky. They have hard fare, and often not enough of it. Why this mighty difference? The reason, my red children, is plain. The white people breed cattle and sheep. They plow the earth, and make it give them every thing they want. They spin and weave. Their heads and their hands make all the elements and productions of nature useful to them. Above all, the people of the 18 fires live in constant peace and friendship. No tomahawk has ever been raised by one against another. Not a drop of blood has ever touched the chain that holds them together as one family. All their belts are white belts. It is in your power to be like them. The ground that feeds one Lodge by hunting would feed a great band by the plow and the hoe. The Great Spirit has given you, like your white brethren, good heads to contrive, strong arms, and active bodies. Use them like your white brethren; not all at once, which is difficult, but by little and little, which is easy. Especially live in peace with one another, like your white brethren of the 18 fires, and, like them, your little sparks will grow into great fires. You will be well fed, well clothed, dwell in good houses, and enjoy the happiness for which you, like them, were created. The Great Spirit is the friend of man of all colours. He made them to be friends of one another. The more they are so, the more he will be their friend. These are the words of your father to his red children. The Great Spirit, who is the father of us all, approves them. Let them pass through the ear, into the heart. Carry them home to your people. And as long as you remember this visit to your father of the 18 fires, remember these as his last and best words to you.

Writings of Madison, Volume 2: 1794-1815, p.556

In the present state of your wants, Factories are established where you may trade and supply them. Of late, the times have made it difficult to send you all the things convenient to you. We are now enlarging our workshops and our weaving houses, and soon there will be no difficulty.

Writings of Madison, Volume 2: 1794-1815, p.556

As we cannot always see one another, the distance being great, my words, from time to time, will be delivered to you by General Clarke, and others who may be near you. Your words will always come to me through the same hands. I hope they will always be good words.

1813

LETTERS, ETC.

To Thomas Jefferson.

WASHINGTON, Jany 27, 1813.

Writings of Madison, Volume 2: 1794-1815, p.557

DEAR SIR,—Congress proceed with their usual slowness, even on the most essential subjects; and the undercurrent against us is as strong as ever. I have not time to explain the late changes in the Executive Department, if I were disposed to trouble you with them. Bonaparte, according to his own shewing, is in serious danger; and if half the official accounts of the Russians be true, his own escape is barely possible, and that of his army impossible. The effect of such a catastrophe on his compulsory allies may once more turn the tables quite round in the case between France and England. You will have seen the speech of the Regent. The debates on it have not reached us. Wellesley's party attack the Ministry for not prosecuting the war more vigorously against us. Nothing but the difficulty of their affairs will open their ears, and that without opening their hearts to peace. In the Peninsula, the French are driving Wellington back to Lisbon, and there now is no doubt that the late harvest is a very short one, and the quality for the most part bad. Their expenditures, also, are enormous, beyond former years; and their Bank paper 35 per cent below specie. I have for you a copy of Cooper's Justinian, which I will forward by next mail.

To John Binns and Others.

WASHINGTON, Feby 11, 1813.

Writings of Madison, Volume 2: 1794-1815, p.557

GENTLEMEN,—I have received your communication in behalf of the naturalized Citizens in and near Philadelphia who were born within the British dominions, occasioned by the Proclamation of the Prince Regent of G. Britain, dated the 26 of October last, and by other indications of a purpose of subjecting to the penalties of British law such of that description of Citizens as shall have been taken in arms against G. Britain.

Writings of Madison, Volume 2: 1794-1815, p.558

As the British laws and practice confer all the rights and immunities of natural-born subjects on aliens serving even a short period on board British vessels, it might have been concluded that an intention would have been neither formed nor proclaimed by the Head of that nation, which is as inconsistent with its own example as it is repugnant to reason and humanity.

Writings of Madison, Volume 2: 1794-1815, p.558

The rights of naturalized Citizens being under the same guaranty of the National faith and honor with the rights of other Citizens, the former may be assured that it is the determination, as it will be the duty of the Executive department of the Government, to employ whatever just means may be within its competency, for enforcing the respect which is due from the enemy to the rights and persons of those who combat under the banners, and in defence and maintenance of the rights and safety, of their adopted country.

To Thomas Jefferson

WASHINGTON, March 10, 1813

Writings of Madison, Volume 2: 1794-1815, p.558

DEAR SIR,—I have received your two favors of the 8 and 21 ult. The conduct and character of the late Commander at Niagara, as portrayed in the narrative enclosed in the first, had been before sufficiently brought to our knowledge. Some of his disqualifications for such a trust were indeed understood when he was appointed Inspector General. Gent Dearborn seems not to have been apprised of some of the sides of his character, though he has an apology for what he did in the paucity of General officers provided for the army at that time, and the difficulty of making a satisfactory selection. The narrative is returned, as you desire. It gives me pleasure to receive a confirmation of the unchanged dispositions of those whose sympathies with R——— S——— could not fail to be most excited. The opportunity of proving to one of them that I have not permitted my belief or my dispositions to be affected by reports or presumptions inconsistent with his penetration, candour, and justice, has been promptly embraced, as you will see by the late military appointments. His son has just received the rank of Major. You will see, also, that I have taken the liberty of naming Mr. Randolph to the Senate for the command of a Regiment, and that it is now within his acceptance. I was aware of all the considerations, and [?] embracing those around him, which were mingled with the subject. But knowing his superiority in the talents and military acquirements so much needed in our Army, and that they had occurred to others of his friends as well as myself, I could not do less than give the public a chance of having the benefit of them. I should, indeed, have taken the same liberty in the original nominations, but for the less decided state of things than that now existing.

Writings of Madison, Volume 2: 1794-1815, p.559

If you do not receive the New York Mercantile Advertiser, the enclosed will give you the Russian account of the catastrophe of the French Army. It is doubtless much exaggerated; but there is no doubt that the losses are beyond example. Whether they can be so replaced as to prevent the defection of Allies, and to present another formidable countenance to the North is uncertain. It does not appear that any thing like despondence is felt at Paris; and so many interests on the Continent have become associated with the ascendancy of Napoleon, that it will [not?] be surprising, if, with the terrors of his name, he should surmount his difficulties. In England, unusual exultation is indulged on the recent events, and, united with the rage and jealousy produced by our little naval triumphs, account for the gigantic force she is bringing against us on the water. In the meantime, Russia, as you will observe, is tendering her mediating friendship, with the collateral view, there is reason to believe, of deriving advantage from the neutral interference with British monopoly in the trade with her. We shall endeavor to turn the good will of Russia to the proper account. Whether England will accede to the mediation, or do so with evasive purposes, remains to be seen. That she has brought it about I cannot readily suppose, because I think she would not promote our political intercourse with the Baltic, where she apprehends a sympathy with our maritime doctrines, and not with hers. The present occasion proves the good policy of having cultivated the favorable dispositions of the Emperor Alexander. We have good reason to believe that Sweden is as well inclined towards us as Russia.

To Col. David Humphreys.

WASHINGTON, Mar. 23, 1813.

Writings of Madison, Volume 2: 1794-1815, p.560

DEAR SIR,—I have received your letter of the 19th ultimo. Mr. Perkins, who was to have been the bearer, has not yet arrived, unless, as is possible, he may have done so, and had his communications with the Patent Office without my knowing it.

Writings of Madison, Volume 2: 1794-1815, p.560

Altho' it is neither usual nor often eligible to enter into political explanations on such an occasion as the present, I am induced by the frank and friendly tenor of your remarks to express (under the reserves which you will infer) my regret that you should be able to cite a prevailing opinion, that "an alliance with France and a systematic exclusion of commerce" were within the views of the Administration.

Writings of Madison, Volume 2: 1794-1815, p.560

To say nothing of the extreme improbability of such a policy on the first point, it is not easy to conceive a more formal disavowal of it than has been repeatedly made and published both by my predecessor and myself, particularly in the Messages relating to the war, which emphatically impugn political alliances or conventions with any foreign power. In full conformity with these disavowals is the letter from Mr. Barlow to Mr. Monroe, lately published, from which it must be necessarily inferred that he was forbidden to enter into any arrangement with France beyond the subjects of indemnity and commerce. With such strong presumptions and decisive proofs before the public, it is impossible that a purpose in this Government of allying itself with that of France can be seriously believed by any intelligent individual not in a temper to reject a witness even from the dead.

Writings of Madison, Volume 2: 1794-1815, p.561

As to a systematic exclusion of commerce, a belief of it is still more incomprehensible. Temporary abridgements or suspensions of it must have for their object its permanent freedom, as interruptions of peace have for their object a re-establishment of peace on improved foundations. In such a light only can the restrictive measures applied to our commerce be rationally viewed. The avowed object of them, in fact, was to liberate our commerce from foreign restrictions equally obnoxious to all parties. Whether the means were well applied or not may be made a question. The object itself never can. How is it possible that any man in his senses should attempt or wish to annihilate the foreign commerce of such a country as this; or that such a policy should be supported by that portion of the country which thinks itself as much more interested in commerce than the other portion as the cargoes of ships are more valuable than their freight?

Writings of Madison, Volume 2: 1794-1815, p.561

Viewing the topics which have so much agitated the public mind in the light here presented, I have never allowed myself to believe that the Union was in danger, or that a dissolution of it could be desired, unless by a few individuals, if such there be, in desperate situations or of unbridled passions. In addition to the thousand affinities belonging to every part of the nation, every part has an interest, as deep as it is obvious, in maintaining the bond which keeps the whole together; and the Eastern part certainly not less than any other. Looking to the immediate and commercial effect of a dissolution, it is clear that the Eastern part would be the greatest loser by such an event, and not likely, therefore, deliberately to rush into it; especially when it takes into view the groundlessness of the suspicions which alone could suggest so dreadful an alternative, and the turn which would probably grow out of it to the relations with Europe. The great road of profitable intercourse for New England, even with old England, lies through the wheat, the cotton, and the tobacco fields, of her Southern and Western confederates. On what basis could New England and old England form commercial stipulations? On all the great articles they would be in direct rivalship. The real source of our revolution was the commercial jealousy of Great Britain towards that part of her then Colonies. If there be links of common interest between the two countries, they would connect the Southern, and not the Northern States, with that part of Europe.

To John Nicholas.

WASHINGTON, April 2d, 1813.

Writings of Madison, Volume 2: 1794-1815, p.562

DEAR SIR,—Your favor of the 11th March came duly to hand, and I feel myself obliged by the friendly spirit of the observations it contains. The circumstances under which the war commenced on our part require that it should be reviewed with a liberality above the ordinary rules and dispositions indulged in such cases. It had become impossible to avoid, or even delay, war at a moment when we were not prepared for it, and when it was certain that effective preparations would not take place whilst the question of war was undecided. Another feature was, the discord and variety of opinions and views in the public councils, of which sufficient evidence has been seen in the public debates and proceedings, and of which much more is known than ever has been published. The calculations of the Executive were, that it would be best to open the war with a force of a kind and amount that would be soon procured, and that might strike an important blow before the enemy, who was known to disbelieve the approach of such an event, could be reinforced. These calculations were defeated, as you observe, by mixing and substituting preparations necessarily producing fatal delays, and in some respects thwarting each other. At this moment, notwithstanding the additional stimuli, it is not certain that the regular force exceeds that which was in the first instance recommended, which would have been more an overmatch for the then strength of the enemy than the force voted, if realized, would be for his present strength; and which could have been easily augmented as fast as might be necessary to maintain conquered ground, or meet reinforcements from Europe or elsewhere. The failure of our calculations with respect to the expedition under Hull needs no comment. The worst of it was, that we were misled by a reliance, authorized by himself, on its securing to us the command of the Lakes. The decisive importance of this advantage has always been well understood; but until the first prospect ceased, other means of attaining it were repressed by certain difficulties in carrying them into effect. These means have since been pushed with alacrity, and, we hope, will enable us to open the campaign, in relation to Canada, with a retort of the success which the last turned against us. With the command of Lake Ontario, the treasonable commerce at which you point will probably be found too hazardous to be prosecuted. I have furnished you hints, however, for the consideration of the proper Departments.

Writings of Madison, Volume 2: 1794-1815, p.563

We are at present occupied with the mediation of Russia. That is the only power in Europe which can command respect from both France and England, and at this moment it is in its zenith. We shall endeavour to turn this mediation to the best account, in promoting a just peace. We are encouraged in this policy by the known friendship of the Emperor Alexander to this Country; and by the probability that the greater affinity between the Baltic and American ideas of maritime law than between those of the former and of G. Britain, will render his interposition as favorable as will be consistent with the character assumed by him.

To Thomas Jefferson.

WASHINGTON, June 6, 1813.

Writings of Madison, Volume 2: 1794-1815, p.563

DEAR SIR,—I received your favor of the ————, and now return the letter of Doctor Waterhouse, with the newspapers sent with it. He appears to be a man of ability and learning, and to have been rendered interesting to several distinguished friends to the Administration by the persecutions he has suffered from its enemies. Like many others, however, I see at present no reward for him but in his own virtues. The Treasury of the Mint was allotted by the general sentiment to Doctor J. Rush. And Doctor Tilton has long since been had in view for the superintendence of the Medical Department of the Army.

Writings of Madison, Volume 2: 1794-1815, p.564

Your suggestions for protecting the trade of the Chesapeake by gun-boats at the South end of it, with a safe retreat provided for them, have been taken into consideration, with all the respect due to the importance as well as the motives of them. The present Secretary of the Navy is not unfriendly to gunboats, and, in general, the call for them by the inhabitants of the coast proves a diffusive, sense of their utility. It seems agreed, at the same time, that, being too slow in sailing and too heavy for rowing, they are limited in their use to particular situations, and rarely for other than defensive co-operations. That an adequate number of them in Lynhaven Bay, with a safety of retreat, would be useful, cannot be doubtful; but if the enemy chuse to bring such a force as they have applied, and with appearances of an intended increase, the number of gunboats necessary to controul them would be very great, and their effect pretty much restricted to guarding the interior navigation of the Bay. Cruisers on the outside of the Capes, beyond the range of the gun-boats, would still blockade the external commerce.

Writings of Madison, Volume 2: 1794-1815, p.564

Commodore Barry has suggested a species of row galley, which he considers as better fitted for protecting the interior trade of the Bay than the gun-boat, or, rather, as an essential auxiliary to the gun-boats. His plan is to allow them twenty oars and muskets on each side, to be plunked up for protection of the oarsmen against small arms in the enemy's launches, and to have one long and heavy gun; their construction to fit them for speed and for shallow water, and their length and form to be such that at the end of the war they might be easily raised on, and become ordinary coasters. Twenty of these, costing 50 or 60 thousand dollars, he thinks would put an end to the depredations of the smaller vessels, which have been the greatest, and might even attack large ones in the night, or under special circumstances.

Writings of Madison, Volume 2: 1794-1815, p.565

I have not ascertained the opinion of the Secretary of the Navy, who adds to a sound judgment a great deal of practical knowledge on such subjects.

Writings of Madison, Volume 2: 1794-1815, p.565

You have in the newspapers all the latest news, both foreign and domestic.

To the Senate of the United States.

Writings of Madison, Volume 2: 1794-1815, p.565

I have received from the committee appointed by the resolution of the Senate of the — day of ——, a copy of that resolution, which authorizes the committee to confer with the President on the subject of the nomination made by him of a minister plenipotentiary to Sweden.

Writings of Madison, Volume 2: 1794-1815, p.565

Conceiving it to be my duty to decline the proposed conference with the committee, and it being uncertain when it may be convenient to explain to the committee, and, through them, to the Senate, the grounds of my so doing, I think it proper to address the explanation directly to the Senate.

Writings of Madison, Volume 2: 1794-1815, p.565

Without entering into a general review of the relations in which the Constitution has placed the several departments of the government to each other, it will suffice to remark:

Writings of Madison, Volume 2: 1794-1815, p.565

That the executive and Senate, in the cases of appointments to office and of treaties, are to be considered as independent of and co-ordinate with each other. If they agree, the appointments or treaties are made. If the Senate disagree, they fail. If the Senate wish information previous to their final decision, the practice, keeping in view the constitutional relations of the Senate and the Executive, has been either to request the Executive to furnish it, or to refer the subject to a committee of their body, to communicate either formally or informally with the head of the proper department. The appointment of a committee of the Senate to confer immediately with the Executive himself appears to lose sight of the co-ordinate relation between the Executive and the Senate which the Constitution his established, and which ought, therefore, to be maintained.

Writings of Madison, Volume 2: 1794-1815, p.566

The relation between the Senate and House of Representatives, in whom legislative power is concurrently vested, is sufficiently analogous to illustrate that between the Executive and Senate in making appointments and treaties. The two houses are in like manner independent of and co-ordinate with each other; and the invariable practice of each, in appointing committees of conference and consultation, is to commission them to confer, not with the co-ordinate body itself, but with a committee of that body. And although both branches of the Legislature may be too numerous to hold conveniently a conference with committees were they to be appointed by either to confer with the entire body of the other, it may be fairly presumed that, if the whole number of either branch were not too large for the purpose, the objection to such a conference, being against the principle, as derogating from the co-ordinate relations of the two houses, would retain all its force.

Writings of Madison, Volume 2: 1794-1815, p.566

I add only that I am entirely persuaded of the purity of the intentions of the Senate in the course they have pursued on this occasion, and with which my view of the subject makes it my duty not to accord; and that they will be cheerfully furnished with all the suitable information in possession of the Executive in any mode deemed consistent with the principles of the Constitution, and the settled practice under it.

WASHINGTON, July 6, 1813.

To Albert Gallatin.

WASHINGTON, Augt 2, 1813.

Writings of Madison, Volume 2: 1794-1815, p.566

DEAR SIR,—You will learn from the Secretary of State the painful manner in which the Senate have mutilated the mission to St Petersburg. But the course and circumstances of the proceeding require more of explanation than may fall within his scope, and more, indeed, than can well be conveyed on paper.

Writings of Madison, Volume 2: 1794-1815, p.566-p.568

Previously to sending in the nomination of the Envoys, there was no indication that, if the popularity of the object did not prevent opposition, it would extend beyond a portion of the Senate essentially short of a majority. And there is reason to believe that if a preliminary attempt to embarrass the subject had been decided on at the proper time, and before out-door means could be interposed, the desired and expected result would have been secured. Liberality, however, yielded to an adjournment of the question, and the opportunity afforded by it was industriously improved. The first step, after formally ascertaining the arrangement under which you were included in the mission, was to obtain a vote declaring an incompatibility (without specifying whether constitutional or otherwise) between the domestic and diplomatic appointments. The tendency of this proposition, to comprehend as many and to commit as much [?] as possible, is obvious. It would seem, notwithstanding, that the vote of incompatibility was concurred in by some who regarded it not as an obstacle to an ultimate concurrence in the nomination, but rather as a protest throwing the whole responsibility upon the Executive. The next step was to communicate this opinion of the Senate to me, with a view either to extort a compliance, or to unite against the nomination all, or as many as possible, who had concurred in the vote of incompatibility. In this stage of the business, it was the confident opinion of the supporters of the nomination that inflexibility on the part of the Executive would ensure a majority for it, and their unanimous and urgent advice, as well on general grounds as on that particular calculation, not to yield to the irregular views of the adverse party. The event proved that the final purposes of certain individuals, on whom the turning of the scale depended, had been miscounted. It is not easy to express the mixed feelings produced by the disappointment, or the painfulness of my own, in particular. It was at first suggested, from some friendly sources, as most advisable in such a posture of things, to send in a renomination, founded on a vacancy in the Secretaryship of the Treasury; and under certain points of view this expedient had its recommendations. They were met, however, by difficulties and considerations not to be got over. 1. The ground taken by the Executive did not admit a compliance with the condition imposed by the Senate, without a palpable inconsistency. 2. Those who had approved and urged this ground could not brook the idea of putting their opponents ostensibly in the right, and themselves in the wrong. 3. It was calculated that the mediation, if accepted by Great Britain, would he over, and the Envoys on their way home, before the decision of the Senate could reach St Petersburg; and that this last would certainly be the case should the mediation be rejected, as was becoming more and more probable, especially considering the prospects on the Continent, and, as seems now to be put beyond doubt, by a late communication from Beaseley, at London. Nor were these the only views of the subject. It was apprehended by some of the best disposed and best informed of the Senate that a renomination would not secure the object. As it had become certain that the open and secret adversaries together amounted to a formidable number, who would be doubly gratified by a double triumph, it was suspected that, after succeeding in getting the Treasury vacated, it would be a prerequisite to a confirmation of the other appointment that the vacancy should be actually filled, in order to prevent its being kept open for your return, which might be looked for within the term of six months; and that with this view a resolution might be obtained declaring the inconsistency of a protracted vacancy with the public service, and the incompatibility of the two offices held by the Secretary of the Navy, to be used in like manner with the first resolution, as a motive or pretext for embarrassing and, if possible, getting rid of the renomination. It is certain that some who had intimated an intended change of their votes, in case the Treasury Department should be vacated, had in view that the vacancy should be forthwith filled, and even that a nomination to it should go in with the renomination. Whether a majority would have gone such lengths is uncertain; but strong symptoms existed of a temper in the Body capable of going very great lengths. And, apart from all other considerations, it would have been impossible, even if it had been intended to make and fill a vacancy in the Treasury Department, that the consent of the Senate in the other case could be purchased by a pledge to that effect. Besides the degradation of the Executive, it would have introduced a species of barter of the most fatal tendency.

Writings of Madison, Volume 2: 1794-1815, p.569

I have given you this summary, that you may understand the true character of a proceeding which has given us so much concern. I will add to it two observations only: 1. That the Senate, by resting their negative on the opinion of official incompatibility, tacitly acknowledge a personal fitness, and so far defeat their own hostility. 2. That the whole proceeding, according to every friendly opinion, will have the effect of giving you a stronger hold on the confidence and support of the nation. Judging from the effect as already known, this cannot fail to be the case.

Writings of Madison, Volume 2: 1794-1815, p.569

I have just recovered strength enough, after a severe and tedious attack of bilious fever, to bear a journey to the mountains, whither I am about setting out. The physicians prescribe it as essential to my thorough recovery and security against a relapse at the present season. For recent occurrences and the general state of affairs, I refer to the official communications going by this conveyance. If it were less inconvenient to me to lengthen my letter, I should recollect that I send it without expecting that it will find you at Petersburg, should it happen not to be intercepted on its passage.

Writings of Madison, Volume 2: 1794-1815, p.569

Accept my affectionate esteem and best wishes.

To Majr Genl Henry Dearborn.

WASHINGTON, Augt 8th, 1813.

Writings of Madison, Volume 2: 1794-1815, p.569

DEAR SIR,—I have received yours of the 24th July. As my esteem and regard have undergone no change, I wish you to be apprized that such was the state of things, and such the turn they were taking, that the retirement which is the subject of your letter was pressed by your best personal friends.

Writings of Madison, Volume 2: 1794-1815, p.569

It was my purpose to have written to you on the occasion, but it was made impossible by a severe illness, from which I am now barely enough recovered for a journey to the mountains, prescribed by my physicians as indispensable, It would have been entirely agreeable to me if, as I took for granted was to be the case, you had executed your original intention of providing for your health by exchanging the sickliness of Niagara for some eligible spot, and I sincerely lament every pain to which you have been subsequently exposed, from whatever circumstance it has proceeded. How far the investigation you refer to would be regular, I am not prepared to say. You have seen the motion in the House of Representatives comprehending such an object, and the prospect held out of resuming the subject at another session. I am persuaded that you will not lose in any respect by the effect of time and truth.

To Governor Shelby.

MONTPELIER, Aug. 12, 1813.

Writings of Madison, Volume 2: 1794-1815, p.570

DEAR SIR,—I received your favor of the 18th July a few days only before I left Washington, which was on the 9th instant. If any doubt had ever existed of the patriotism or bravery of the citizens of Kentucky, it would have been turned into an admiration of both by the tests to which the war has put them. Nor could any who are acquainted with your history and character wish the military services of your fellow-citizens to be under better direction than yours. How far a call on you and them, according to the provision made by your Legislature, will take place, must depend on the wants of Genl Harrison, who will be regulated in his applications for succour by his own prospects on Lake Erie, and by the operations on and below Lake Ontario, which must have a considerable bearing on his. We do not despond, though we ought not to be too sanguine, that the effect of our naval preparations on the several Lakes, and the proper use of the forces assembled on and convenient to them, will soon relieve the distant militia and volunteers from much of the demands which the course of the war on our inland frontier has made on them. Should it happen otherwise, it is consoling to know that such resorts exist as those to which your letter contains so favorable an example.

To John Graham, [Chief Clerk in State Department.]

MONTPELLIER, Augt 28th, 1813.

Writings of Madison, Volume 2: 1794-1815, p.571

DEAR SIR,—I have received your favor of the 26th. I cannot recollect, off-hand, very much about the letter from Turreau to R. Smith, of which a translation is printed at Georgetown. My general impression is, that it was considered, at the time, as highly exceptionable in several passages; that it was noticed that Turreau, by a ruse diplomatique, which distinguished between the existing and preceding administrations, and assumed the air of a private instead of an official paper, had attempted to cover and pass off here a rudeness which might be received as a proof of his energetic zeal by his own Government; and that, unless Turreau preferred taking back the paper, a proper notice of its offensiveness ought to be taken; it being of course left to R. Smith to manage the business with Turreau. A further appeal to my memory may give more precision to these circumstances, and may recover others from the oblivion into which they have fallen. The case will probably be the same with you. If you can pronounce with certainty from your own knowledge, or the information of Mr. Smith, that the letter was taken back by Turreau, (a thing not very unusual in such cases, and of which there have been examples with other foreign Ministers, British,\* if I mistake not, as well as French,\*) it may be well, perhaps, that the fact should be noticed in the newspaper. An antidote in some form to the mischievous intent of the publication seems due to the crisis chosen for it. If no answer were given to the letter, which the records will test, that alone would be animadversion, in one of its modes, of no inconsiderable force. It is unfortunate that the individual possessing the fullest knowledge of all circumstances cannot be resorted to. If he has himself conveyed the paper to the printer, as you conjecture, it is another evidence of the folly which has marked his career; since the position which he occupied, and the address of the paper to him as "une lettre simple," would assign to him, more particularly, any reproach of want of sensibility to its offensive character: for he will hardly pretend that he was controuled in the expression of it. The time for doing that was the time when he mustered the whole of that and every other species of denunciation against the object of his tormenting passions. If the original of the French letter was returned to Turreau without a copy having been taken, as may be inferred from the sending of a translation to the printer, and your translation is not found in the office, the translation sent must have been yours, and the public will decide between the clerks in the Department and the then head of it. It is sufficiently known that he carried with him out of it copies of other papers which he wished to possess, with a view to eventual publicity.

Writings of Madison, Volume 2: 1794-1815, p.572

If the date of the translated letter be correctly published, the letter must have been received before the rejection of Erskine's arrangement was known, and at a period when a reconciliation with England was considered as certain. This consideration might properly have had weight in disposing the Cabinet to bear with less impatience an exceptionable tone from a French Minister, whose feelings on such an event would naturally mingle themselves with his complaints on other subjects, some of which, particularly the apathy of the American Government with respect to the French ship burnt near the shore of North Carolina, it was not very easy to meet in a satisfactory manner.

Writings of Madison, Volume 2: 1794-1815, p.572

I am very sorry to hear of the indisposition of Col. Monroe. I hope it will be found to justify the term slight which you apply to it. My own health has greatly improved since my arrival here, but I have not been without several slight returns of fever, which are chargeable rather on the remnant of the influenza than the cause from which I suffered in Washington. I am now pretty well recovered from the last return, which took place a few days ago. Accept, with my respects, my best wishes for your health and welfare.

To William Wirt.

MONTPELIER, Septr 30th, 1813.

Writings of Madison, Volume 2: 1794-1815, p.573

DEAR SIR,—I have been several weeks in possession of your favor of the 29th of August. As it appeared that you were on an excursion from Richmond, perhaps behind the mountains, I have not been in a hurry to acknowledge it. From the present advance of the season, I infer your probable return to that place.

Writings of Madison, Volume 2: 1794-1815, p.573

From whatever motives information such as that in your letter might proceed, it ought not to be unwelcome. The friendly ones by which I well know you were governed entitle it to my Sincere thanks, which I pray you to accept.

Writings of Madison, Volume 2: 1794-1815, p.573

I have not been unaware of the disappointment and discontent gaining ground with respect to the war on Canada, or of the use to which they were turned against the Administration. I have not been less aware that success alone would put an end to them. This is the test by which public opinion decides more or less in all cases, and most of all, perhaps, in that of military events, where there is the least opportunity of judging by any other. No stimulus, therefore, has been wanting to the exertions necessary to render our arms successful in the quarter where they have failed.

Writings of Madison, Volume 2: 1794-1815, p.573

How far these exertions will prevail remains to be seen; and how far past failure is to be ascribed to the difficulties incident to the first stages of a war commenced as the present necessarily was; to the personal faults of those entrusted with command; to the course pursued by the National Legislature; or to mismanagements by the Executive Department, must be left to those who will decide impartially, and on fuller information than may now exist.

Writings of Madison, Volume 2: 1794-1815, p.573

Without meaning to throw undue blame elsewhere, or to shun whatever Maine may be justly chargeable on the Executive, I will, in the confidence with which we both write, intimate the plan for giving effect to the war, originally entertained by that branch of the Government. As it was obvious that advantage ought to be taken of our chusing the time for commencing, or rather retorting, hostilities, and of the pains taken to make the British Government believe that they were not to be resorted to by the United States; and as it was foreseen that there would be great delay, if not impossibility, in raising a large army for a long term of service, it was thought best to limit our first attempts to such a force as might be obtained in a short time, and be sufficient to reduce Canada, from Montreal upwards before the enemy would be prepared to resist its progress; trusting to the impression to be made by success, and to the time that would be afforded, for such an augmentation of the durable force as would be able to extend as well as secure our conquests. With these views, it was recommended to Congress to provide immediately and effectually for compleating the existing establishment of 10,000 men; to provide for a like number to be enlisted for a shorter term of 2 or 3 years; and for volunteers, of whom an adequate number, as was represented, would be readily furnished by the enthusiasm of the frontiers of New York and Vermont. With this arrangement was combined the expedition conducted by Hull against the upper and weaker part of the Province.

Writings of Madison, Volume 2: 1794-1815, p.574

Of the issue of this part of the plan, and its distressing consequences, it is needless to speak. The other part, not coinciding with the ideas adopted by Congress, was not brought to an experiment. It was there thought best to commence with, the addition of 25,000 regulars to the existing establishment of 10,000. And to the delays in passing the laws for this purpose; to the deficiency in the bounty and pay allowed recruits; to the necessity of selecting 1,000 officers, to be drawn from every part of the Union; and to the difficulty, not to say impossibility, of procuring, at a crisis of such scarcity, supplies for such an army, and of distributing them over such a surface in the worst season of the year; may reasonably be ascribed the loss of the first year of the land war. It unfortunately happened, also, that the first provision for the two vital Departments, the Commissary's and Quarter Master's, was so inadequate, that the War office, otherwise overcharged, was obliged for some time to perform the functions of both. It was only after repeated failures and a lapse of months that a Commissary General could be obtained on the terms offered by the law. Nor ought it to be omitted that the recommendation of a greater number of General Officers, though complied with at the last session of Congress, was rejected in the first instance. The same may be remarked as to two auxiliary appointments in the War office, now substantially provided for under other names in the organization of the military establishment. The utter inexperience of nearly all the new officers was an inconvenience of the most serious kind, but inseparable, as it always must be, from a Country among whose blessings it is to have long intervals of peace, and to be without those large standing armies which even in peace are fitted for war.

Writings of Madison, Volume 2: 1794-1815, p.575

These observations will be allowed less weight in the present than in the first year of the war. But they will justly mitigate the lateness, to say nothing of the thinness of the ranks, notwithstanding the augmented inducements to enlist, attending the operations by which the character of the campaign is to be decided. My anxiety for the result is great, but not unmingled with hopes that it will furnish topics better than the past on which the censorious adversaries and criticising friends of the Administration are to be met.

Writings of Madison, Volume 2: 1794-1815, p.575

Accept, dear Sir, the assurances of my regard.

To Morris Birkbeck.

Writings of Madison, Volume 2: 1794-1815, p.575

SIR,—I have received your letter of September 18, though at a much later day than that at which it was due. The letter inclosed in it from Mr. Coles would have been received with additional pleasure from your own hand, if you had found it convenient to take Montpelier in your Westwardly route. He was a few days ago with me, and confirmed verbally the esteem and the friendly interest he takes in your behalf.

Writings of Madison, Volume 2: 1794-1815, p.576

I cannot but commend the benevolent solicitude you express for your emigrating countrymen; and I sincerely wish that all who are attached to our Country by its natural and political advantages might be as little disappointed or embarrassed on their arrival as possible. I am obliged, at the same time, to say, as you will doubtless learn from others, that it is not either the provision of our laws or the practice of the Government to give any encouragement to emigrants, unless it be in cases where they may bring with them some special addition to our stock of arts or articles of culture. You will perceive, therefore, that it is not in the power of the Executive to dispose of the public land in a mode different from the ordinary one; and I should not be justified in encouraging any reliance on the success of a resort to the National Legislature.

Writings of Madison, Volume 2: 1794-1815, p.576

Should your future movements bring you at any time within reach of my residence, I shall be happy in an opportunity of proving, by a cordial welcome, the sincerity of my respect and good wishes.

To William Eustis.

WASHINGTON, November 12, 1813.

Writings of Madison, Volume 2: 1794-1815, p.576

DEAR SIR,—I have just been favored with yours of the 7 instant.

Writings of Madison, Volume 2: 1794-1815, p.576

Whatever may be the weight of your observations, it would be difficult to act on the view they take of the subject, complicated as it necessarily is with some other views of it, passing by the incompetency of the Executive alone to consummate the arrangement suggested.

Writings of Madison, Volume 2: 1794-1815, p.576

I may not be able to do full justice to impressions, some of which, at least, may possibly grow out of circumstances not to be exactly appreciated in other situations. Usage, however, seems to have excluded the necessity of disagreeable comparisons in cases of appointments not having for their object honor or distinctions, but reference merely to calculations of interest or conveniency; more especially where the appointments are not coeval.

Writings of Madison, Volume 2: 1794-1815, p.577

I shall take no further step until I shall be favored with your final communication, taking the liberty only of intimating, that the early functions [?] of the Collectors in the towns having Banks is urged from the Treasury Department, and of renewing assurances of my high esteem and best regards.

To the Senate and House of Commons of the General Assembly of the State of North Carolina.

December 11, 1813.

Writings of Madison, Volume 2: 1794-1815, p.577

I have received, fellow-citizens, your memorial of the 29th ult. representing the exposure of your State to danger on its sea-coast, and requesting to be informed whether measures will be immediately taken by the National Government for its protection.

Writings of Madison, Volume 2: 1794-1815, p.577

The anxiety which you manifest for the security of the State under your particular care cannot but be commended; and it would be highly agreeable to make a communication that would remove all occasion for it.

Writings of Madison, Volume 2: 1794-1815, p.577

The Legislature of North Carolina is too enlightened and too just not to be sensible that the protection to be extended by the General Government over the Union must be proportioned to the aggregate means applicable thereto; and that in distributing these regard must be had to the comparative practicability and probability of attempts on particular States and places. Against occasional attempts, where there are so many points accessible by water, from an enemy having on that element a force so extensive and so readily concentrated, an absolute protection of every one is not possible. Considering the States as parts of one whole, the best defence of the whole must be kept in view by the authority to which that is entrusted; and it fortunately happens, that the security and interests of particular parts will be often comprehended in the effect produced by measures more immediately applied to the protection of other parts.

Writings of Madison, Volume 2: 1794-1815, p.578

These observations are not intended to preclude a due consideration of the particular case stated in your memorial. They appeal only to the candour with which you will be sure to review the measures of the Executive in relation to the general and particular defence of our country, and to the confidence claimed by the impartiality which have directed them.

Writings of Madison, Volume 2: 1794-1815, p.578

With a view to the more convenient superintendence and protection of every part of the United States, they have been partitioned into military districts. The officer allotted to that which includes the State of North Carolina will be instructed, as soon as practicable, to visit and examine the situation of the exposed parts of the State, with a view to improvements which may be properly made in works of defence. He was about to make such a visit when he was lately called away to a more urgent but temporary service. In the mean time, a Col. of Engineers had been sent to examine the forts and to make report on the subject of them.

Writings of Madison, Volume 2: 1794-1815, p.578

The Secretary of the Navy has not been inattentive to the means of defence depending on his Department which were thought best adapted to the waters of North Carolina. And to the gun-boats already allotted, and the equipments of which has not been intermitted, a like number of armed boats of another modification will be added as soon as they can be made ready for service.

Writings of Madison, Volume 2: 1794-1815, p.578

In making this communication, it will, of course, not be understood as superseding any auxiliary provisions which the State of North Carolina may think proper to make on its own account, as has been done by some other States, in order to a more compleat and particular security than it may be in the power of the General Government to extend to every exposed situation throughout the frontiers of the United States.

Writings of Madison, Volume 2: 1794-1815, p.578

Be pleased, fellow-citizens, to accept assurances of my high respect and my best wishes.

To the Legislature of the State of South Carolina.

December, 1813.

Writings of Madison, Volume 2: 1794-1815, p.579

I have received, fellow-citizens, your communication of the 18th of December. It is in a spirit which was to be expected from a public Body whose sensibility to the rights and honor of the nation produced a unanimous approbation of a war waged in defence of both.

Writings of Madison, Volume 2: 1794-1815, p.579

You do no more than justice to the love of peace, patient forbearance, and the conciliatory efforts which preceded this last appeal of injured nations against the inflexibility of their aggressors. When finally and formally assured by the British Government that its hostile measures would not be revoked, no alternative was left to the United States but irretrievable degradation, or the lesser calamity of a resort to arms.

Writings of Madison, Volume 2: 1794-1815, p.579

The reluctance of this resort has been sufficiently attested by the readiness shewn, and the steps taken on the part of the United States, first to suspend its effects, and then, by liberal arrangements, to terminate its causes. Until a correspondent disposition on the part of the enemy shall give success to the pacific views on our part, the course pointed at by your honorable patriotism is that alone which becomes a free people, devoted to their Independence, and awake to their high destinies.

Writings of Madison, Volume 2: 1794-1815, p.579

Amidst the painful scenes of the war, it is consoling to us all that it has been conducted, on our part, in a spirit and manner which prove that the American character is as conspicuous for humanity as for bravery; and that, if a seeming departure from the former has taken place in any instance, it has been extorted by the cruel policy of the adversary, and has for its real object a controul or correction of that policy, dictated by humanity itself.

Writings of Madison, Volume 2: 1794-1815, p.579

The approbation which you have been pleased to express of my public conduct during a trying period derives a particular value from my high respect for the source from which I receive it; and I pray you, fellow-citizens, to accept, with my acknowledgments, assurances of my best wishes for your prosperity and that of a State whose example in the common cause so well merits it.

1814

To Governor Tompkins.

WASHINGTON, Jany 25th, 1814.

Writings of Madison, Volume 2: 1794-1815, p.580

SIR,—Your favor of the 3d instant came duly to hand. You will have learnt from the Secretary of War the measures which were thought, on the whole, best suited to the general posture of our military affairs.

Writings of Madison, Volume 2: 1794-1815, p.580

The events on the Niagara frontier were as unexpected as they have been distressing. As there can be little comparative inducement to the enemy to prolong their barbarities in that neighbourhood, it is most to be apprehended that the attention of that part of their force will be turned to some other quarter; either to Presque Isle or Detroit. Precautions have been taken with respect to both; but such is the reduction of our regular force from sickness and other causes every where, and such the difficulties of supplying occasional force in distant and detached situations, that some anxiety necessarily remains for the security of those important points. As a controul on enterprises of the enemy upwards, as well as a barrier to the Country adjoining Niagara, a regular force of the amount you suggest would be the best provision for that station, could it be spared from the armies below and the objects to be elsewhere kept in view. Sackett's harbour and the stake on Lake Champlain have an essential and constant claim to attention. If, besides making the former safe, Kingston can be attacked, or even seriously threatened, the effect will be salutary every where.

Writings of Madison, Volume 2: 1794-1815, p.580

In the Navy Department every possible exertion will be made to keep down the enemy on Lake Ontario. The task is arduous, but its importance is in full proportion.

Writings of Madison, Volume 2: 1794-1815, p.580

Be assured, sir, that I do justice to your laudable solicitude for the safety of the State over which you preside, and estimate as I ought your readiness to co-operate with the measures of the General Government.

Writings of Madison, Volume 2: 1794-1815, p.581

Be pleased to accept assurances of my great consideration and respect.

To William Pinkney.

WASHINGTON, Jany 29, 1814.

Writings of Madison, Volume 2: 1794-1815, p.581

DEAR SIR,—I have received your letter conveying a resignation of the important office held by you. As the Bill to which you refer has not yet passed into a law, I hope you will be able to prolong your functions till a successor can be provided; and at any rate to afford aid in the business of the United States, particularly understood by you, at the approaching term of the Supreme Court.

Writings of Madison, Volume 2: 1794-1815, p.581

On the first knowledge of the Bill, I was not unaware that the dilemma it imposes might deprive us of your associated services, and the United States of the advantage accruing from your professional care of their interests. I readily acknowledge that, in a general view, the object of the bill is not ineligible to the Executive. At the same time, there may be instances where talents and services of peculiar value outweigh the consideration of constant residence; and I have felt all the force of this truth since I have had the pleasure of numbering you among the partners of my public trust. In losing that pleasure, I pray you to be assured of my high and continued esteem, and of my sincere friendship and best wishes.

To William Jones.

Writings of Madison, Volume 2: 1794-1815, p.581

April ,1814

Writings of Madison, Volume 2: 1794-1815, p.581

DEAR SIR,—I have before me your letter of yesterday. At the communication it makes, I cannot but feel the sincerest regret, which is much heightened by the considerations which produced it. The nature of these forbids any effort to divert you from your purpose, especially as it is qualified by the interval of carrying it into effect. All that I ought to hope is, that if a continuance of the war should call for services so difficult to be found, some removal of the pressure of unfavorable circumstances may justify you in prolonging yours. Whatever may happen, I cannot let the present occasion pass without expressing the gratification I have experienced in the entire fulfillment of my expectations, large as they were, from your talents and exertions, and from all those personal qualities which harmonize official and sweeten social intercourse. To these assurances permit me to add my best wishes for your success in every thing that may conduce to your prosperity and happiness.

To Thomas Jefferson.

MONTPELIER, May 10, 1814.

Writings of Madison, Volume 2: 1794-1815, p.582

DEAR SIR,—Having particular occasion, and the state of business at Washington not forbidding, I am on a short visit at my farm. Mrs. M., as well as myself, would gladly extend it to Monticello, but with a certainty that our return to Washington must be very soon. I am obliged, moreover, to hold myself in readiness to hasten it at any moment of notice. We must postpone, therefore, the pleasure of paying our respects there till the autumn, when I hope we shall be less restricted in time.

Writings of Madison, Volume 2: 1794-1815, p.582

We have received no information from our Envoys to the Baltic for a very long time. From those last appointed, there has not been time to hear after their arrival at Gottenburg. Neither have we any accounts from England, other than the newspaper paragraphs which you have seen. The British Government cannot do less than send negotiators to meet ours; but whether in the spirit of ours, is the important question. The turn of recent events in Europe, if truly represented, must strengthen the motives to get rid of the war with us; and their hopes, by a continuance of it, to break down our Government, must be more and more damped by occurrences here as they become known there. The election in New York alone crushes the project of the Junto faction, so long fostered by and flattering the expectations of the British Cabinet. Still, it is possible that new fallacies may suffice for a willingness to be deceived. Our difficulties in procuring money without heavy taxes, and the supposed odium of these, will probably be made the most of by our internal enemies to the experiment of prolonged hostilities.

Writings of Madison, Volume 2: 1794-1815, p.583

The idea of an armistice, so much bundled in the newspapers, rests on no very precise foundation. It is not doubted that it is wished for in Canada, and might coincide with the opinions of the naval commander; but it is presumable that the latter has no commensurate power, and it is taken for granted that the power in Canada is limited to operations of land forces.

To Governor James Barbour.

(Private.)

WASHINGTON, June 16, 1814.

Writings of Madison, Volume 2: 1794-1815, p.583

DEAR SIR,—I have duly received your letter of the 13th. That the late events in Europe will put it in the power of Great Britain to direct a much greater force against the United States, cannot be doubted. How far she may be restrained from so doing by an estimate of her interest in making peace, or by a respect for the sentiments of her allies, if these should urge it, cannot be yet known. It is incumbent on us to suppose that she may be restrained by neither, and to be prepared as well as we can to meet the augmented force which may invade us.

Writings of Madison, Volume 2: 1794-1815, p.583

Our means for this purpose consist essentially of regular troops, and of Militia. As far as the former go, they will be applied in the way deemed most conducive to the public safety. The deficiency must be supplied by a resort to the latter; and the questions arising are, first, whether they shall be immediately called into service in anticipation of attack; and, secondly, what measures, in case of no such immediate call, can be usefully adopted by the States liable to attack.

Writings of Madison, Volume 2: 1794-1815, p.583

Under existing circumstances, which, whilst they suggest general apprehensions, afford no information either as to the amount or the particular destination of forces that may be sent against us; and taking into view the great number of objects accessible to attack by a large and concentrated force of the enemy, the objections to an immediate call of militia into service are obvious. If the call be made in favor of one assailable object, it must be extended proportionally to all. It would waste a resource on which eventually every thing may depend. And, what cannot escape the most serious reflection, the employment of bodies of militia sufficient to give security and tranquillity every where would rapidly exhaust our pecuniary means, and soon put every thing at hazard. Prudence advises, therefore, that we should exert all our vigilance in discovering the particular views of the enemy, and, by not prematurely or erroneously applying our means of defence, be the more able to use them with effect where and when they become necessary.

Writings of Madison, Volume 2: 1794-1815, p.584

In the mean time, it will rest with the State Governments to do whatever may depend on them for keeping every thing in as preparatory an arrangement as possible for the prompt and effective service of their militia, as detachments from it may be required by emergencies. Where particular States have military means of any sort exclusively their own, they will of course decide for themselves as to the best use that can be made of them.

Writings of Madison, Volume 2: 1794-1815, p.584

Knowing the just solicitude you feel for the safety of every part of the State under your charge, a solicitude I most sincerely participate, I regret that it is not in my power to give you either more certain information with respect to the plans and purposes of the enemy, or more satisfactory views of our means of frustrating them, or any answer more precise to the particular enquiry made by you. I assure myself you will readily comprehend that nothing more has been in my power.

Writings of Madison, Volume 2: 1794-1815, p.584

Accept my high esteem and friendly respects.

To C. J. Ingersoll.

WASHINGTON, July 28th, 1814.

Writings of Madison, Volume 2: 1794-1815, p.585

DEAR SIR,—I have received your favor of the 18th instant, and delivered into the hands of Mr. Rush the interesting extract inclosed in it. The armed neutrality in 1780 forms an Epoch in the history of maritime law, which makes it more than a point of mere curiosity to trace it to its real source. You know, perhaps, that there is an American pretension to a share, at least, in bringing about that measure. The fact may not improperly enter into a general research.

Writings of Madison, Volume 2: 1794-1815, p.585

On the question of "free ships, free goods," it has always appeared to me very clear that the principle was right in itself, and friendly to the general interest of Nations. It is, perhaps, less clear that the United States have a special interest in it; unless combined with another principle, of which an example is found in our Treaty with Prussia, and probably in no other, namely, that unarmed merchant vessels, like wagons or ploughs, the property of one belligerent, should be unmolested by the other. This principle has, I believe, an undisputed American Father in Doctor Franklin.

Writings of Madison, Volume 2: 1794-1815, p.585

On the question whether, under the law of Nations, as it stands de facto, "free ships make free cargoes," the United States, at an early day, took the negative side;\* and although the acknowledgment of it has been shunned as much as possible since, it seems to have been generally understood that the British doctrine was practically admitted.

Writings of Madison, Volume 2: 1794-1815, p.585

Were the question to be regarded as unsettled and open to fair discussion, I am persuaded that the weight of authority furnished by reason, public good, treaties, and the luminaries of public law, preponderates in favor of the principle, "free ships, free goods."

Writings of Madison, Volume 2: 1794-1815, p.585

The ablest defence of the opposite principle which I have seen is in a treatise by Croke, the present Vice Admiralty Judge at Halifax, in answer to Schlegel. I am sorry I neither possess a copy, nor can refer you to any convenient depository of one.

Writings of Madison, Volume 2: 1794-1815, p.586

On the side of "free ships, free goods," may be urged not only the intrinsic merit of the rule, and the number and character of distinguished Jurists, but the predominant authority of Treaties, even of Treaties to which G. Britain is a party. Prior to the Treaty of Utrecht, her treaties, particularly with the Dutch, carefully inserted the stipulation. Sir William Temple, her ambassador, claimed great merit, on one occasion, for his success in obtaining from them an article to that effect. In the Treaty of Utrecht, in 1713, to which the several great maritime powers were parties, the principle is stipulated in the most explicit form. In the successive Treaties, to which the great maritime powers were also parties, in 1748, 1763, and 1783, the Treaty of Utrecht is renewed and made a part thereof. Perhaps no article in maritime law can be found which, at one time, rested on such broad and solid evidence of that general consent of nations which constitutes the positive law among them. To those Treaties, embracing so many parties, may be added the Treaty of 1786, between the two most important of them, G. Britain and France. In the negotiations at Amiens, at a still later date, the British Government was desirous of again re-enacting the Treaty, though probably with a view rather to the political balance than to the maritime principles contained in it.

Writings of Madison, Volume 2: 1794-1815, p.586

It has been unfortunate that all the efforts of the Baltic Powers to secure the interests of neutrals have been frustrated by the want of a united and determined perseverance. Their leagues have been broken to pieces; and to finish the catastrophe, each of the parties has separately deserted itself. The latter Treaties of Russia, of Sweden, and of Denmark, with G. Britain, have all, in some form or other, let in the British doctrines, and become authorities against the claims of neutrals.

Writings of Madison, Volume 2: 1794-1815, p.586

If a purification of the maritime code ever take place, the task seems to be reserved for the United States. They cannot fail to acquire rapidly more and more of respect from other nations, and of influence on those having a common interest with themselves. They will soon become, in the canvas they spread, and in all the means of power, on the ocean, rivals of the nation which has, in fact, legislated on that element. Under such auspices, truth, justice, humanity, and universal good, will be inculcated, with an advantage which must gradually and peaceably enlist the civilized world against a code which violates all those obligations; a code as noxious by the wars and calamities it produces to its overbearing patron as to the nations protesting against it.

Writings of Madison, Volume 2: 1794-1815, p.587

As a preparation for such a result, it is of great moment that the subject of maritime law should appear in our public debates, in the Judicial proceedings, and in individual disquisitions, to have been profoundly studied and understood, so as to attract favorable attention elsewhere; and by inspiring respect for the lights and the character of the nation, increase that for its power and importance. The law of nations has been made by the powerful nations; and these having been warlike in their dispositions and institutions, the law has been modelled to suit belligerent rather than peaceable nations. With the faculties for war, it is to be hoped our country will continue friendly to peace, and exert the influence belonging to it in promoting a system favorable to nations cherishing peace and justice, rather than to those devoted to ambition and conquest.

Writings of Madison, Volume 2: 1794-1815, p.587

The questions claiming more particular research and elucidation seem to be those relating to contraband of war, blockades, the colonial and coasting trades, and the great question of "free ships, free goods."

To Governor Tompkons.

Sepr 28, 1814. DR

Writings of Madison, Volume 2: 1794-1815, p.587

SIR,—Mr. Monroe having just been appointed Secretary of War, it is necessary to provide for the vacancy resulting in the Department of State. Wishing to avail the U. States of your talents and services, I take the liberty of requesting permission to name you to the Senate as his successor. I am aware of the very important station from which their concurrence will withdraw you; but I justify my personal wish to see you a member of the Executive family by my persuasion that the one contemplated will afford still greater scope for the benefits which you have given so many proofs of your disposition to render to our Country. I need not suggest that as early an answer as you can make convenient will be acceptable.

To Thomas Jefferson.

WASHINGTON, October 10, 1814.

Writings of Madison, Volume 2: 1794-1815, p.588

DEAR SIR,—Your favor of the 24th ult. came duly to hand. I learn that the Library Committee will report favorably on your proposition to supply the loss of books by Congress. It will prove a gain to them if they have the wisdom to replace it by such a collection as yours. Mr. Smith will doubtless write you on the subject.

Writings of Madison, Volume 2: 1794-1815, p.588

I have not yet read your last communication to Mr. Monroe on the subject of Finance. It seems clear, according to your reasoning in the preceding one, that a circulating medium, to take the place of a Bank or metallic medium, may be created by law, and made to answer the purpose of a loan, or rather anticipation of a tax; but as the resource cannot be extended beyond the amount of a sufficient medium, and of course cannot be continued but by successive re-emissions and redemptions by taxes, resort must eventually be had to loans of the usual sort, or an augmentation of taxes, according to the public exigencies. I say augmentations of taxes, because these, absorbing a larger sum into circulation, will admit an enlargement of the medium employed for the purpose. In England, where the paper medium is a legal tender in paying a hundred millions of taxes, thirty millions of interest to the public creditors, &c., &c., and in private debts, so as to stay a final recovery, we have seen what a mass of paper has been kept afloat, with little if any depreciation. That the difference in value between the circulating notes and the metals, [is] produced rather from the rise in the latter than from the depreciation of the former, is now proved by the fact that the notes are, notwithstanding a late increase of their quantity, rising towards a par with the metals, in consequence of a favorable balance of trade, which diminishes the demand of them for foreign markets.

Writings of Madison, Volume 2: 1794-1815, p.589

We have just received despatches from Ghent, which I shall lay before Congress to-day. The British sine qua non excluded us from fishing within the sovereignty attached to her shores, and from using these in curing fish; required a cession of as much of Maine as would remove the obstruction to a direct communication between Quebec and Halifax; confirmed to her the Passamaquoddy Islands as always hers of right; included in the pacification the Indian allies, with a boundary for them (such as that of the Treaty of Greenville) against the United States mutually guarantied, and the Indians restrained from selling their lands to either party, but free to sell them to a third party; prohibited the United States from having an armed force on the lakes or forts on their shores; the British prohibited as to neither; and substituted for the present North Western limit of the U. States a line running direct from the West end of Lake Superior to the Mississippi, with a right of G. Britain to the navigation of this river. Our ministers were all present, and in perfect harmony of opinion on the arrogance of such demands. They would probably leave Ghent shortly after the sailing of the vessel just arrived. Nothing can prevent it but a sudden change in the British Cabinet, not likely to happen, though it might be somewhat favored by an indignant rupture of the negotiation, as well as by the intelligence from this Country and the fermentations taking place in Europe.

Writings of Madison, Volume 2: 1794-1815, p.589

I intended to have said something on the changes in the Cabinet, involving, in one instance, circumstances of which the public can as yet very little judge, but cannot do it now.

Writings of Madison, Volume 2: 1794-1815, p.589

The situation of Sackett's Harbour is very critical. I hope for the best, but have serious apprehensions.

To Governor Tompkins.

WASHINGTON, Octr 18, 1814..

Writings of Madison, Volume 2: 1794-1815, p.590

DEAR SIR,—I have received your two letters of the 6 and 8th instant. I cannot deny the cogency of the considerations which have determined you to decline the station which was the subject of mine of the 28th ult., and that some of them can by no one be so well appreciated as by yourself. I was not unaware of the great value of your services within the limits of your particular State, under the circumstances attending it; but in looking to the Nation at large, and the importance of drawing into the Cabinet at so critical a period as much weight of character as possible, I thought I consulted my judgment, as well as my inclination, in the attempt to translate you from the one to the other sphere of service. As your estimate of the public interest and of your duty does not allow me the gratification I should have felt in a different result, I can only add my regrets to the assurances I pray you to accept of my great esteem and friendly respects.

To Thomas Jefferson.

WASHINGTON, October 23, 1814.

Writings of Madison, Volume 2: 1794-1815, p.590

DEAR SIR,—I have received yours of the 15th, and attended to your remarks on "ways and means." I find that the variance in our ideas relates—1. To the probable quantity of circulating medium. 2. To the effect of an annual augmentation of it. I cannot persuade myself that in the present stagnation of private dealings, and the proposed limitation of taxes, the two great absorbents of money, the circulating sum would amount even to 20 millions. But be this amount what it may, every emission beyond it must either enter into circulation, and depreciate the whole mass, or it must be locked up. If it bear an interest, it may be locked up for the sake of the interest; in which case it is a loan, both in substance and in form, and implies a capacity to lend; in other words, a disposable capital in the Country. If it does not bear an interest it could not be locked up, but on the supposition that the terms on which it is received are such as to promise indemnity, at least for the intermediate loss of interest, by its value at a future day; but this both involves the substance of a loan to the amount of the value locked up, and implies a depreciation differing only from the career of the old continental currency by a gradual return from a certain point of depression to its original level. If this view of the subject be in any measure correct, I am aware of the gloomy inferences from it. I trust, however, that our case is not altogether without remedy. To a certain extent, paper, in some form or other, will, as a circulating medium, answer the purpose your plan contemplates. The increase of taxes will have the double operation of widening the channel of circulation and of pumping the medium out of it. And I cannot but think that a domestic capital, existing under various shapes, and disposable to the public, may still be obtained on terms, though hard, not intolerable; and that it will not be very long before the money market abroad will not be entirely shut against us; a market, however ineligible in some respects, not to be declined under our circumstances.

Writings of Madison, Volume 2: 1794-1815, p.591

We hear nothing from our Envoys since the despatches now in print, nor any thing else of importance from abroad. We continue anxious for the situation of Sackett's Harbour. Izard has joined Brown on the Canada side of the straight, and offered battle to Drummond, which he does not accept, and which it seems cannot be forced on him without risk of reinforcements now transportable to him. The most that can fairly be hoped for by us now is, that the campaign may end where it is.

To Geo. W. Campbell.

November 2d, 1814.

Writings of Madison, Volume 2: 1794-1815, p.591

DEAR SIR,—The committee appointed by the House of Representatives to enquire into the causes of the late military events in this District have called for information on the several members of the Cabinet, and the call will embrace you. That you may be under no restraint whatever from official or personal confidence, I think it proper to intimate to you that, in relation to myself, I hope that no information you may be able to give will be withheld from either of those considerations.

Writings of Madison, Volume 2: 1794-1815, p.592

I am so far from wishing to circumscribe the range of enquiry on this subject, that I am anxious that every circumstance may be reached that can throw light on it. I am, indeed, the more anxious, because I understand that a statement furnished by the late Secretary of War implicates me in two particulars: 1. That I committed to him the direction of the operations on the field of battle, which I could not even legally do. 2. That at a critical moment I interposed and prevented it.

Writings of Madison, Volume 2: 1794-1815, p.592

On the latter point, I am aware that, as you were not on the ground, you can have no direct knowledge, and may be without a knowledge of any circumstances indirectly bearing on it. It is a point, however, which I believe can be disproved by evidence as decisive as can be required to establish the negative.

Writings of Madison, Volume 2: 1794-1815, p.592

On the first point, your memory may furnish circumstances not unimportant, as the statement in question has, doubtless, reference to the conversation with Genl Armstrong on the morning of August 24, to which I was led by the regret you expressed at his apparent reserve on so momentous a crisis, and your suggestion that he might be kept back by some feeling of delicacy in relation to Genl Winder.

Writings of Madison, Volume 2: 1794-1815, p.592

The conversation was held very near to you, but no part of it might be within your hearing. Your recollection of my reply to your remarks, and of my communication of what passed between me and Genl Armstrong, may, in connection with recollections of others, aid in elucidating truth.

Writings of Madison, Volume 2: 1794-1815, p.592

I have heard with pleasure that you were far advanced on your journey to Nashville, and that your health was improving. With my sincerest wishes for its perfect restoration, accept assurances of my great esteem and friendly respects.

To Governor Tompkins.

WASHINGTON, NOvr 12, 1814.

Writings of Madison, Volume 2: 1794-1815, p.593

SIR,—I have received your letter of the 5th instant, covering a unanimous Resolution of the two Houses of the Legislature of N. York, expressing the emotions with which they view the terms of peace proposed by the British Commissioners at Ghent, and recommending the most vigorous measures for bringing the war to an honorable termination.

Writings of Madison, Volume 2: 1794-1815, p.593

This language does great honor to the patriotism and just sentiments of the State by whose Councils it has been adopted. And the Resolution derives additional value from the unanimity stamped upon it.

Writings of Madison, Volume 2: 1794-1815, p.593

Such a devotion every where to the rights and dignity of our Country is alone necessary to a speedy triumph over the obstacles to an honorable peace. And such an example could proceed from no source more entitled or more conducive to patriotic emulations.

Writings of Madison, Volume 2: 1794-1815, p.593

Accept, Sir, assurances of my high esteem and my friendly respects.

To Wilson C. Nicholas.

WASHINGTON, Novr 25, 1814.

Writings of Madison, Volume 2: 1794-1815, p.593

DEAR SIR,—I did not receive your favor of the 11th instant till a few days ago, and I have, till now, been too much indisposed to acknowledge it.

Writings of Madison, Volume 2: 1794-1815, p.593

You are not mistaken in viewing the conduct of the Eastern States as the source of our greatest difficulties in carrying on the war; as it certainly is the greatest, if not the sole inducement with the enemy to persevere in it. The greater part of the people in that quarter have been brought by their leaders, aided by their priests, under a delusion scarcely exceeded by that recorded in the period of witchcraft; and the leaders themselves are becoming daily more desperate in the use they make of it. Their object is power. If they could obtain it by menaces, their efforts would stop there. These failing, they are ready to go every length for which they can train their followers. Without foreign co-operation, revolt and separation will hardly be risked; and what the effect of so profligate an experiment would be, first, on misguided partizans, and next on those remaining faithful to the nation, who are respectable for their consistency, and even for their numbers, is for conjecture only. The best may be hoped, but the worst ought to be kept in view. In the mean time, the course to be taken by the Government is full of delicacy and perplexity, and the more so under the pinch which exists in our fiscal affairs, and the lamentable tardiness of the Legislature in applying some relief.

Writings of Madison, Volume 2: 1794-1815, p.594

At such a moment the vigorous support of the well-disposed States is peculiarly important to the General Government, and it would be impossible for me to doubt that Virginia, under your administration of its Executive Government, will continue to be among the foremost in zealous exertions for the national rights and success.

To William Eustis.

(Private.)

WASHINGTON, December 15, 1814.

Writings of Madison, Volume 2: 1794-1815, p.594

DEAR SIR,—It has been in view for some time to counter-place Mr. Changion by an Envoy Extraordinary and Minister Plenipotentiary to his Sovereign Prince, and I have had you in my thoughts for the service. I postponed, however, consulting you on the subject, on the calculation that it could be done at any time without inconvenient delay to the object. Circumstances now exist which render an immediate appointment expedient, and I have just sent in your name to the Senate. I must pray you to excuse my taking this liberty with it, and my hoping that it will be not inconsistent with your views to undertake the mission contemplated. You will oblige me by a few lines of as early a date as you can make convenient.

Writings of Madison, Volume 2: 1794-1815, p.594

Accept assurances of my great esteem and friendly regards.

To Benjamin W. Crowninshield.

WASHINGTON, December 15, 1814.

Writings of Madison, Volume 2: 1794-1815, p.595

SIR,—Mr. Jones having retired from the Secretaryship of the Navy, my thoughts have been turned to you as a desirable successor, and I have this day sent in your name to the Senate for the appointment. I hope you will excuse my doing it without your consent, which would have been asked if the business of that Department had less urged an avoidance of delay. The same consideration will apologize for my hoping that it will not be inconsistent with your views to aid your country in that station, nor with your conveniency to be prepared to repair to it as soon as you may receive notice that the Senate have given effect to the nomination.

Writings of Madison, Volume 2: 1794-1815, p.595

Accept, Sir, assurances of my esteem and of my friendly respects.

To John Adams.

WASHINGTON, Decr 17th, 1814.

Writings of Madison, Volume 2: 1794-1815, p.595

DEAR SIR,—Your favor of the 28th ultimo was duly received, though with more delay than usually attends the mail. I return the interesting letter from your son, with my thanks for the opportunity of perusing it.

Writings of Madison, Volume 2: 1794-1815, p.595

I have caused the archives of the Department of State to be searched, with an eye to what passed during the negotiation for peace on the subject of the fisheries. The search has not furnished a precise answer to the enquiry of Mr. Adams. It appears, from one of your letters referring to the instructions accompanying the commission to make a Treaty of commerce with G. Britain, that the original views of Congress did not carry their ultimatum beyond the common right to fish in waters distant three leagues from the British shores. The negotiations, therefore, and not the instructions, if no subsequent change of them took place, have the merit of the terms actually obtained. That other instructions, founded on the Resolutions of Congress, issued at subsequent periods cannot be doubted, though as yet they do not appear. But how far they distinguished between the common use of the sea and the use, then common also, of the shores, in carrying on the fisheries, I have no recollection.

Writings of Madison, Volume 2: 1794-1815, p.596

The view of the discussions at Ghent presented by the private letters of all our Ministers there, as well as by their official despatches, leaves no doubt of the policy of the British Cabinet, so forcibly illustrated by the letter of Mr. Adams to you. Our enemy, knowing that he has peace in his own hands, speculates on the fortune of events. Should these be unfavorable, he can at any moment, as he supposes, come to our terms. Should they correspond with his hopes, his demands may be insisted on, or even extended. The point to be decided by our Ministers is, whether, during the uncertainty of events, a categorical alternative of immediate peace, or a rupture of the negotiation, would not be preferable to a longer acquiescence in the gambling procrastinations of the other party. It may be presumed that they will, before this, have pushed the negotiations to this point.

Writings of Madison, Volume 2: 1794-1815, p.596

It is very agreeable to find that the superior ability which distinguishes the notes of our Envoys extorts commendation from the most obdurate of their political enemies. And we have the further satisfaction to learn that the cause they are pleading is beginning to overcome the prejudice which misrepresentations had spread over the continent of Europe against it. The British Government is neither inattentive to this approaching revolution in the public opinion there, nor blind to its tendency. If it does not find in it a motive to immediate peace, it will infer the necessity of shortening the war by bringing upon us, the ensuing campaign, what it will consider as a force not to be resisted by us.

Writings of Madison, Volume 2: 1794-1815, p.596

It were to be wished that this consideration had more effect in quickening the preparatory measures of Congress. I am unwilling to say how much distress in every branch of our affairs is the fruit of their tardiness; nor would it be necessary to you, who will discern the extent of the evil in the symptoms from which it is to be inferred.

Extract of a letter from J. Q. Adams to his Father, dated Ghent, October 27, 1814.

Writings of Madison, Volume 2: 1794-1815, p.597

"The whole compass of the diplomatic skill employed by the British Government in this negotiation has consisted in consuming time, without coming to any conclusion. Mr. Clay and Mr. Russell arrived at Gottenburg the 11th of April. The negotiation had been proposed by Lord Castlereagh in November; had been acceded to by the President in the beginning of January. The British Government were informed in February of the appointment of American Plenipotentiaries. Their first dilatory proceeding was to defer the appointment of their Commissioners until official notification should be given them, by the American Ministers themselves, that they were at the place of meeting which had been agreed upon. One full month was gained by this. The next device was, to propose the transfer of the negotiation to Ghent, which absorbed six weeks more; and then they left us from the 24th of June to the 6th of August waiting here for the appearance of their Plenipotentiaries."

To Governor Early, of Georgia.

Decr 18, 1814.

Writings of Madison, Volume 2: 1794-1815, p.597

SIR,—I have duly received your letter of the 2d instant, with the Resolutions of the Legislature of Georgia, expressing unanimously the sentiments inspired by the extravagant terms of peace demanded by the enemy, and the readiness of that State to make any sacrifice necessary to a vigorous prosecution of the war, till it can be brought to an honorable termination.

Writings of Madison, Volume 2: 1794-1815, p.597

Resolutions of such a character are worthy of the real and public spirit of which so many other proofs have been given by the State of Georgia; and they have the greater merit as proceeding from a part of the Nation which presents so disproportionate an extent of frontier to the pressures of the war, with the other disadvantages incident to their situation in sustaining them.

Writings of Madison, Volume 2: 1794-1815, p.598

It is under such circumstances that the patriotism and magnanimity of a people are put to the severest trial; and it will be a lasting honor to those of Georgia that the trial bears testimony to the manly spirit which presides in their public Councils.

Writings of Madison, Volume 2: 1794-1815, p.598

Accept, sir, assurances of my great esteem and friendly respects.

1815

To Majr Genl Dearborn.

WASHINGTON, March 4th, 1815.

Writings of Madison, Volume 2: 1794-1815, p.598

DEAR SIR,—Being desirous of obtaining for the Department of War services which I thought you could render with peculiar advantage, and hoping that, for a time, at least, you might consent to step into that Department, I took the liberty, without a previous communication, for which there was not time, to nominate you as successor to Mr. Monroe, who was called back to the Department of State. I had not a doubt, from all the calculations I could make, that the Senate would readily concur in my views; and if a doubt had arisen, it would have been banished by the confidence of the best informed and best disposed with whom I conferred, that the nomination would be welcomed where it was to be decided on. Contrary to these confident expectations, an opposition was disclosed in an extent which determined me to withdraw the nomination. But before the Message arrived, the Senate very unexpectedly had taken up the subject and proceeded to a decision. They promptly, however, relaxed, so far as to erase the proceeding from their Journal, and in that mode to give effect to the withdrawal.

Writings of Madison, Volume 2: 1794-1815, p.598

I have thought this explanation due both to me and to yourself. I sincerely regret the occasion for it. But to whatever blame I may have subjected myself, I trust you will see in the course taken by me a proof of the high value I place on your public, and of the esteem I feel for your personal, character. Permit me to add, that I have been not a little consoled for the occurrence to which I have been accessary by the diffusive expression to which it has led of sentiments such as your best friends have heard with most pleasure.

To the Republican Members of the Legislature of Massachusetts.

March 7, 1815.

Writings of Madison, Volume 2: 1794-1815, p.599

I have received, fellow-citizens, the address transmitted by you on the 23d of February, with the attention due to the occasion which gave rise to it, and to the view which it takes of past scenes and events.

Writings of Madison, Volume 2: 1794-1815, p.599

Whatever differences of opinion may have existed among good citizens, all will rejoice in the happy result of the contest in which we have been engaged. If this has been attended with difficulties and with sacrifices, with anxieties and with apprehensions, we have a reward in the reflection that the rights of our Country have been successfully maintained, under peculiar disadvantages, against a nation powerful at all times in armaments and resources, and wielding them against us under circumstances the most favorable to her; that the arduous trial has unfolded the energies of the American people, the extent of their public spirit, the stability of their political Institutions, and their capacities for war, as well as for the improvements and enjoyments of honorable peace.

Writings of Madison, Volume 2: 1794-1815, p.599

The firm and persevering resistance which has been made to violations of our national rights and of our essential interests, and the signal valour and patriotism displayed by every variety of our arms, both on the water and on the land, whilst they cannot fail to do justice to the American name, will be among the best guardians of our future peace and safety.

Writings of Madison, Volume 2: 1794-1815, p.599

It remains for us to strengthen these titles to the respect and esteem of other nations by an adherence to the policy which has cultivated peace, friendship, and useful intercourse with all; and to provide still further for our external security, as well as for our internal prosperity and happiness, by fidelity to the Union; by reverence for the laws; by discountenacing all local and other prejudices; and by promoting every where the concord and brotherly affection becoming members of one great political family.

Writings of Madison, Volume 2: 1794-1815, p.600

I thank you, fellow-citizens, for the kind partiality with which you have regarded the discharge of my duty throughout the period which called for the best efforts of us all in our respective situations; and I pray you to accept for yourselves, and for those in whose behalf you have spoken, assurances of my friendly respects and my best wishes.

To Thomas Jefferson.

WASHINGTON, March 12, 1815.

Writings of Madison, Volume 2: 1794-1815, p.600

DEAR SIR,—It was long desirable that an Expose of the causes and character of the war between the United States and Great Britain should remedy the mischief produced by the Declaration of the Prince Regent, and other misstatements which had poisoned the opinion of the world on the subject. Since the pacification in Europe, and the effect of that and other occurrences in turning the attention of that quarter of the world towards the United States, the antidote became at once more necessary and more hopeful. It was accordingly determined, soon after the meeting of Congress, that a correct and full view of the war should be prepared, and made public in the usual demi-official form. The commencement of it was, however, somewhat delayed by the probability of an early termination of the negotiations at Ghent, either in a peace, or in a new epoch particularly inviting a new appeal to the neutral public. The long suspension of intelligence from our Envoys, and the critical state of our affairs at home, as well as abroad, finally overruled this delay, and the execution of the task was committed to Mr. Dallas. Although he hastened it as much as the nature of it and his other laborious attentions admitted, it was not finished in time for publication before the news of peace arrived. The latter pages had not even been struck off at the press. Under these circumstances, it became a question whether it should be published with a prefatory notice that it was written before the cessation of hostilities, and thence derived its spirit and language; or should be suppressed, or written over with a view to preserve the substantial vindication of our Country against prevailing calumnies, and avoid asperities of every sort unbecoming the change in the relations of the two Countries. This last course, though not a little difficult, might have been best in itself, but it required a time and labour not to be spared for it; and the suppression was preferred to the first course, which would have been liable to misconstructions of an injurious tendency. The printed copies, however, amounting to several hundred, are not destroyed, and will hereafter contribute materials for a historical review of the period which the document embraces. I have thought a perusal of it might amuse an hour of your leisure, requesting only, that as it is to be guarded against publication, you will be so good as either to return the copy, or to place it where it will be in no danger of escaping. You will observe, from the plan and cast of the work, that it was meant for the eye of the British people, and of our own, as well as for that of the neutral world. This three-fold object increased the labour not a little, and gives the composition some features not otherwise to be explained.

Writings of Madison, Volume 2: 1794-1815, p.601

The despatch vessel with the peace, via France, has just arrived. It brings little more than duplicates of what was received via England. The affairs at Vienna remain in a fog, which rather thickens than disperses. The situation of France, also, has yet, it would seem, to pass some clearing-up shower. The peace between this Country and Great Britain gives sincere pleasure there, as relieving the Government and the nation from the dilemma of humiliating submissions to the anti-neutral measures of G. Britain, or of a premature contest with her. In Spain, every thing suffers under the phrenzy of the Throne and the fanaticism of the people. But for our peace with England, it is not impossible that a new war from that quarter would have been opened upon us. The affair at New Orleans will, perhaps, be a better guaranty against such an event.

Writings of Madison, Volume 2: 1794-1815, p.602

Mr. Smith will have, communicated to you the result of our consultation on the transportation of the Library.

Writings of Madison, Volume 2: 1794-1815, p.602

We are indulging hopes of paying a trip soon to our farm, and shall not fail, if it be practicable, to add to it the pleasure of a visit to Monticello.

To the Committee of at Meeting of Citizens in Baltimore, April 10, 1815.

Writings of Madison, Volume 2: 1794-1815, p.602

I have received, fellow-citizens, the congratulations upon the conclusion of an honorable peace with G. Britain, which you have communicated on the part of a numerous and respectable meeting of Republican Citizens of the city and precincts of Baltimore.

Writings of Madison, Volume 2: 1794-1815, p.602

A candid review of the trials to which our Country has been exposed, and of its conduct previous and subsequent to the appeal to arms, will always do equal justice to its love of peace and its energies in war; to the stability of its political Institutions amid threatening shocks, and the public spirit which animated and was in turn cherished by them; to its respect for the rights of other nations, and its firmness in asserting its own.

Writings of Madison, Volume 2: 1794-1815, p.602

The present generation, in disregarding temporary interests when brought into competition with essential rights and National character, the only foundations of lasting prosperity, has emulated the wisdom and the virtue of that which bequeathed to it the blessings of freedom and Independence; and it will have the happiness of handing down the precious trust with additional security and lustre to the generations which are to follow.

Writings of Madison, Volume 2: 1794-1815, p.602

A comparison of the present situation of our Country in its own eyes, and in the eyes of the world, with the degradation inviting future insults in which it would have been left by an unresisted accumulation of oppressions, will convey to discriminating minds and to American hearts the value of what has been done, and the compensation for what has been suffered.

Writings of Madison, Volume 2: 1794-1815, p.603

For the success which has placed us on the high ground which calls for our common congratulations, too much praise cannot be given to the warriors who, on both elements, have fought so gloriously the battles of their country; nor to the great body of citizens whose patriotism has borne every sacrifice and braved every danger.

Writings of Madison, Volume 2: 1794-1815, p.603

In the varied scenes which have put to the test the constancy of the nation, Baltimore ranks among the portions most distinguished for devotion to the public cause. It has the satisfaction to reflect that it boldly and promptly espoused the resort to arms when no other honorable choice remained; that it found in the courage of its citizens a rampart against the assaults of an enterprising force; that it never wavered nor temporized with the vicissitudes of the contest; and that it has had an ample share in the exertions which have brought it to an honorable conclusion.

Writings of Madison, Volume 2: 1794-1815, p.603

For the favorable light in which your kind partiality has regarded my participation in the public Councils and measures, throughout the arduous period now so auspiciously terminated, I tender my thanks, with my respects and my best wishes.

To Benjamin W. Crowninshield.

WASHINGTON, June 12, 1815.

Writings of Madison, Volume 2: 1794-1815, p.603

SIR,—I have given to the questions growing out of your letter and communications of the 23d of May, and others from the Commissioners of the Navy Board, the consideration due to them. The following remarks convey the result of it.

Writings of Madison, Volume 2: 1794-1815, p.603

The law which establishes the Board containing provisions entirely new, and rendering the Constitution of the Navy Department more complicated, at the same time that they render it more ample for its objects, it might well happen that different constructions would in the first instance be put on some parts of the law. It is to be hoped, however, that by recurring to the constitutional principles on which the Executive Department of the Government rests, in aid of the established rules of interpretation, the meaning of the act may be satisfactorily determined.

Writings of Madison, Volume 2: 1794-1815, p.604

The better to ascertain the relation in which the Board is placed to the Secretary of the Navy, it is proper to take into view the relation of the latter to the President.

Writings of Madison, Volume 2: 1794-1815, p.604

By the structure of the several executive Departments, and by the practice under them, the Secretary of the Navy, like the other Secretaries, is the regular organ of the President for the business belonging to his Department; and with the exception of cases in which independent powers are specially vested in him by law, his official acts derive their authority from, or, in other words, carry with them, the authority of the Executive of the U.S. Should a Head of Department at any time violate the intentions of the Executive, it is a question between him and the Executive. In all cases where the contrary does not appear, he is to be understood to speak and to act with the Executive sanction, or, in other words, the Executive is presumed to speak and to act through him.

Writings of Madison, Volume 2: 1794-1815, p.604

This being the relation of the Secretary of the Navy to the Executive, and no direct relation existing between the Board of Commissioners and the Executive, the relation between them must be through the Secretary of the Navy, and must depend on the relation of the Board to the latter, as established by law.

Writings of Madison, Volume 2: 1794-1815, p.604

According to the terms of the law, the Board is attached to the office of the Secretary of the Navy, and shall discharge all its ministerial duties under his superintendence.

Writings of Madison, Volume 2: 1794-1815, p.604

Altho' the term "attached," taken by itself, may not fully explain the relation of the Board to the office of the Secretary, it excludes the idea of a substantive power independent of him. The ministerial duties to be performed by the Board are the ministerial part of the duties of the office of the Secretary.

Writings of Madison, Volume 2: 1794-1815, p.604

The nature of these duties is as well expressed by the term "ministerial" as by any other that could be applied. Uncertainties will doubtless occur in the detail, which a course of practice only can remove.

Writings of Madison, Volume 2: 1794-1815, p.604

In saying that the Board "shall discharge" the duties in question, the law is not to be understood as giving an independent power and imposing an absolute obligation. The terms taken by themselves would not require such a construction. In the Legislative use of them, in analogous cases, they import only that when certain acts become requisite, it will be the duty of the functionary named to perform them. The terms, if taken in a literal and absolute sense, would make the Board as independent of the President as of the Secretary of the Navy, and would destroy the unity, the efficiency, and the responsibility of the Executive in an important branch of the Administration. This could not be contemplated by the Legislature.

Writings of Madison, Volume 2: 1794-1815, p.605

On the contrary, it is expressly provided that the ministerial duties in question are to be discharged "under the superintendence" of the Secretary of the Navy, acting, of course, under the authority of the Executive. The term "superintendence," whether its meaning be sought in the Books employed in the explanation of words, or in the use of it in legislative acts, imports a superiority and authority in the superintending over the superintended party. To superintend or supervise without an authority to guide or controll, would be a task either altogether nugatory, or of a nature which the Legislature cannot be presumed to have committed to a Head of Department and a Constitutional organ of the Executive authority.

Writings of Madison, Volume 2: 1794-1815, p.605

But whilst the Board is restricted to the discharge of duties which are ministerial, and are subject therein to the superintendence of the Secretary of the Navy, the Secretary, in the discharge of his duties, so far as they ministerially relate to matters connected with the naval establishment, is restricted to the intermediary functions of the Board.

Writings of Madison, Volume 2: 1794-1815, p.605

No separate or subordinate officers or agents can be immediately employed by him for purposes embraced by the duties of the Board.

Writings of Madison, Volume 2: 1794-1815, p.605

The powers of the Board to adopt rules and regulations for the government of their meetings, and to appoint their own Secretary and two clerks, to be attached to their office, being specially vested in them, are exceptions, and not under the superintendence of the Secretary of the Navy.

Writings of Madison, Volume 2: 1794-1815, p.606

The Board is specially authorized, also, to prepare rules and regulations necessary for securing uniformity in the several classes of vessels and their equipments, and for repairing and refitting them, and for securing responsibility in the subordinate officers and agents; under the restriction, however, of preparing them by and with the consent of the Secretary of the Navy, and that they be approved by the President.

Writings of Madison, Volume 2: 1794-1815, p.606

Whether the alteration which has been made in the Navy Department might have been better modified, or defined with a more discriminating precision, are questions which do not belong to those whose duty it is to execute the law according to the necessary rules of expounding it as it stands.

Writings of Madison, Volume 2: 1794-1815, p.606

The exposition which has been given will at least have the advantage of avoiding essential inconsistencies in its several parts, as well as of preserving that unity of action which is essential to the Executive trust. And with the aid of that candor, cordiality, and confidence, which distinguish those whom the law associates, and which will be exercised in proportion to the call for co-operation in overcoming difficulties, of whatever sort, incident to new arrangements for complicated objects, I flatter myself that the law will go into its due effect with the advantages to the public service for which it was enacted.

Writings of Madison, Volume 2: 1794-1815, p.606

Accept assurances of my esteem and respect.

WASHINGTON, June 12, 1815.

Writings of Madison, Volume 2: 1794-1815, p.606

The Secretary of the Navy will communicate to the Board of Commissioners a copy of the above letter.

To ——— Charlton, Mayor of Savanna.

WASHINGTON, June 19th, 1815.

Writings of Madison, Volume 2: 1794-1815, p.606

SIR,—I have duly received your communication of the 5th instant, and am very sensible of the value I ought to place on the friendly and favorable sentiments which it conveys from the Mayor and Aldermen of the City of Savanna.

Writings of Madison, Volume 2: 1794-1815, p.606

It will always be honorable for the patriotic citizens of that City that they uniformly and zealously supported their Country in every stage of the struggle which has terminated so happily for its interests, and so gloriously for its arms and its Republican Institutions.

Writings of Madison, Volume 2: 1794-1815, p.607

It was a struggle due to the Independence of the present and to the security of future generations. It could not have been avoided without a derogation from both. And it is a proud and gratifying consideration that its issue has consolidated the one and is so auspicious to the other.

Writings of Madison, Volume 2: 1794-1815, p.607

If the peace does not embrace every provision which might have been justly claimed, no blame can touch those whose blood and treasure were devoted to the public cause. If a more unanimous discharge of patriotic duties could have rendered the contest shorter, or the conduct of it less costly, or could have improved, in any manner, the terms on which it was closed, time and reflection are giving lessons to those who did not emulate the general example, which will be a barrier against recurrences of the melancholy error; whilst the past difficulties, which were added to those inseparable from an unaided encounter of so powerful an adversary, enhance the final triumph over the whole.

Writings of Madison, Volume 2: 1794-1815, p.607

Accept, Sir, and tender to those associated with you, assurances of my high respect and my friendly wishes.

To William Plumer, Junr.

WASHINGTON, July 14, 1815.

Writings of Madison, Volume 2: 1794-1815, p.607

SIR,—I received, some time ago, your letter of June 8, which it has not been convenient for me sooner to acknowledge.

Writings of Madison, Volume 2: 1794-1815, p.607

The war lately concluded, with its causes, its events, and the lessons to be drawn from it, will form a volume so interesting in the history of our Country, that it is much to be desired that the facts and features of it may be presented to the world as they really existed. The view you have taken of the task appears to be a very just one; and from the preparations and aids to which you refer, and the style of your observations on the subject, I cannot but augur a valuable and acceptable execution of it. The undertaking is the more meritorious, if, as you intimate, there be danger of early and deceptive publications, which may preoccupy the public belief, and do lasting injustice to our Country or those who have served it.

Writings of Madison, Volume 2: 1794-1815, p.608

With respect to the enquiries which you may find it requisite to address to the Departments or Officers of the Government, I cannot doubt that they will be always ready to contribute proper information for an undertaking laudable in its object, and in hands worthy of the respect and confidence to which patrons, such as your letter points at, must of themselves secure to you.

Return of Napoleon From Elba. [1815.]

To Col. Monroe, (on the Return of Napoleon.)

Writings of Madison, Volume 2: 1794-1815, p.608

DEAR SIR,—From the aspect of the latest intelligence from Europe, we are to infer that war is to be renewed. If the coalition against F. be also renewed, and a civil war there should aid it, the Bourbons and peace may soon be restored. Should Napoleon have the united support of the French, and be able to disunite the allies, the war may soon be terminated in his favor. On other suppositions, the war may be protracted and the issue be doubtful. As war, however, is so presumable, and with England and France adverse parties in it, it is our duty to contemplate a recurrence of embarrassments to the U.S. Should Napoleon yield less than he may be expected to do to the lessons of experience, a difference in his own situation, in that of France, in that of the Continent of Europe, and in that of the U. S., will probably divert him from the anti-commercial and anti-neutral policy which marked his former career. He may even take the opposite course of inviting the commerce of neutral America, for the double purpose of nourishing his own resources, and laying snares for his maritime adversary. On the other hand, it is possible, that his old prejudices may not have forsaken him, and that he may relapse into collisions with our rights, national or neutral.

Writings of Madison, Volume 2: 1794-1815, p.608

But whatever may be the system embraced in that quarter, we cannot turn to another without serious apprehensions that, in some form or other, our commerce and navigation will encounter vexations dangerous to our peace. The full enjoyment of the American market, and an involuntary respect for the military and naval faculties of the U. S., of which such monitory demonstrations have been given, must, indeed, not be without effect in the Councils of G.B. It must occur, also, that with the use of the ports of F., the pressure of our marine would be more than doubled on her commerce. Nor can she be unaware of the dilemma which a war with the U. S. must impose, of either leaving Canada open to our attacks, or defending it by forces not to be well spared from Europe. But strong as these motives are to a just and conciliatory conduct on the part of that nation, it does not follow that they will prevail. It is more probable, especially if the administration continue in the present or similar hands, that a spirit of revenge, a hope of retrieving lost reputation, a wish to retard our maritime growth, a pride in shewing to the world that neither the war nor the peace with this Country has impaired her maritime claims, or her determination to exert them, will all unite with the object of distressing France and destroying her Ruler, in stimulating her into her former violence on the ocean. Should she even cover a discountenance of her impressments under arrangements with us saving her pride, she will be unwilling to forego a general blockade of the ports of France, as at once crippling her enemy and checking the prosperity of her rival. She will be the less apt to decline a resort to this measure, as her continental allies will be reconciled to it when directed against a common enemy, as well as by the plea already prepared, that such an enemy has no claim to the benefit of public law; whilst the measure itself might have the aspect of asserting the British doctrine on the subject of blockades against the pretensions of the U. S.

Writings of Madison, Volume 2: 1794-1815, p.610

We may expect vexations, also, from a fresh application of the rule of '56, in case the French colonies should abandon the Bourbons in favor of Napoleon.

Writings of Madison, Volume 2: 1794-1815, p.610

With these sources of collision before us, the questions to be decided are: 1. What is the armor [?] in which U. S. ought to present themselves, and, particularly, whether the law reducing the military establishment ought to be carried into immediate effect? 2. Whether any and what diplomatic experiments ought to be made for the purpose of obviating threatened collisions, by a conciliatory adjustment of differences which may produce them?

Writings of Madison, Volume 2: 1794-1815, p.611

With respect to the reduction of the Army, I am induced to think that it will be the better course, on the whole, to carry the law into execution; and if the members of the Cabinet at Washington concur in this opinion, the Secretary of War will take his measures accordingly, on the return of the documents sent to me, which will be by the mail of to-morrow. If a preference be given to a delay of the reduction, I wish to have an opportunity of reconsidering the subject with the aid of the views of it loading to that preference.

Writings of Madison, Volume 2: 1794-1815, p.611

On the 2d question, I wish to have the result of a consultation as it relates to Great Britain, to France, and even to Spain; but more particularly as it relates to G. B., and as it relates to the number composing the mission, and the subjects committed to them. It is not impossible that something may have passed from the British Government after the arrival of our ratification of the peace, and the prospect of a new war with France, in reply to the last communication from our Ministers at Ghent, that may affect the question of an Extraordinary Mission.

Writings of Madison, Volume 2: 1794-1815, p.611

When you are all together, take up, also, the expediency of prolonging or rescinding the suspension of the orders for the sailing of Commodore Decatur. If the danger be not serious, the delay may be complained of by the Mediterranean commerce [?]; the more so, as vessels may have gone thither with an understanding that a protecting force would be hastened. It merits consideration whether the squadron might not proceed in such force only as would overmatch that of Algiers and suffice for a blockade; diminishing thus the stake exposed, without an entire disappointment as to the original objects. The reinforcing squadron or squandrons might follow as soon as better estimates of the prospect should justify it.

Writings of Madison, Volume 2: 1794-1815, p.611

I return you the communications by the Fingal [?], with a couple of letters to me from Mr. Crawford for your perusal. I have read the whole but slightly; but you may want them in your consultations.

Writings of Madison, Volume 2: 1794-1815, p.612

The mail of this morning arrived without your correspondence with Baker. It brought, in fact, not even a newspaper. Of course, the whole mail to Fredericksburg must have failed.

Best wishes and respects.

Writings of James Madison

Volume 3: 1816-1828

1816

To Alexander J. Dallas.

LETTERS, ETC.

To Alexander J. Dallas.

APRIL 9, 1816.

Writings of Madison, Volume 3: 1816-1828, p.1

DEAR SIR,—I have received your letter of yesterday, communicating your purpose of resigning the Department of the Treasury. I need not express to you the regret at such an event which will be inspired by my recollection of the distinguished ability and unwearied zeal with which you have filled a station at all times deeply responsible in its duties, through a period rendering them particularly arduous and laborious.

Writings of Madison, Volume 3: 1816-1828, p.1

Should the intention you have formed be nowise open to reconsideration, I can only avail myself of your consent to prolong your functions to the date and for the object which your letter intimates. It cannot but be advantageous that the important measure in which you have had so material an agency should be put into its active state by the same hands.

Writings of Madison, Volume 3: 1816-1828, p.1

Be assured, Sir, that whatever may be the time of your leaving the Department, you will carry from it my testimony of the invaluable services you have rendered to your Country, my thankfulness for the aid they have afforded in my discharge of the Executive trust, and my best wishes for your prosperity and happiness.

To J. B. Say.

WASHINGTON, May 4, 1816.

Writings of Madison, Volume 3: 1816-1828, p.2

SIR,—I must trust to your goodness to pardon the long delay in offering my thanks for the Treatise on Political economy, and for the kind sentiments expressed in the letter which accompanied it. I regret, that notwithstanding the delay, I have not been able to steal from my occupations the time necessary to do justice to such a work by an entire and continued perusal; and that I must postpone that gratification to the approaching epoch, at which I shall exchange the labours of a public for the relaxations of a private station. I can speak, however, of the value of your present, with the perfect confidence inspired by the uncontradicted suffrage which its great merit has procured for it. Luminous developments of the true principles of political economy are everywhere needed; and if more so in our young country than in some old ones, the prejudices are young, also, which are to be encountered. We have an open field for free discussions, and I hope our docility will be proportioned to the advantage.

Writings of Madison, Volume 3: 1816-1828, p.2

I sincerely wish that nothing may occur to drive you from the country of your birth and your choice to seek an asylum in a distant hemisphere. Honorable as such acquisitions may be to this country, they ought not to be coveted on such conditions; the less so, as we are aware that the partiality of its distant friends may anticipate advantages greater than it may be capable of realizing.

Writings of Madison, Volume 3: 1816-1828, p.2

Apart from such reflections, I pray you, Sir, to be assured of the great value I place on your esteem, and of my best wishes for your welfare, whatever may be the theatre of your fortunes.

To William Eustis.

MAY 12, 1816.

Writings of Madison, Volume 3: 1816-1828, p.2

DEAR SIR,—I duly received your two favors of August 10th and December 9th, 1815, but during so busy a season that I have been obliged to postpone the acknowledgment of them to the present date.

Writings of Madison, Volume 3: 1816-1828, p.3

The picture you give of the Dutch humiliation, as exemplified in the tone of the Baron de Nagel on the violation of local sovereignty in the case of the seamen impressed, exceeds what I could have inferred from the relations of the new kingdom to its powerful neighbour. It is not politic in the latter to exact such sacrifices. The feeling that makes them will show itself in a very different character the moment any change of circumstances shall give a free play to human nature. The connection with Russia may hasten the transformation. I observe that a deaf ear is turned to your cogent reasoning in support of the just demands of indemnity. In recognising the principle that a nation is bound by its established Government, it is impossible to resist the inference in our favor, because the Government, during the absence of the Prince of Orange, was in the relations of established Government, or a Government de facto, to the other Governments of Europe; and the United States, considering it in the same light, could not refuse the ordinary intercourse between two friendly nations. A paternal Sovereign ought not to wish the benefits of such an intercourse to be withheld from a people beloved by him. The Allies, in the very act of restoring Louis to the Throne of France, have compelled him, or rather the nation, to indemnify the sufferers from the spoliations of Napoleon, whilst he was de facto at the head of the French people. You will learn from the Secretary of State that efforts will be made to obtain every where the indemnities due by the present for the wrongs of preceding Governments. Mr. Pinkney, who is just departing as Minister to Russia, will take Naples in his way, with a view to that object. And Mr. Gallatin, who will embark in a few days, will press our demands at Paris.

Writings of Madison, Volume 3: 1816-1828, p.3

The complexion of Europe, as recently presented to us, seems to justify your view of its prospects. The peace of Paris has left feelings in various quarters, and of various kinds, which are not auspicious to its duration. A military establishment in G. Britain of 150,000 men; in Russia of half a million or more; and the indications of jealousy and ambition among other powers, with the combustible materials in France, prepare the mind for new agitations. It is understood, also, that whilst the Governments are forming their projects in relation to each other, the people all over Europe have caught a spirit and acquired a knowledge that presage events of another, and, it is to be hoped, of a better kind. Of all these matters, however, your position gives you better opportunities for judging.

Writings of Madison, Volume 3: 1816-1828, p.4

With respect to our own Country, we are threatened with no immediate collisions, unless one should grow out of the questions with Spain, which we are taking measures to bring, if practicable, to an amicable termination. In our internal affairs, our difficulties arise from the state in which our finances were left by the war. The measures provided for by Congress will, I hope, alleviate, and, with help of time, gradually remove them. The principal of these measures are the establishment of a National Bank, and a continuance of a large portion of the war taxes. You will see, also, that a very important provision has been made for fostering our manufactures. This will have the double effect of enlarging our revenue for a time, and, by lessening our future importations, aid in rescuing our Commerce from that unfavorable balance which embarrasses all our monied Institutions and financial operations.

Writings of Madison, Volume 3: 1816-1828, p.4

You will gather from the newspapers sent you the progress and complexion of the elections, general and local. Notwithstanding the pressures of the war, and those on the heels of it, the nation seems determined to lose nothing of the character it has gained.

Writings of Madison, Volume 3: 1816-1828, p.4

You will have noticed the new system disclosed in the Eastern quarter, by the motion and proceedings in Congress relating to the British monopoly of the navigation between the U. States and the British Colonies. It is evident that the monopoly will be met at the next session by countervailing regulations, unless they be prevented by intermediate negotiation; and that they will be urged most by those who heretofore have so systematically combated them. If such be the effect of this partial loss by the shipping interest, what would have been the feelings of a total loss, had it not been prevented by the commercial convention with G. Britain, which abolished the inequality under which that interest was placed by Mr. Jay's Treaty, or rather by the countervailing regulations, as they were called, which were ingrafted on it by G. Britain?

Writings of Madison, Volume 3: 1816-1828, p.5

Mr. Dallas will leave his department in the fall. I shall delay as much as possible providing for the vacancy, with the greater propriety, as the step ought to consult not merely my expiring relation to the Executive trust.

Writings of Madison, Volume 3: 1816-1828, p.5

We have had a season without example deficient both in warmth and in rain. To the present date we have had but a few warm days. And till a few days ago there has been a continued and general drought for several months. The Farmers, in many places, are ploughing up their wheat fields and planting Indian Corn; and the latter crop was more unthrifty than was ever known at this season. Every crop, indeed, is remarkably unpromising. Present my respectful regards to Mrs. Eusiris, and accept, with my great esteem, assurances of my best wishes.

To John Nicholas.

WASHINGTON, May 30, 1816.

DR SIR,—Having been detained longer than I expected, your favor of the 20th found me at this place; from which, however, I am preparing to set out forthwith.

Writings of Madison, Volume 3: 1816-1828, p.5

I have so much confidence in the friendliness of your views, that I always feel indebted for your communications; and I understand so imperfectly the interior politics of New York, that I cannot be indisposed to accept your explanations of them, when it becomes a public duty to pay attention to them. I am bound, however, in the present case, to say, that whatever may be the character or standing of Mr. ———, the recommendations of him were not only in an extent, but from quarters, also, which it would seem you are not aware of; and that if made acquainted with the latter, you would be satisfied that the object, of some, at least, among the most respectable of them, could not be either to bring odium on the Executive or to favor its adversaries. In truth, the recommendations conveyed to the Postmaster General very strong appearances that the appointment of Mr. ——— would be more agreeable to the State at large, and to Albany in particular, than any one of his competitors.

Writings of Madison, Volume 3: 1816-1828, p.6

I make these remarks, without derogating from the tenor of my former letter, as due to Mr. Meigs, with whom the appointment lies; and who, I am persuaded, was grossly misunderstood, if he said any thing at all that could give rise to the report to which you allude. Nothing is less to be relied on than statements of conversations, especially when the conversations may be meant on one side rather to parry than to explain, and the statements are made on the other under the influence of personal or party feelings. Nor is any thing more common than for measures taken on the fairest grounds to be perverted, sometimes with a view to discredit the authors of them; sometimes to answer sinister purposes of those in whose favor they are taken.

To John Rhea.

WASHINGTON, June 1, 1816.

Writings of Madison, Volume 3: 1816-1828, p.6

DEAR SIR,—I received your favor of the 24 Nov. with a recollection of all the proofs of your devotion to the public good which our relative situations had made me acquainted with; and I should have acknowledged it at the proper date if I could have added anything particularly interesting to you. Being now on the eve of a visit to my farm, which needs much my presence, as I do its recreations, I cannot leave Washington without this memorandum that my silence has not been the effect of any diminution of my esteem for you.

Writings of Madison, Volume 3: 1816-1828, p.6-p.7

You will have learnt from the Treasury Department that we have taken the liberty with your name of putting it into the commission for receiving subscriptions to the National Bank; and from the War Department, that you are appointed one of the commissioners for treating with the Choctaw Indians. I hope you will find it not inconvenient to assist in both of these services. The latter is one which will exercise the best judgment, and call for an enlarged view of the National policy which ought to govern transactions with our savage neighbours. On the one hand, it is very desirable to obtain from them cessions, or an acquiescence in limits convenient to the safety and growth of our settlements; and on the other, it is incumbent on us to respect their rights, and not even to disregard their prejudices. In settling Indian boundaries it is but fair to keep in mind that they are peculiarly uncertain and overlapping in themselves, and that the evidences of them are equally obscure and contradictory. This is the case, more or less, with all the contiguous tribes; among civilized nations it but too often happens; among savages, where the modes of occupancy are so vague and proofs rest on tradition or interested memories, it cannot be otherwise. Where Indian claims, therefore, can be extinguished on reasonable terms, it is better to extinguish them doubly, although more than one cannot be well rounded, than to incur the risk of injustice, or the inconveniences resulting from a sense of injury, however erroneous. Our own Country will be more ready to bear the augmented expense than the world will be to overlook a sacrifice of generosity or humanity to that consideration. The acquisitions made by the heroic successes of General Jackson are of incalculable value. It is proper that they should be turned fully to public account. If, in doing it, there should not be all the facility and celerity that might be desired, the final advantages will be the same. And while his Country will have the permanent enjoyment of these advantages, I sincerely wish that the progress of them may, in every stage and under every aspect, be worthy of the pages in which History will record his immortal reputation.

Writings of Madison, Volume 3: 1816-1828, p.7

We have nothing from abroad more than will be seen in the newspapers. Through the same channel you are made acquainted with the current events at home.

To William H. Crawford.

MONTPELLIER, June 21, 1816.

Writings of Madison, Volume 3: 1816-1828, p.8

DEAR SIR,—I return the letter of General Gaines, with the papers connected with it.

Writings of Madison, Volume 3: 1816-1828, p.8

It is to be hoped, and much to be wished, that a resort to the extreme measures contemplated may not be necessary; and it may be better that should result from military discretion, guided by imperious emergencies, than be prescribed by the Executive, without the sanction of the authority more competent to such decisions. In the present case a foreign territory would be invaded, and a refusal of passage through a river terminating within it be the ground of hostility. Without admitting the right of refusal, the question is a delicate one, at least as it relates to the Executive Department. It is the more desirable that the crisis should not lead to extremities, as we are to have amicable negotiations which may possibly put an end to all difficulties in that quarter. This view of the subject, however, must not preclude any interposition of the Executive which may become essential to the public safety, and be expected from its responsibility.

Writings of Madison, Volume 3: 1816-1828, p.8

The case presented by Governor Case, whose communications are also returned, forms a distressing appeal to our sympathies; but I can see no legal ground on which we can extend relief to it. The local authority is bound to do what it can, and it is a reasonable expectation that the abuse of any integral part of it will not continue long. Local benevolence, also, will doubtless make its contributions. If the price of provisions be such as is stated, it is presumed that the troops will not feed on the local resources, but be supplied by water from Eastward settlements near the Lake; and that in proportion to their number will be the expenditures, of which every description of people will be able to partake. The aid expected from the sale of public lands is another item in the account. It is painful to meet such an appeal with such calculations; but can anything better be done?

Writings of Madison, Volume 3: 1816-1828, p.9

The vacancy in the Creek agency will of course await further information on the subject of filling it.

Writings of Madison, Volume 3: 1816-1828, p.9

Respects and best wishes.

To the Secretary of the Navy.

MONTPELLIER, June 27, 1816.

Writings of Madison, Volume 3: 1816-1828, p.9

DEAR SIR,—I have received yours of the 25th, and return the letter from Mr. Kerr, who, I presume, is the former Senator from the State of Ohio.

Writings of Madison, Volume 3: 1816-1828, p.9

Not being acquainted with all the circumstances which would throw light on the subject, among which is "the unfortunate circumstance in the Envelope," not accompanying your letter, I Cannot appreciate properly the representation made to you. It is due to Capt Porter to disbelieve every thing impeaching his character without adequate proof, and to furnish him with an opportunity for every explanation necessary to protect it. The question immediately presenting itself is, how far a preliminary call on Mr. Kerr for further explanations, with notice that a communication of the subject must be made to Capt Porter, ought to take place. Should your better knowledge of facts not decide this question to your satisfaction, you will of course advise confidentially with the judicious friends near you. It is a fair presumption that the real import of Capt Porter's letter to Mr. Brown, which is described, not copied, varies from the sense attached to it by Mr. Kerr, who writes with feelings which are not disguised, and which might warp his apprehension of what he read or heard.

To the Secretary of the Navy.

AUGUST 22, 1816.

Writings of Madison, Volume 3: 1816-1828, p.9

DEAR SIR,—You will be furnished from the Department of with copies of the translation of the letter from the Dey of Algiers, and of the answer to it, with the letter of the Secretary of State to Mr. Shaler, and the instructions to Mr. Shaler and Commodore Chauncey, as Commissioners to accommodate matters with the Dey. As their negotiations may issue in a commencement of hostilities on the part of Algiers, it will be necessary to provide for that event by instructions from you to the Naval Commander to make the best use of his force in protecting our commerce and most effectually annoying the enemy.

Instructions prepared for the Navy Department, 1815 or 16.

Writings of Madison, Volume 3: 1816-1828, p.10

Captain Morris, with the Frigate Congress, to proceed without delay to the Gulph of Mexico, where he will of course take the naval command on the New Orleans Station.

Writings of Madison, Volume 3: 1816-1828, p.10

He is—1. To protect our commerce in the Gulph of Mexico against the violence and depredations of pirates, not confounding, however, with pirates, armed vessels, under whatever flag, committing hostilities against a particular nation or nations only.

Writings of Madison, Volume 3: 1816-1828, p.10

2. To protect our commerce against an exercise of force by the armed vessels, of whatever nation or country, not authorised by the belligerent right of search or the laws of blockade, as asserted by the United States. The entrance into, and departure of commercial vessels from, our ports is not to be interrupted or awed by the hovering of such armed vessels on our coast for the purpose.

Writings of Madison, Volume 3: 1816-1828, p.10

3. To maintain the territorial rights of the United States within the marginal league; but no interruption is to be given to friendly vessels, under whatever flag, proceeding to ports of the United States.

Writings of Madison, Volume 3: 1816-1828, p.10

4. To aid according to law in detecting anti suppressing the frauds of smugglers.

Writings of Madison, Volume 3: 1816-1828, p.10

5. To prevent the entrance of the vessels under his command into ports of the Spanish maine, or Islands adjacent, whether in possession of the one or the other contending parties, except in cases of real emergency; the vessels so entering to observe, luring their necessary stay, the neutral obligations of the United States; to prevent any unnecessary cruises or approaches towards the Spanish coasts, which might favor suspicions of hostile or unwarrantable purposes; and to prevent unjustifiable violence of any sort by vessels under Iris command on vessels armed or unarmed, under whatever flag.

Writings of Madison, Volume 3: 1816-1828, p.11

6. Not to allow any public vessel to transport or receive on board any private mercantile property, in which is to be classed specie and bullion; nor passengers of any description, without a sanction properly obtained.

Writings of Madison, Volume 3: 1816-1828, p.11

7. Not to convoy or protect against a rightful seizure by belligerent vessels, under whatever flag, American or other vessels bound with contraband of war to ports of a country at war.

Writings of Madison, Volume 3: 1816-1828, p.11

8. To communicate and co-operate, as occasions may justify and require, with the officer commanding the land forces of the United States, in repelling and defeating any invasion which may be made or attempted by any foreign armament.

Answer to Letter of William H. Crawford, Secretary of War, June 26, 1816.

MONTPELLIER, June 29th, 1816.

Writings of Madison, Volume 3: 1816-1828, p.11

DEAR SIR,—I return the draught of instructions to the Commissioners for treating with the Chicasaw Indians.

Writings of Madison, Volume 3: 1816-1828, p.11

Not being aided by a map, I am not sure that I understand distinctly all your demarkations. I take for granted they are correct, unless it be otherwise in the reference to the portion of the Chicasaw lands lying within the State of Tennessee. You will be able to decide on re-examining that part of the document. After obtaining the lands on the Tombigbee, and those running up to the Tennessee river, the order in which the other purchases ought to be pressed is of importance. Will it not be best to give preference to the tract within Kentucky, if that State concur in the price? The tract being remote and small, the Chicasaws may be the less unwilling to part with it; and its containing claims of Revolutionary officers is another consideration deserving notice. If the State of Tennessee retains its anxiety for the lands within its limits between the Tennessee River and the Mississippi, it may be well to prefer efforts for obtaining that cession to the purchase of lands to which there are no State claims, and which are not immediately essential to the great object of providing for the security of our Gulf frontier.

Writings of Madison, Volume 3: 1816-1828, p.12

I think you have given too great a scope to the Commissioners in referring to the market proceeds of the land (page 3) as the ultimatum. The sum would be enormous for an Indian purchase, and the more so, as the Chickasaw claim, however strong, is opposed by other claims which may fairly derogate from its worth. Your reference in another place to the customary rates for extinguishing Indian titles, with a liberal discretion to exceed them, seems a better, because a safer course. I have accordingly interlined a modification, which you will regard as a general idea only, to be varied and expressed as you chuse.

Writings of Madison, Volume 3: 1816-1828, p.12

I enclose a different mode of stating the decreasing annuity to be paid in lieu of a gross sum or an ordinary annuity, which you will incorporate in your own phraseology. There appeared to be some danger of a construction which would take the whole intrinsic value of the lands for the sum to be divided into annuities.

To the Secretary of the Treasury.

MONTPELLIER, July 4, 1816.

Writings of Madison, Volume 3: 1816-1828, p.12

DEAR SIR,—I have received yours of the 29 June, with the several papers sent with it.

Writings of Madison, Volume 3: 1816-1828, p.12

Under the difficult circumstances of the currency, and the obligation to attempt a remedy, or, at least, an alleviation of them, the plan you have in view is entitled to a fair experiment. You do right, however, in reserving a discretion to judge of the sufficiency of accessions by the State Banks. Should there be a single State in which a failure of the Banks to accede should reduce the people to the necessity of paying their taxes in coin, or treasury notes, or a Bank paper out of their reach, the pressure and the complaint would be intense, and the more so from the inequality with which the measure would operate.

Writings of Madison, Volume 3: 1816-1828, p.13

Can the suspension of payments in coin by the principal Banks be regarded as the precise cause of the undue depreciation of treasury notes, as intimated in the 3d paragraph of your Circular? A slight modification, if you think it requisite, would obviate the remark.

Writings of Madison, Volume 3: 1816-1828, p.13

As your statement to the President will remain an official "document, I suggest for your consideration the expression, that the Treasury "cannot discriminate in the mode of payment between the revenue of the customs and the internal revenue," as liable to be turned against the distinction proposed in the payment of them.

Writings of Madison, Volume 3: 1816-1828, p.13

With respect to the validity of this distinction, I should yield my doubts, if they were stronger than they are, to the unanimous opinion which has sanctioned it.

Writings of Madison, Volume 3: 1816-1828, p.13

I anxiously wish that the State Banks may enter promptly and heartily into the means of re-establishing the proper Currency. Nothing but their general co-operation is wanting for purpose; and they owe it to their own character, and ultimately to their own interest, as much as they do to the immediate and vital interest of the nation. Should they sacrifice all these powerful obligations to the unfair gain of the moment, it must remain with the State Legislatures to apply the remedy; and is to be hoped that they will not be diverted from it, either by their share in the gains of the Banks, or the influence of the Banks on their deliberations. If they will not enforce the obligation of the Banks to redeem their notes in specie, they cannot surely forbear to enforce the alternatives of redeeming them with public stock, or with national Bank notes, or, finally, of paying interest on all their notes presented for payment. The expedient, also, of restricting their circulating paper in a reasonable proportion to their metallic fund may merit attention, as at once aiding the credit of their paper, and accelerating a resumption of specie payments.

Writings of Madison, Volume 3: 1816-1828, p.14

I enclose the papers marked A, B, and C, to guard against the possibility that you may not have copies of them with you.

To M. Hyde De Neuville.

MONTPELLIER, July 17, 1816.

Writings of Madison, Volume 3: 1816-1828, p.14

SIR—Your favor of the 12th instant overrates the hospitality for which your visit afforded me the agreeable opportunity. If otherwise, it would have been overpaid by the sentiments which it has led you to express.

Writings of Madison, Volume 3: 1816-1828, p.14

It is very gratifying to be assured from such a source, that not only your Monarch, inheriting the virtues of a Brother whose generous policy was allied to the early fortunes of our Country, but that the French nation, cherishes friendly dispositions and liberal views towards it. The United States are faithful to a system of justice, of good will, and of intercourse mutually beneficial with all nations; and they are sensible of all the considerations which strengthen these motives in relation to France. They take a sincere interest in her independence, her prosperity, and her happiness; and they cannot better express it than in their wishes that the French people may enjoy all the just advantages, external and internal, of a regular and free Constitution, adapted to their genius and satisfactory to their desires.

Writings of Madison, Volume 3: 1816-1828, p.14

I hope, sir, that the partialities you indulge for our Country will find all the returns which are due to amiable qualities adorning distinguished nations.

To Mr. Dallas.

MONTPELLIER, July 27, 1816.

Writings of Madison, Volume 3: 1816-1828, p.15

DEAR SIR,—I have received yours of the 23d, inclosing a letter from Mr. Baker, with the draft of an answer, and a letter from Wm Js Sears, of Bermuda.

Writings of Madison, Volume 3: 1816-1828, p.15

The subject of Mr. Baker's letter regularly belongs to the Department of State, but whether addressed to the Treasury Department or to that, ought to have proceeded from the Minister, and not from the Consul, otherwise than thro' the Minister. From courtesy, which, as well as conveniency, sometimes takes the place of strict rule, it may not be amiss to make Mr. Baker the observations contained in your intended answer, with an allusion, at the same time, to the regular channel for such a discussion. I send both the papers to Mr. Monroe, who, in speaking with Mr. Bagot, will lead his attention to the diplomatic usage.

Writings of Madison, Volume 3: 1816-1828, p.15

I send to Mr. Monroe, also, the letter from Mr. Sears. If our vessels enjoy in that Island the same privileges as in the European ports of Great Britain, the claim stated, tho' not supported by the Convention, seems to be covered by the general terms of the Act of Congress referred to. I have, however, but slightly looked into the subject; and the fact and the extent of the trade allowed to our vessels at Bermuda ought to be scrutinized. In describing the British dominions, the Convention would seem to include Bermuda in the West Indies, since it is not probable that it was overlooked altogether by both the American and British Commissioners. Whether an American Consul will be admitted there is another point to be ascertained. This can probably be done at Washington.

To the Dey of Algiers.

AUGUST, 1816.

Writings of Madison, Volume 3: 1816-1828, p.15

I have received your letter bearing date the ———.You represent that the two vessels of war captured by the American squadron were not restored according to the promise of its Commander, Decatur; and inferring that this failure violated the Treaty of peace, you propose, as an alternative, a renewal of the former Treaty made many years ago, or a withdrawal of our Consul from Algiers.

Writings of Madison, Volume 3: 1816-1828, p.16

The United States being desirous of living in peace and amity with all nations, I regret that an erroneous view of what has passed should have suggested the contents of your letter.

Writings of Madison, Volume 3: 1816-1828, p.16

Your predecessor made war without cause on the U. States; driving away their Consul, and putting into slavery the Captain and crew of one of their vessels, sailing under the faith of an existing treaty. The moment we had brought to an honorable conclusion our war with a nation the most powerful in Europe on the seas, we detached a squadron from our naval force into the Mediterranean to take satisfaction for the wrongs which Algiers had done to us. Our squadron met yours, defeated it, and made prize of your largest ship and of a smaller one. Our Commander proceeded immediately to Algiers, offered you peace, which you accepted, and thereby saved the rest of your ships, which it was known had not returned into port, and would otherwise have fallen into his hands. Our Commander, generous as brave, altho' he would not make the promise a part of the Treaty, informed you that he would restore the two captured ships to your officer. They were accordingly restored. The frigate, at an early day, arrived at Algiers. But the Spanish government, alleging that the capture of the Brig was so near the Spanish shore as to be unlawful, detained it at Carthagena, after your officer had received it into his possession. Notwithstanding the fulfilment of all that could be required from the United States, no time was lost in urging on that government a release of the Brig, to which they would have no right whether the capture were or were not agreeable to the law of nations. The Spanish government promised that the Brig should be given up; and altho' the delay was greater than was expected, it appears that the Brig, as well as the frigate, has been actually replaced in your possession.

Writings of Madison, Volume 3: 1816-1828, p.16

It is not without great surprize, therefore, that we find you, under such circumstances, magnifying an incident so little important as it affects the interest of Algiers, and so blameless on the part of the United States, into an occasion for the proposition and threat contained in your letter. I cannot but persuade myself that a reconsideration of the subject will restore you to the amicable sentiments towards the United States which succeeded the war so unjustly commenced by the Dey who reigned before you. I hope the more that this may be the case, because the United States, whilst they wish for war with no nation, will buy peace of none. It is a principle incorporated into the settled policy of America, that as peace is better than war, war is better than tribute.

Writings of Madison, Volume 3: 1816-1828, p.17

Our Consul —————, and our Naval Commander, Chauncey, are authorised to communicate with you, for the purpose of terminating the subsisting difference by a mutual recognition and execution of the Treaty latety concluded. And I pray God that he will inspire you with the same love of peace and justice which we feel, and that he will take you into his holy keeping.

To Alexander J. Dallas.

MONTPELLIER, August 25, 1816.

Writings of Madison, Volume 3: 1816-1828, p.17

DEAR SIR,—Since the receipt of your several letters relating to the Treasury proposition, and the decision of Bank deputies at Philadelphia, my thoughts have been duly turned to the important and perplexing subject. Altho' there may be no impropriety in recalling the proposition, it seems now certain that it will fail of its effect. Should the Banks not represented at Philadelphia come into the measure, the refusal of those represented would be fatal. The want of a medium for taxes, in a single State, would be a serious difficulty; so extensive a want would forbid at once an enforcement of the proposition. The Banks feel their present importance, and seem more disposed to turn it to their own profit than to the public good and the views of the Government. Without their co-operation it does not appear that any immediate relief can be applied to the embarrassments of the Treasury or of the currency. This co-operation they refuse. Can they be coerced?

Writings of Madison, Volume 3: 1816-1828, p.18

Should the State Legislatures unite in the means within their power, the object may be attained. But this is scarcely to be expected; and in point of time is too remote. The National Bank must, for a time at least, be on the defensive. The interposition of Congress remains; and we may hope the best as to a vigorous use of it. But there is danger that the influence of the local banks may reach even that resource. Should this not be the case, the remedy is future, not immediate. The question then, before us, is, whether any and what further expedients lie with the Executive. Altho' we have satisfied, by what has been already attempted, our legal responsibility, it would be still incumbent on us to make further experiments, if any promising ones can be devised. If there be such, I have full confidence that they will enter into your views on the subject. One only occurs to me; and I mention it because no other does, not because I regard it as free from objections which may be deemed conclusive. The notes in the Treasury might be presented to the Banks, respectively, with a demand of the specie due on the face of them; on refusal, suits might be immediately instituted, not with a view to proceed to execution, but to establish a claim to interest from the date of the demand. The notes thus bearing interest being kept in hand, Treasury notes bearing interest might be issued in payments from the Treasury; and so far injustice to the several classes of creditors might be lessened, whilst a check would be given to the unjust career of the Banks. Such a proceeding ought to be supported by the Stockholders, the Army, the Navy, and all the disinterested and well-informed part of the community. The clamor against it would be from the Banks and those having interested connections with them, supported by the honest part of the community misled by their fallacies; and the probability is but too great that the clamor would be overwhelming. I do not take into view the expedient of requiring a payment of the Impost in specie, in part, at least, because it could not be extended to the other taxes, and would in that respect, as well as otherwise, be a measure too delicate for the Executive authority; nor would its effect be in time for any very early purpose.

Writings of Madison, Volume 3: 1816-1828, p.19

I have been led by the tenor of your letters to put on paper these observations. The report you are preparing will doubtless enlighten my view of the whole subject.

To Revd Miles King.

SEPTR 5, 1816.

Writings of Madison, Volume 3: 1816-1828, p.19

SIR,—I received, though not at an early day, your friendly letter of the 29th of June last.

Writings of Madison, Volume 3: 1816-1828, p.19

The letters and communications addressed to me on religious subjects have been so numerous, and of characters so various, that it has been an established rule to decline all correspondence on them. Your reflection will, I doubt not, do justice to this rule. You may be assured that I do it fully to the pious motives which dictated your letter, and that I am very thankful for the kind solicitude you express for my future happiness.

To Mr. Dallas.

MONTPELLIER, September 15, 1816.

Writings of Madison, Volume 3: 1816-1828, p.19

DEAR SIR,—I have duly received yours of the 11th. The difficulty which gave rise to the letter from the Treasurer is much to be regretted, and the regret is increased by the cause of it. The condition at which you glance would have been justly imposed on Mr. Sheldon. His nomination to the Senate was postponed to what was considered as the latest date, with reference, in part, at least, to a protraction of his duties in the Treasury; and was made under the impression that the intention was not unknown. Your answer to Doctor Tucker, and instruction to Mr. Taylor, are certainly the best remedy that the case admits. I sincerely wish it may terminate the adventitious trouble thrown on you.

Writings of Madison, Volume 3: 1816-1828, p.20

The favorable report of the Comptroller on the accounts of Mr. Duplessis, with the pecuniary situation of Mr. Chew, hinted in the recommendation of Mr. Robertson, will justify a pause on our part—perhaps till the meeting of Congress.

Writings of Madison, Volume 3: 1816-1828, p.20

The offer of Commodore Porter may lie over for a comparison with other sites for an observatory. Your answer to him was the proper one.

Writings of Madison, Volume 3: 1816-1828, p.20

I have not yet heard from Mr. Clay. Should he decline the proposal made to him, the delicate considerations attending a completion of the Cabinet will not be at an end. Whatever may be the final arrangement, I hope you will be persuaded that I have never contemplated your purpose of retiring from the Treasury Department without doing justice to your motives, nor without recollecting the great private sacrifices involved in your acceptance of, and continuance in, that important public trust; that I feel with full force the expressions in your letter which are personal to myself, and that I take a sincere interest in what may relate to your future welfare and happiness.

Writings of Madison, Volume 3: 1816-1828, p.20

If there be no objection within the knowledge of the Treasury Department to a pardon of Augustus Johnson, whose petition is enclosed, be so good as to have one made out.

Writings of Madison, Volume 3: 1816-1828, p.20

I took the liberty of requesting, thro' Mr. Rush, the attention of yourself, and the other members of the Cabinet at Washington, to the difficulties arising in the business superintended by Col. Lane, who thought, with me, that a decision on them could be better formed on the spot than by myself at this distance. I have just received the enclosed letter from the Librarian, which presents a new one. Between the alternatives of a temporary building or the continuance of the library where it is, the option seems to be prescribed by a want of Legislative provision for the former. Will you be so good as to obtain from Col. Lane a full view of the case, and to decide on it as may be found best by yourself and the other gentlemen? Mr. Watterston is informed of this reference of the subject.

Writings of Madison, Volume 3: 1816-1828, p.20

We have had a profusion of rain after an unexampled drought. It will be of great benefit to farmers and planters in several respects, but it is too late to have any material effect on the crops of Indian corn, the great esculent staple in this country; and its excess gives it a bad as well as good effect on tobacco, the other important crop at stake. This is the 10th day since I have been able to communicate with Mr. Monroe, who is separated from me by a branch of James River. The interruption, however, has been prolonged by the want of exertion in the mail carrier.

Writings of Madison, Volume 3: 1816-1828, p.21

Accept my esteem and affectionate respects.

To W. H. Crawford.

MONTPELLIER, September 21, 1816.

Writings of Madison, Volume 3: 1816-1828, p.21

DEAR SIR,—I return the letter from Mr. Hall enclosed in yours of the 19th. The fullest confidence is due to the truth of his statement, and to the purity of his views. But it seems impossible to yield the sanction he suggests to the wishes of his neighbours, respectable as they may be. The difference between a forbearance to enforce a law, on considerations forbid-ding the attempt, and a notice that the law would not be enforced, which would amount to an invitation to violate it, necessarily restrains the Executive. Are not the orders, also, to the Military Commanders and to the Marshals, actually issued, applicable to intruders on the public lands every where not specially excepted by law?

Writings of Madison, Volume 3: 1816-1828, p.21

The information from Governor Clarke is very agreeable, and is another proof of the practicability of obtaining by just means every thing from the Indians, as far and as fast as the public interests require. It were to be wished that this view of the subject prevailed in every quarter.

Writings of Madison, Volume 3: 1816-1828, p.21

If Onis has common prudence, he will be silent with respect to the Fort on the Chatahouchee. If Spain cannot, or will not, prevent attacks on us from such a position, we must defend ourselves against them by attacking the position. She seemed to feel the justice of this reasoning when Jackson drove her ene, mies out of Pensacola.

To Mr. Crawford.

MONTPELLIER, Sepr 22, 1816.

Writings of Madison, Volume 3: 1816-1828, p.22

DEAR SIR,—I return, with my approbation, the additional regulations for Mr. Lee, enclosed in yours of the 20th inst. If you have been correctly informed of the evidence on the claim of Mr. Carroll, it is truly extraordinary. Whether a House was a military deposit or not must depend on its being or not being occupied as such under the defined authority, and on the exhibition or the want of adequate proof of the occupancy and the authority. The proof stated to you was certainly the very worst, not the best proof, the case admitted of. Would it be amiss to add some regulation as a guard in such cases? They will be of a class of largest individual amount. If sufferers at Washington should happen to receive indemnities not experienced in other scenes of military events, the loudness of the complaints may readily be anticipated. Perhaps, on consulting with Mr. Dallas, you will be able to digest some proper mode of obviating the payment of awards in favor of debtors to the public.

To W. H. Crawford.

MONTPELLIER, September 23, 1816.

Writings of Madison, Volume 3: 1816-1828, p.22

DEAR SIR,—I have just received from Mr. Monroe a very extraordinary communication, confidentially made to him by Col. Jesup. A copy of it is enclosed. An invasion by a Spanish force at the present period might be pronounced a mere chimera, if a less degree of folly reigned at Madrid; unless, indeed, the Councils of Spain should be supported by a power whose councils may reasonably be more confided in. It is probable, however, that Onis is intriguing at New Orleans, and the extent to which he may mislead an ignorant, proud, and vindictive government, cannot be calculated. It is incumbent on us, therefore, to have an eye to our Southwestern frontier, proportioning our precautions to our means, and to a fair estimate of danger. As General Jackson is apprized of the apprehensions of Col. Jesup, tho' without some of the grounds of them mentioned to Mr. Monroe, we may expect soon to hear from him on the subject. Are there any reinforcements or defences which can be added to those now within his employment? Should Jesup execute his purpose, it will be the boldest project ever assumed by no higher authority. I communicate the intelligence he gives to the Secretary of the Navy. Be so good as to do the same to your colleagues at Washington.

To Mr. Dallas.

MONTPELLIER, September 27, 1816.

Writings of Madison, Volume 3: 1816-1828, p.23

DEAR SIR,—I have received, with your two letters of the 20 and 21st, the general sketch of the finances to which they refer, and have also to acknowledge your subsequent letter of the 25th. I return the sketch under an address to Washington; passing it thro' the hands of Mr. Crawford, with a request that he would hasten it to the Department.

Writings of Madison, Volume 3: 1816-1828, p.23

The document embraces all the points which occur to me as requisite to be touched, and contains so many gratifying features that it cannot fail to engage the favorable attention of the public to the ability and success with which the fiscal business has been conducted thro' the labyrinth into which it had been forced. The facts stated in your letter of the 25th present an additional prospect, extremely grateful in several views, and particularly as bearing testimony to the auspicious course which the Treasury has pursued.

Writings of Madison, Volume 3: 1816-1828, p.23

Mr. Clay declines the War Department. The task now to be fulfilled is not without its delicacies, as you know. I shall avail myself of a conversation with Mr. Monroe, which his journey back to Washington will afford me in a day or two. I could wish for a similar opportunity with others, whose sentiments would be valuable on the occasion. I thank you for your kindness in continuing the routine of business, and regret that I cannot more promptly exonerate you from the trouble it imposes. You will hear from me again on the subject the moment I have any thing to impart.

To Mr. Crawford.

MONTPELLIER, Sepr 30th, 1816,

Writings of Madison, Volume 3: 1816-1828, p.24

DEAR SIR,—I have received your two letters of the 27th and 28th. The views taken by yourself and your colleagues at Washington of the subject presented by Col. Jesup's communication, and your letters to the Secretary of the Navy and General Jackson in consequence of them, were very proper. The part of the precautionary arrangements involving most delicacy is that of sending the naval force into the Gulf of Mexico. Besides the unavoidable delay, I fear the expense of equipment will be considerable, under an appropriation known to be deficient. It will be well to give him the earliest notice of any change in the prospect releasing the Navy Department from the call. The letter from Mr. Erving goes far towards it, and further intelligence from him may be daily expected. As a communication of the contents of Col. Jesup's letter to the Governors of Georgia, Kentucky, Tennessee, and Louisiana, will lead to no immediate expense, nor to any unnecessary public excitement, it is recommended by the general policy of anticipating danger and guarding against it. I am glad to find General Jackson's views coinciding with those transmitted to him.

Writings of Madison, Volume 3: 1816-1828, p.24

I sent to the Attorney General the papers received by the Navy Department from Commodore Patterson, relating to the destruction of the Negro fort, and the property taken in it, with a request from the Commodore that a decision might be had on the distribution of the property among the captors. I referred Mr. Rush, also, to the report, when received from Col. Clinch. Be so good as to let him see the communications from that officer, now returned. The case is novel, and involves several legal questions.

Writings of Madison, Volume 3: 1816-1828, p.25

I perceive that a part of the Negroes captured were deserters from the Spaniards, who will therefore be gainers by breaking up the establishment on the Apalachicola. This is another consideration which may prevent complaints from that quarter. It may be recollected, also, that the Governor of Pensacola declared that territory not to be within Spanish jurisdiction.

Writings of Madison, Volume 3: 1816-1828, p.25

Jameson's remarks in favor of making the seat of the factory the seat of his agency have weight. His pacific mediations among the Indians may also be recommended by a humane policy. But I think it will be best to discountenance the proposed visit of some of them to Washington. We complain at present of the reception of our Indians even at British outposts, and we may find occasion for making a point of putting an end to that sort of intercourse.

Writings of Madison, Volume 3: 1816-1828, p.25

Mr. Monroe has not yet arrived on his way to Washington, and I cannot fix on the day of my setting out until he does. Some other circumstances, also, have been in the way. I fear I shall not be able to put an end to the detention before the last of the week; possibly not before Monday next.

Writings of Madison, Volume 3: 1816-1828, p.25

I have already mentioned to you the answer of Mr. Clay, declining the offer made to him. Altho' Mr. Lowndes has not had occasion to manifest particular qualifications for the War Department, his general talents and public standing present him in very favorable comparison with any other occurring for consideration.

Writings of Madison, Volume 3: 1816-1828, p.25

Cordial regards.

To Mr. Crawford.

Writings of Madison, Volume 3: 1816-1828, p.25

DEAR SIR,—I find by a letter from Mr. Dallas that he was to leave Washington on Tuesday last for Philadelphia. He kindly intends, however, to give official attention to the routine of business until apprised of his release. The date for this I wish to be governed by your conveniency. I have informed Mr. Lowndes of the approaching vacancy in the Department of War, and asked his permission to appoint him to it. Should he not assent, or not be able to enter quickly upon its duties, it will be better, perhaps, that the business of the War Department go on without a Secretary than that the Treasury Department be vacant, or that Mr. Dallas be long detained in its service against his personal interest or conveniency.

OCR 3, 1816.

To Governor Nicholas.

MONTPELLIER, Oct. 5, 1816.

Writings of Madison, Volume 3: 1816-1828, p.26

DEAR SIR,—I have received yours of the 30th ult. It will afford me pleasure to promote your wishes in behalf of Mr. ————, and the pleasure will be increased by my recollections of the period and persons to whom you allude. It is incumbent on me, at the same time, to remark, that it is the usage to leave to the Heads of Departments the selection of their own clerks, which the law vests in their discretion and responsibility; that they generally have their preferences, often rounded in relations of friendship and personal confidence; and that there is always depending a list of applicants for the few vacancies which occur, some of whose pretensions may have peculiar force. My connection with such appointments is much less than may be supposed; and I mention it, that in the event of disappointment, it may not be inferred that I have been inattentive to the object you so justly have at heart.

Writings of Madison, Volume 3: 1816-1828, p.26

Mr. Dallas has and will have explained so fully his measures, with the grounds of them, that I need say little on the subject. If any have supposed him not conciliatory towards the Banks, they have done him great injustice. As to the epoch of enforcing specie payments, the law had fixed on the 20th of February next, with an evident obligation on him to anticipate it if practicable. Many of the Banks, instead of co-operating with him for the latter purpose, have announced purposes at variance with the positive injunctions of the law. It can scarcely be doubted that if the Banks had concerted a general concurrence with the views of the Treasury, the former confidence and currency would have been easily re-established by the time fixed by Congress, and probably sooner. Nor can it well be doubted that such a concert would have taken place if the Bank dividends had been as much favored by the effort, as they might, at least, for a time been reduced by it. I am far from applying these remarks to all the Banks. There are exceptions which we could jointly name with equal pleasure. But it is certain, that as far as the Banks have not done their duty, they have to answer for the injustice done by a depreciated currency to particular States, to the public creditors, to the army, to the Navy, and even to private creditors, who were in a manner forced to receive their debts in that currency. Had the Banks sold their public stock for their own notes, with which they procured it, when they could have done so with a liberal profit; or had they agreed to pay interest on their protested notes, whilst they received interest on the paper pledged to them, they would have stood on different ground. But they preferred, too many of them, to these sacrifices, or rather to these acts of justice, an increased issue of notes, on\* a capital as productive nearly as the notes issued on that basis. Taking the whole subject as we find it, it is not easy to say what Congress, with whom it lies, may decide on.

Writings of Madison, Volume 3: 1816-1828, p.27

There is sufficient reason to believe that if the crisis require relaxation, they will not withhold it. But there are indications that a resumption of specie payments is rapidly becoming practicable and popular. If the demand of specie to discharge a foreign balance against the Nation should not raise the exchange above the expense and difficulty of exporting it, the Banks in general will run no risk in uniting at once with the National Bank in restoring health to the currency, and justice to all transactions, public and private.

Writings of Madison, Volume 3: 1816-1828, p.27

I take this occasion to acknowledge the receipt of your printed Circular from the Directors of the literary fund. Feeling deeply the value of a well-digested system of public instruction, it would be peculiarly grateful to contribute some aid towards it. But I am so well satisfied that I could offer no ideas which will not be comprehended in the superior contributions from other sources, that I regret the less my want of leisure for the attempt.

To John Adams.

WASHINGTON, October 12th, 1816.

Writings of Madison, Volume 3: 1816-1828, p.28

DEAR SIR,—Your favor of the 4th of September was handed to me by Doctor Freeman, at my abode in Virginia, just before I left it for this place. His transient stay afforded but a slight opportunity for the civilities I wished to shew to one who enjoys so much of your esteem, and who appeared so well to deserve them. He was so good as to call at the door since my arrival here; but being at the moment engaged, he was so informed, without my being apprised of the name till he had retired; and his ensuing departure from the city closed our intercourse, unless he should repeat his Southern excursion, when I shall pay with pleasure the arrears due on the first.

Writings of Madison, Volume 3: 1816-1828, p.28

Mrs. Madison, wishing to seize the occasion for a letter to Mrs. Adams, has herself answered the enquiry in yours to me having reference to her. You will perceive that she has not the slightest recollection of any letter to Mr. Steel, such as could have led to the intimations in yours. We conclude, therefore, that some error has taken place in the statement made to you. It will rest with your goodness and conveniency to throw any light upon it, which you may have the means of doing, and which you may think the subject worthy of. I beg you to be assured that I join fully in her acknowledgments for the delicate manner in which you have alluded to it, and for the kind dispositions which it has led you to express.

Writings of Madison, Volume 3: 1816-1828, p.28

The favorable judgment you are so good as to express on the course of my administration cannot but be very gratifying to me; not merely for the immediate value I set on it, but as an encouraging presage of the light in which my endeavours in the service of my Country will be hereafter viewed by those most capable of deciding on them.

To Mr. Dallas.

WASHINGTON, October 15, 1816.

Writings of Madison, Volume 3: 1816-1828, p.29

DEAR SIR,—It being finally arranged that Mr. Crawford will enter the Treasury Department on Monday next, I lose no time in apprizing you of the day on which the requisition on your kind and protracted attention to its duties will be at an end. The letter offering the War Department to Mr. Lowndes having been sent to New York, missed of him altogether; and it unluckily happened that he set out, after his return to Washington, before I had an opportunity of communicating with him. A letter will follow him, with a chance of overtaking him before he reaches Charleston; but it will probably not arrest his journey should the object of it be acceptable to him.

Writings of Madison, Volume 3: 1816-1828, p.29

I thank you very much, my Dear Sir, for the friendly offers in your favor of the 5 instant, and I renew all my acknowledgments and assurances with respect to the past services, for which I am personally indebted, as well as our Country, which is enjoying and awaiting the beneficial fruits of them.

Writings of Madison, Volume 3: 1816-1828, p.29

Accept my high esteem and my cordial salutations.

Writings of Madison, Volume 3: 1816-1828, p.29

P.S. Nothing has occurred diminishing the improbability of Col. Jesup's intelligence. You will have noticed an occurrence in the Gulph of Mexico, which is producing considerable sensation. We are not yet able to appreciate all its circumstances. But it is difficult to believe that the conduct of the Spanish squadron is to be ascribed to hostile orders from Madrid.

To Mr. Dallas.

MONTPELLIER, October, 1816.

Writings of Madison, Volume 3: 1816-1828, p.29

DEAR SIR,—I have received yours of the I instant, and anxiously hope that this will find you perfectly recovered from your indisposition, and in the bosom of your family in Philadelphia. I repeat my thanks for the kind attention you offer to the routine of the Treasury business, from which I calculate on your being speedily released. I have written to Mr. Lowndes on the vacancy approaching in the War Department, and invited him to accept it; and have apprized Mr. Crawford of this step, with an intimation of the expediency of his assuming the Treasury Department as soon as he can make it convenient to do so.

Writings of Madison, Volume 3: 1816-1828, p.30

I propose to set out for Washington on Monday, and expect to be there by the middle of the week. Mr. Monroe is now with me, and will probably be a day or two before me.

Writings of Madison, Volume 3: 1816-1828, p.30

Be assured, Dear Sir, of my best regards.

To William Lowndes.

WASHINGTON, Oct. 16, 1816.

Writings of Madison, Volume 3: 1816-1828, p.30

DEAR SIR—The resignation of the Treasury by Mr. Dallas, drawing after it a vacancy in the War Department, now to be filled, I am desirous of availing our Country of your talents and services in the latter. With the hope of obtaining your assent, I addressed a letter to you, which, from the cause of your late journey, cannot have reached you; and as soon as I ascertained that you had arrived in Washington, I sent a request to be favored with a call on me. Unluckily, you had set out for S. Carolina, and had proceeded too far to be overtaken. Will you be so good as to say whether I may count on your acceptance of the trust in question? As early an answer as you can make convenient is desirable; and it will afford me great pleasure, both on public and personal considerations, if it should be in the affirmative.

To Mr. Dallas.

WASHINGTON, November 11, 1816.

Writings of Madison, Volume 3: 1816-1828, p.30

DEAR SIR,—The approaching meeting of Congress requires that I should be making preparation for the event. The paragraph relating to the finances will be a very important, and, happily, a very pleasing one. Persuaded that your peculiar familiarity with the subject is as yet little impaired, I am tempted by your experienced kindness to intrude so far on moments belonging to other objects as to request from your pen a prospectus of the receipts and expenditures of the fiscal year, with the balance in the Treasury, and a notice of the public debt at its latest liquidation.

Writings of Madison, Volume 3: 1816-1828, p.31

The statement may be the more brief, as I wish to refer to your "Sketches" as an accompanying document, which cannot fail to be acceptable to Congress, useful to the public, and honorable under every aspect. It occurs, however, that if thus used, one or two of the topics at its close may be criticised as not exactly within the scope of a report from the particular Department of the Treasury, if not construable in a latitude not covered by the Constitution. The remarks of either kind can be easily obviated.

Writings of Madison, Volume 3: 1816-1828, p.31

Altho' I presume you possess a copy of the sketches, I inclose the original draft, that there may be no needless delay or trouble to you, in the task I am imposing.

Writings of Madison, Volume 3: 1816-1828, p.31

Be pleased to tender my particular respects to Mrs. Dallas, and to accept my esteem and best regards.

To the Revd William Bentley.

DECEMBER 28th, 1816.

Writings of Madison, Volume 3: 1816-1828, p.31

DEAR SIR,—Mr. Crowninshield having made me acquainted with the passage in your letter to him which speaks with so much personal kindness towards me, and so favorably of my discharge of the public trust which is about to close, I cannot forego an expression of the value I put on such sentiments from such a source. The approbation of the wise and the worthy is the recompence which ought to be next to the first, in the desires and the hopes of those who serve their Country with a faithful zeal. My only apprehension is, that a benevolent partiality may have too much diverted your attention from errors against which good intentions were not a sufficient safeguard.

Writings of Madison, Volume 3: 1816-1828, p.32

It is a great satisfaction, on returning to the private station from which I have been so long separated, that I shall make way for a successor, who enjoys, as he merits so highly and diffusively, the confidence and affection of his fellow-citizens. He will have the consolation of anticipating from such examples as yours, that if he should encounter malice and misrepresentation from some quarters, he will find in others a firm support of his measures when they are right, a candid interpretation of them when they are doubtful, and the admonitions of friendship and patriotism only when they are deemed erroneous.

Writings of Madison, Volume 3: 1816-1828, p.32

Be assured, Dear Sir, of my great esteem, and of my cordial respects and good wishes.

1817

To Carlo Botta.

WASHINGTON, Jany, 1817.

Writings of Madison, Volume 3: 1816-1828, p.32

SIR,—I have been some time in debt for the obliging favor of your "Camille." Its subject, as well as its author, makes me regret more than ever that my knowledge of the Italian does not enable me to do justice to the merits and enjoy the beauties of a poem in that language. A translation into English, well executed, may mitigate my disappointment. In G. Britain this may take place. In this Country, the qualifications for such tasks, and likely to be so employed, do not exist. But I have the satisfaction to learn that a translation of your "Storia della Guerra d'America," is contemplated by an American Citizen, equally reputable for his literary talents and his political station.

To C. J. Ingersoll.

WASHINGTON, Jany 21, 1817.

Writings of Madison, Volume 3: 1816-1828, p.33

DEAR SIR,—I thank you for your attentive favor of the 16th, which gave me the first intelligence of the death of Mr. Dallas. The melancholy event was received here with unfeigned grief, and by none more deeply, as you will readily conceive, than by myself. Our Country will rarely lose a citizen whose virtues, endowments, and services will leave a stronger claim to its admiring and grateful recollections than those which I had the best opportunities of witnessing in our departed friend. To his amiable family the bereavement must be overwhelming indeed.

To W. H. Crawford, Sec. Treas.

Writings of Madison, Volume 3: 1816-1828, p.33

[In answer to a communication from him of 3rd Feb., laying before the President the arrangements entered into between the Banks of New York, Pennsylvania, Baltimore, and Virginia, for resuming specie payments.]

4 FEB., 1817.

Writings of Madison, Volume 3: 1816-1828, p.33

The arrangement communicated by the President of the U. S. Bank is so important an advance towards a universal return of specie circulation, that the Treasury sanction to it, under existing circumstances, is evidently proper. Serious difficulties will, notwithstanding, remain to be encountered, if the principal Banks in every State do not immediately follow the example set them. Even in the States comprising the Banks parties to the arrangements, the payment of the internal taxes after the 20th instant will be distressing to many not possessing the notes of their own Banks. In the other States, the payment in the legalized notes will be generally impossible for a considerable time.

To Thomas Jefferson.

WASHINGTON, Feby 15, 1817.

Writings of Madison, Volume 3: 1816-1828, p.34

DEAR SIR,—I received yesterday yours covering the letter of Mr. Spafford, which was forwarded to him as you suggested. His object in communicating it I collect only from its contents. He probably exhibited it as a proof of the spirit and views of the Eastern States during the late war.

Writings of Madison, Volume 3: 1816-1828, p.34

As with you, the weather here has of late been remarkable, both for the degree and continuance of cold, and the winter throughout for its dryness. The Earth has, however, had the advantage of a cover of snow during the period most needing it. The wheat fields still have a slight protection from it. This morning is the coldest we have yet had. The Thermometer, on the North side of the House, under an open shed, was at 4° above 0. At this moment, half after 9 o'clock, it stands at 6 1/2°. Yesterday morning about the same hour it was 8°, and at 3 o'clock between 10 and 11.

Writings of Madison, Volume 3: 1816-1828, p.34

Our information from abroad has been very scanty for a long time, and we are without any of late date. From St Petersburg nothing has been received shewing the effect of Mr. Coles' communications on the Emperor. Mr. Pinkney left Naples re infecta. He had to contend with pride, poverty, and want of principle. Mr. Gallatin's demands of indemnity are not received with the same insensibility, but will have a very diminutive success, if any at all. The Government of Spain, with its habitual mean cunning, after drawing the negotiations to Madrid, has now sent them back to Onis, with powers, without instructions. They foolishly forget that, with respect to the territorial questions at least, we are in possession of that portion of our claims which is immediately wanted, and that delay is our ally, and even guaranty for every thing. The British Cabinet seems as well disposed as is consistent with its jealousies, and the prejudices it has worked up in the nation against us. We are anxious to learn the result of our answer to the Dey of Algiers. It is nearly three months since a line was received from Chauncey or Shaler; nor has even a rumor reached us since their return to Algiers.

Writings of Madison, Volume 3: 1816-1828, p.35

All the latest accounts from Europe turn principally on the failure of the harvests, and the prospects of scarcity. If they are not greatly exaggerated, the distress must be severe in many districts, and considerable every where. When the failure in this Country comes to be known, which was not the case at the latest dates, the prospect will doubtless be more gloomy.

Writings of Madison, Volume 3: 1816-1828, p.35

You will see that Congress have spent their time chiefly on the compensation law, which has finally taken the most exceptionable of all turns, and on the claims-law, as it is called, relating [to] horses and houses destroyed by the enemy, which is still undecided in the Senate. They shrink from a struggle for reciprocity in the W. India trade; but the House of Representatives have sent to the Senate. a navigation act, reciprocating the great principle of the British act, which, if passed by the Senate, will be felt deeply in Great Britain, in its example, if not in its operation. Another Bill has gone to the Senate which I have not seen; and of a very extraordinary character, if it has been rightly stated to me. The object of it, is to compass by law only an authority over roads and Canals. It is said the Senate are not likely to concur in the project; whether from an objection to the principle or the expediency of it, is uncertain. I shall hasten my departure from this place as much as possible; but I fear I shall be detained longer after the 4th of March than I wish. The severe weather unites with the winding up of my public business in retarding the preparations during the session of Congress, and they will from their multiplicity be a little tedious after we can devote ourselves exclusively thereto. On my reaching home, I shall recollect your notice of the call, which will afford me the pleasure of assuring you in person of my sincere and constant affection.

To Committee of City of Washington.

MARCH 4, 1817.

Writings of Madison, Volume 3: 1816-1828, p.36

I am much indebted to the Citizens of Washington, in whose behalf you speak, for the expressions of regard and respect addressed to me. These sentiments are the more valuable to me, as my long residence among them has made me well acquainted with their many titles to my esteem, at the same time that it has enabled them to mark more particularly the course of my public and personal conduct. Their partiality has greatly overrated both. But they do no more than justice to my honest zeal in the service of my Country; and to my friendly dispositions towards this city and its Inhabitants. I have ever regarded the selection for the National Metropolis, made by its great Founder, as propitious to the national welfare; and, although I could not rival my immediate predecessor, in the aids he afforded, I was not less sincere in my desires for its growth and improvement. The ultimate good flowing from the disaster which at a moment clouded its prospects, is a gratifying compensation to those on whom it fell; and is among the proofs of that spirit in the American people, as a free people, which, rising above adverse events, and even converting them into sources of advantage, is the true safeguard against dangers of every sort.

Writings of Madison, Volume 3: 1816-1828, p.36

On the point of a final departure from Washington, I pray its citizens to be assured that every expression of their kindness will be held in lively remembrance, with cordial wishes for their collective prosperity and individual happiness.

To George M. Dallas.

WASHINGTON, March 6, 1817.

Writings of Madison, Volume 3: 1816-1828, p.36

DR SIR,—I received some days ago your favor of the 26 ult., but this is the first moment I have found to acknowledge it.

Writings of Madison, Volume 3: 1816-1828, p.36

I learn, with great pleasure, your intention to publish the life and writings of your father. The latter will be a rich addition to our political and literary treasures: and the former a portrait worthy of a conspicuous place in the biographical gallery. I think too favorably of the public judgment and taste to doubt that the work will meet from it a grateful reception.

Writings of Madison, Volume 3: 1816-1828, p.37

Under this impression, I am sure that an association of my name with the publication, in the mode you intimate, must be very superfluous, even if it had the value you attach to it. But with the sentiments which I expressed for your father whilst living, I cannot be disposed to withhold such an evidence that they are equally felt for his memory.

Writings of Madison, Volume 3: 1816-1828, p.37

Be so good as to present to your highly respected and amiable mother my sincere regards and best wishes, to which Mrs. Madison adds hers; and to accept for yourself assurances of the same.

To Mr. Gallatin.

MARCH, 1817.

Writings of Madison, Volume 3: 1816-1828, p.37

DEAR SIR,—Notwithstanding the lapse of time, nothing definitive has taken place, in concert with Mr. Hassler, in relation to Mr. Le Sueur. Mr. Crawford has the subject in hand, and will communicate the result.

Writings of Madison, Volume 3: 1816-1828, p.37

I can add little to the public information which goes to you from the official source, and thro' the Press. You will find that specie is at length reinstated in its legitimate functions, at which all are rejoicing except the Banks, which are willing to sacrifice justice and the public good to their undue profits. Our manufactories have had a hard struggle with the glut of imported merchandise. All of them are crippled; some of them mortally; and unless a rise of prices should soon succeed the unexampled depression, the progress made will be in a manner lest, and the work will have hereafter to begin anew. The high price of agricultural products has co-operated in diverting the attention from manufactures. We hope, however, that as these causes are temporary, many who have embarked their fortunes in that way will be able to hold out till a change of circumstances shall bring relief. The appeals made to Congress for a further interposition have been without effect. There is a popular spirit considerably diffusing itself which will aid somewhat another experiment at the next session. The proposed reciprocation of the British West India navigation act was not carried through; some being unwilling to hazard the market for so much of high-priced produce; others shrinking from the presumed obstinacy of the antagonist and the tendency of a commercial contest to a more serious one; and others still hoping that a more fair and liberal policy may find its way into the British Cabinet. This hope is strengthened in some by the lessons, as they view them, in the plaster act, which retaliates that of Nova Scotia, and the navigation act, which applies to Great Britain and her imitators the rule of her general Navigation Act of Ch. 2. Both of these measures went thro' with apparent earnestness.

Writings of Madison, Volume 3: 1816-1828, p.38

The early part of our winter was uncommonly mild. The latter part has been exactly the reverse. I understand, however, that the wheat fields generally wear a good aspect. The last crop of wheat was good, the quality peculiarly so, and is bringing the farmers the enormous price of 13, 14 and 15 dollars a barrel for flour. The crops of corn were uncommonly and unprecedently bad in the Atlantic States. It sells at from 7 to 10 dollars a barrel of 5 bushels. But for the economy which forced itself into general use, great distress would have been felt; and with that aid, the poor are in many places considerably pinched.

Writings of Madison, Volume 3: 1816-1828, p.38

I am in the midst of preparations to get to my farm, where I shall make myself a fixture, and where I anticipate many enjoyments, which, if not fully realized, will be a welcome exchange for the labors and anxieties of public life.

Writings of Madison, Volume 3: 1816-1828, p.38

Mrs. Madison has introduced to Mrs. Gallatin a son of Mr. F. Preston, formerly a member of Congress, whom an opulent father indulges in spending a little of his wealth in Europe. He is well spoken of, both as to his mind and his principles. Permit me to ask your friendly notice of him.

Writings of Madison, Volume 3: 1816-1828, p.39

With my respectful regards to Mrs. Gallatin, accept for yourself assurances of my great esteem and friendship.

To William Eustis.

WASHINGTON, March ——, 1817.

Writings of Madison, Volume 3: 1816-1828, p.39

DEAR SIR,—I cannot take my final leave of Washington without calling to mind the epistolary debt remaining duc to you. On consulting with Mr. Monroe some time ago, it was understood that your stay in Holland would be prolonged until next fall, if not next spring, by a joint negotiation with the Government of the Netherlands on the subject of a Commercial Treaty. You will have received the communications relating to it from the Department of State. With respect to your situation on your return to the United States, I can only express the gratification I shall feel if a satisfactory one should offer itself; and my confidence that you enjoy the friendly dispositions of my successor. How far he may be able to give effect to them will of course depend on circumstances.

Writings of Madison, Volume 3: 1816-1828, p.39

I can add nothing by way of public information to what goes to you from the official source and from the press. From the latter, it is probable accounts will reach you of later date than this will convey.

Writings of Madison, Volume 3: 1816-1828, p.39

I am hastening my preparations to become a fixture on my farm, where I anticipate many enjoyments, which, if not fully realized, will be a welcome exchange for the fatigues and anxieties of public life. I need not say that I shall carry with me, among other recollections, the affectionate ones left in my breast by the official and personal intercourse which existed between us. Mrs. M. would gladly say what would equally express the feelings she retains for Mrs. Eustis, but she is obliged, by intense occupations in the packing and other arrangements, to refer to me the pleasure of doing it for her. I avail myself of the occasion for tendering my own respectful regards, along with the assurances which I pray you to accept for yourself of my cordial esteem and best wishes.

Writings of Madison, Volume 3: 1816-1828, p.40

If this should not be delivered, it will be followed by Mr. William Preston, son of Francis Preston, formerly a member of Congress, and nephew of Col. Preston, late of the Army, and now Governor of Virginia. He is said to be a youth of promising talents and excellent principles; and on that account, as well as from a respect to his valuable connections, I ask the favor of your politeness to him. He is anxious to take a peep at the old world, and his father, being very rich, indulges his curiosity.

To W. H. Crawford.

MONTPELLIER, April 24, 1817.

Writings of Madison, Volume 3: 1816-1828, p.40

I have received, my dear Sir, your favor of the 18th, with the Lupinella seed, for which I thank you. I will endeavour to make the most of it, by sowing a part now and the rest in October. It will be a valuable acquisition if it has half the merit ascribed to it.

Writings of Madison, Volume 3: 1816-1828, p.40

The British affairs appear to be approaching, if not already in, a paroxysm; which, but for the horrors of the Revolutionary experiment in France, could not fail to issue in some radical change; and which, but for the Republican example in the United States, would as certainly issue in the invigoration of the monarchical system. In the equilibrium produced by these external causes, it is not easy to say what may result from the nature of the disease, and from the conflict of parties. Mr. Adams, being on the spot, has better means of judging than are possessed at this distance. My conjecture would be, that the whig party will be divided, some joining the Ministerialists, some the Reformers; and that finally it will be a question between the Government and the army on one side, and the mass of the nation, goaded by distress and expecting relief from a political change, on the other. We must understand more thoroughly than we do all the circumstances involved in the question before we can anticipate the ultimate decision of it. Something may depend on the interest which foreign powers may take in the crisis; and much will depend on the degree of public distress to be encountered by the government party.

Writings of Madison, Volume 3: 1816-1828, p.41

We reached our home in safety, and in the computed time. I found the agricultural prospects very favorable, but a spell of dry weather has impaired them. We have just had, however, a plentiful rain, which may enable the wheat fields to resist the Hessian fly, which was commencing its ravages under the influence of the dry weather.

Writings of Madison, Volume 3: 1816-1828, p.41

Mrs. Madison joins me in cordial regards to Mrs. C. and yourself.

To John Adams.

MAY 22d, 1817.

Writings of Madison, Volume 3: 1816-1828, p.41

DEAR SIR,—I have received your favor of April 22d, with the two volumes bearing the name of Condorcet. If the length of time they remained in your hands had been in the least inconvenient to me, which was not the case, the debt would have been overpaid by the interesting observations into which you were led by your return of them.

Writings of Madison, Volume 3: 1816-1828, p.41

The idea of a Government "in one centre," as expressed and espoused by this Philosopher and his theoretic associates, seems now to be every where exploded. And the views which you have given of its fallacy will be a powerful obstacle to its revival any where. It is remarkable that in each of our States which approached nearest to the theory changes were soon made, assimilating their constitutions to the examples of the other States, which had placed the powers of Government in different depositories, as means of controling the impulse and sympathy of the passions, and affording to reason better opportunity of asserting its prerogatives.

Writings of Madison, Volume 3: 1816-1828, p.42

The great question now to be decided, and it is one in which humanity is more deeply interested than in any political experiment yet made, is, whether checks and balances sufficient for the purposes of order, justice, and the general good, may not be created by a proper division and distribution of power among different bodies, differently constituted, but all deriving their existence from the elective principle, and bound by a responsible tenure of their trusts. The experiment is favored by the extent of our Country, which prevents the contagion of evil passions; and by the combination of the federal with the local systems of Government, which multiplies the divisions of power, and the mutual checks by which it is to be kept within its proper limits and direction. In aid of these considerations much is to be hoped from the force of opinion and habit, as these ally themselves with our political institutions. I am running, however, into reflections, without recollecting that all such must have fallen within the comprehensive reviews which your mind has taken of the principles of our Government, and the prospects of our Country.

Writings of Madison, Volume 3: 1816-1828, p.42

I have always been much gratified by the favorable opinion you have been pleased occasionally to express of the public course pursued while the Executive trust was in my hands, and I am very thankful for the kind wishes you have added to a repetition of it. I pray you to be assured of the sincerity with which I offer mine, that a life may be prolonged which continues to afford proofs of your capacity to enjoy and make it valuable.

To D. Lynch, Junr.

MONTPELLIER, June 27, 1817.

Writings of Madison, Volume 3: 1816-1828, p.42

SIR,—I have received your letter of the 18th instant, informing me that "the American Society for the encouragement of domestic Manufactures" have been pleased to elect me one of its members.

Writings of Madison, Volume 3: 1816-1828, p.42

Although I approve the policy of leaving to the sagacity of individuals, and to the impulse of private interest, the application of industry and capital, I am equally persuaded that in this, as in other cases, there are exceptions to the general rule, which do not impair the principle of it. Among these exceptions is the policy of encouraging domestic manufactures within certain limits, and in reference to certain articles.

Writings of Madison, Volume 3: 1816-1828, p.43

Without entering into a detailed view of the subject, it may be remarked, that every prudent nation will wish to be independent of other nations for the necessary articles of food, of raiment, and of defence; and particular considerations applicable to the United States seem to strengthen the motives to this independence.

Writings of Madison, Volume 3: 1816-1828, p.43

Besides the articles falling under the above description, there may be others, for manufacturing which natural advantages exist, which require temporary interpositions for bringing them into regular and successful activity.

Writings of Madison, Volume 3: 1816-1828, p.43

When the fund of industry is acquired by emigrations from abroad, and not withdrawn or withheld from other domestic employments, the case speaks for itself.

Writings of Madison, Volume 3: 1816-1828, p.43

I will only add, that among the articles of consumption and use, the preference in many cases is decided merely by fashion or by habits. As far as an equality, and still more where a real superiority, is found in the articles manufactured at home, all must be sensible that it is politic and patriotic to encourage a preference of them, as affording a more certain source of supply for every class, and a more certain market for the surplus products of the agricultural class.

Writings of Madison, Volume 3: 1816-1828, p.43

With these sentiments, I beg you to make my acknowledgments for the mark of distinction conferred on me; and which I accept from a respect for the Society and for its objects, rather than from any hope of being useful as a member.

Writings of Madison, Volume 3: 1816-1828, p.43

To yourself, Sir, I tender my friendly respects.

To Richard Rush.

MONTPELLIER, June 27, 1817.

DEAR SIR,—I have received your two favors of the 18th and 20th inst. I am promised a visit from Mr. Jefferson the ensuing month, and shall not fail to communicate to him the one you note for that purpose.

Writings of Madison, Volume 3: 1816-1828, p.44

I readily conceive that Mr. Correa may feel some conflict in his present position, between his two characters of philanthropist and Plenipotentiary; and that he may infer some indulgence towards the latter from a respect to the former. He ought not, however, to impose on you a conflict between this kind feeling in the Government and its self-respect. It is both illiberal and impolitic, and necessarily extorts the admonitions you so gently convey to him.

Writings of Madison, Volume 3: 1816-1828, p.44

In assuming a guardianship of our character in Europe, he committed, to say the least, a marked indelicacy; and his avowed resort to the press as the medium of giving information to the public here was a still greater aberration. His regard for Our national reputation, if sincere, might have been manifested in a less exceptionable mode than in an official conversation. And his consciousness of the wrongfulness of a direct communication to the people is betrayed by the flimsiness of his apology. A silly reason from a wise man is never the true one.

Writings of Madison, Volume 3: 1816-1828, p.44

The British doctrine of blockades has given rise to error and irregularity in the practice of other nations. In strictness, the blockade notifies itself, and no other notification can be admitted by neutrals who understand their rights, as having any other effect than as a friendly caution against a probable danger. But even in this sense the notification ought to be to the Government, which may make the use of it deemed proper. This Government has never formally promulgated the blockades more than any other regulations of foreign Governments. The most that seems admissible in such cases is, to let the public be informally apprized of them, that individuals may not ignorantly incur just penalties. In one instance an answer was given by the Department of State to a notification of a British blockade by Mr. Merry, which, according to my recollection, explained the sense in which it was received, and precluded the idea that anything short of an actual attempt to violate a legal blockade could subject neutral vessels to interruption on the high seas. Notwithstanding these views of the subject, I am not sure that foreign Consuls in our ports may not have addressed notifications to our Merchants through the newspapers. And it may be worth enquiry whether something of the sort was not done by Mr. Onis, perhaps, prior to his reception as public Minister. It is to be regretted that any difficulties should have arisen with Portugal, the only recognized nation, besides ourselves, on this hemisphere; and particularly that the most enlightened and esteemed foreigner among us should be the pivot on which they turn. It is not the less necessary, however, to make these considerations, as you are making them, subordinate to the rights of our Country and the honor of its Government. As far as these will permit, conciliation can in no case be more properly intermingled.

Writings of Madison, Volume 3: 1816-1828, p.45

May not the event at Pernambuco, if not caused by actual oppression, tend to give at the present moment an unfavorable turn to the sentiment of European Sovereigns in relation to the revolutionary scene in South America? The struggle of the Spanish part of it having the appearance of shaking off a foreign yoke, appeals merely to the interest and sympathy of those Sovereigns. That in the Brazils may be viewed by them as an attack on a domestic throne, and as adding an example in the New World to those which have inspired so much alarm in the Old.

To George Joy.

MONTPELLIER, Aug. 15, 1817.

Writings of Madison, Volume 3: 1816-1828, p.45

DEAR SIR,—I have received your several favors, the last bearing date the — day of ——, on the subject of your translation from Rotterdam to Amsterdam; and have expressed to the President the sentiments which my knowledge of your exertions in the cause of our Country, and my friendly dispositions I have entertained towards you, suggested. He has been for a considerable period on a tour along our Eastern and Northern frontier, and will not receive my letter till he returns to Washington, which is expected to take place about the middle of September. I wish I could comply with your wish for an anticipation of the result of that and the communications through Mr. Adams. But not knowing the list from which the selection will be made, and which will probably be a long and respectable one, nor the precise light in which merits of different descriptions may present themselves to the mind of the President, I cannot venture to predict his decision. Should he, indeed, make an appointment without waiting for the previous sanction of the Senate, you will know nearly as soon as this will reach you.

Writings of Madison, Volume 3: 1816-1828, p.46

I take this occasion to thank you for the various and valuable communications I had the pleasure of receiving from you during a period of my official duties, which prevented my acknowledging them. Your candour will, I trust, have rightly interpreted the omission, and preserved your disposition to accept assurances of my esteem and friendly respects.

To President Monroe.

MONTPELLIER, August 22, 1817.

Writings of Madison, Volume 3: 1816-1828, p.46

DEAR SIR,—Your favor of July 27, from Pittsburg, was duly received, and I am very glad to learn from it that the fatiguing scenes through which you have passed had not prevented some improvement in your health. The sequel of your journey will have been still more friendly to it, as affording a larger proportion of the salutary part of your exercise. I hope you will find an ample reward for all the inconveniences to which you have been subjected in the public benefit resulting from your tour. The harmony of sentiment so extensively manifested will give strength to the Administration at home, and command abroad additional respect for our Country and its institutions. The little vagaries which have excited criticism, whether proceeding from the fervor of patriotism or from selfish views, are light in the scale against the consideration that an opportunity has been given and seized for a return to the national family of the prodigal part which had been seduced from it, and for such a commitment of the seducers themselves, that they cannot resume their opposition to the Government without a public demonstration that their conversion was inspired by the mere hope of sharing in the loaves and fishes.

Writings of Madison, Volume 3: 1816-1828, p.47

You will readily conceive the reluctance with which I say any thing on the subject of candidates for office. But I cannot decline an expression of my good will toward Mr. W. Taylor heretofore agent in St. Domingo, who wishes to be successor to Mr. Bourne, at Amsterdam. My opinion of him, as an intelligent man, is founded in some measure on my occasional interviews with him. Of his integrity and good dispositions generally, I have had satisfactory information from others. Of his official standing with the Government I may have less, but cannot have more, knowledge than you possess yourself. In naming Mr. Taylor, however, I must add that I do it not only without knowing the list of competitors before you, but with reserve as to the pretensions of Mr. Joy, consul at Rotterdam also desirous to be Mr. B.'s successor. I had a personal acquaintance with the latter gentleman many years ago, and have had a series of communications from him since his residence abroad, which have led me to regard him as a man of literary talents, and to know that he exerted them with a laborious fidelity to the rights and honor of his country during the critical periods which furnished the occasion. Mr. Adams can doubtless place before you fully the grounds on which the pretensions of Mr. J. rest.

Writings of Madison, Volume 3: 1816-1828, p.47

You will learn from Mr. Cathcart himself that he has, wit his family, been driven from Cadiz by the sterility of the Consulate there, and that he has an eye to domestic service. His worth appears to be generally acknowledged, and it is seconded by the sympathy awakened by a large and young family. But it is more easy to point at such cases than to suggest the mode of providing for them. The parable of the loaves and fishes is applicable to the government in the circumstance of the small number on hand, not in the power of multiplying them.

Writings of Madison, Volume 3: 1816-1828, p.48

This will remain at Washington for your return thither, after which I promise myself the pleasure of soon seeing you on your way to Albemarle.

Writings of Madison, Volume 3: 1816-1828, p.48

Be assured of my high esteem and constant regard.

To D. A. Azuni, at Genoa.

OCTOBER, 1817.

Writings of Madison, Volume 3: 1816-1828, p.48

SIR,—The three copies of your work on Piracy were duly received, and two of them disposed of, one for the Library of Congress, the other for that of the Department of State. For the 3d, presented to myself, I pray you to accept my thanks.

Writings of Madison, Volume 3: 1816-1828, p.48

A historical, judicial, and remedial view of piracy, was a subject which merited the researches and disquisition you have bestowed on it, and I have perused this gift of your pen with the pleasure promised by the talents of which the public had other proofs in possession.

Extract From Letter to William H. Crawford, Oct. 24, 1817, in Answer to His of Oct. 12.

Writings of Madison, Volume 3: 1816-1828, p.48

"I feel more satisfaction than surprise at the excess of the Revenue beyond the estimated amount. It is principally drawn from imposts, and these will generally tally with the value of exports, which has, of late, been enhanced by good crops, or good prices overbalancing deficient crops. The difficulty of finding objects for our ways and means will startle foreign Governments, who husband their own so badly, and shut their eyes against the spirit of a responsible Government and the fertile industry of a free people. It will no doubt lead, as you anticipate, to propositions in Congress for repeals in the internal branch of revenue, and probably to reductions in the external. In the former, my concern is limited pretty much to the distillery tax, which I hope will be retained. Should a revision of the Impost take place, it may be worth your while to examine the comparative rates on different sorts of wine. The light and cheap wines are at present under prohibitory duties to those who ought to be courted to substitute them for ardent spirits. Mr. Dallas was furnished with some data on this subject by Mr. Jefferson, who had particularly turned his thoughts to it.

Writings of Madison, Volume 3: 1816-1828, p.49

"The grounds on which a reduction of taxes will be pleaded for are strengthened by the resource in the public lands, which, if squatting be suppressed, and fair sales secured, as I hope will be the case, promise a rich contribution to the Treasury. One of the objects to which the fund is peculiarly pertinent seems to be internal improvement in roads, canals, &c. Such an application of it, besides its intrinsic importance, would enlist all parts of the Union in watching over the security and sale of the lands. And I anxiously wish Congress may institute the Constitutional process for removing all obstacles to such an arrangement. Pardon these observations, which go even beyond the plea derived from the last paragraph in your letter."

To Charles Keilsall.

MONTPELLIER, VA., October, 1817.

Writings of Madison, Volume 3: 1816-1828, p.49

SIR,—I duly received the copy of the "Phantasm of an University," which you were so obliging as to send me; and I owe you many thanks for so learned and interesting a work.

Writings of Madison, Volume 3: 1816-1828, p.49

The recommendation of a National University in the United States has not yet been successful. But a Central Institution is just now on foot in the State of Virginia, which in its development will embrace an extensive circle of sciences, and in the organization of which many errors will be avoided which you have so judiciously pointed out in the aged institutions of your own Country. In the Architectural plan\* contemplated for this temple of Minerva, I have the satisfaction to find that some of the features bear a miniature likeness to the magnificent model\* which you have delineated.

To Mr. Monroe, President of the U.S.

MONTPELLIER, November 29, 1817.

Writings of Madison, Volume 3: 1816-1828, p.50

DEAR SIR—Your favor of the 25th has just been received. I am fully aware of the load of business on your hands, preparatory to the meeting of Congress. The course you mean to take in relation to roads and canals appears to be best adapted to the posture in which you find the case. A reluctance has generally been felt to include amendments to the Constitution among Executive recommendations to Congress; but it seems to be called for on the present occasion as preferable to arresting their deliberations by a notice, though the result will be negatived, or to meeting the result with an unexpected negative. For myself, I had not supposed that my view\* of the Constitution could have been unknown, and I felt with great force the delicacy of giving intimations of it to be used as a bar or a clog to a depending measure.

Writings of Madison, Volume 3: 1816-1828, p.50

The expediency of vesting in Congress a power as to roads and canals I have never doubted, and there has never been a moment when such a proposition to the States was so likely to be approved. A general power to establish seminaries being less obvious, and affecting more the equilibrium of influence between the National and State Governments, is a more critical experiment. The feelings awakened by the proposed University within the Congressional District are a proof of the opposition which may be looked for. I should consider it as at least essential that the two propositions, whatever may be the modification of the latter, should be so distinct, that the rejection of the one by the States should not be inconsistent with the adoption of the other.

Writings of Madison, Volume 3: 1816-1828, p.51

It is very grateful to have such an overflowing Treasury, especially when every other nation is on the brink, if not in the abyss, of bankruptcy. Its natural effect is the prevailing desire that the taxes may be reduced, particularly the internal taxes, which are most seen and felt. May it not, however, deserve consideration whether the still tax, which is a moralizing as well as a very easy, productive tax, would not be advantage-ously retained, even at the expense of revenue from foreign trade? Why not press on the whisky drinkers rather than the tea and coffee drinkers, or the drinkers of the lighter kinds of wine? The question will depend much, I am aware, on the public opinion, and on the expense of collecting a solitary internal tax; both of which points will be better understood in the Cabinet than they can be by the fire-side, and in the result there I shall rest with perfect confidence. I make the same remark with respect to the influence which the disbanding at this moment of a conspicuous portion of our fiscal strength may have on the calculations of any other power, particularly Spain.

Writings of Madison, Volume 3: 1816-1828, p.51

Health and prosperity.

To President Monroe.

DECEMBER 9, 1817.

Writings of Madison, Volume 3: 1816-1828, p.51

DEAR SIR,—The mail of Saturday brought me the copy of your message. It is a fine landscape of our situation, and cannot fail to give pleasure at home and command respect abroad. The recommendation of a repeal of taxes is happily shaped. So, also, the introduction of the subject of amending the Constitution. The only questions which occur relate to the proposed suppression of the establishment at Amelia Island, not within our territorial claim, and to the latitude of the principle on which the right of a civilized people is asserted over the lands of a savage one. I take for granted that the first point was well considered, and the latter may be susceptible of qualifying explanations. I observe you say nothing of a remodelling of the Judiciary. Perhaps you may have in reserve a special message, or you may think it best to let the subject originate in Congress; or it may not appear to you in the light it does to me. I have long thought a systematic change in that Department proper, and should have pressed it more when in office but for the circumstance that it involved a personal accommodation where I might be supposed to feel an interest biasing my judgment, and diminishing the attention paid to my opinion.

To J. Q. Adams.

MONTPELLIER, December 23d, 1817.

Writings of Madison, Volume 3: 1816-1828, p.52

DEAR SIR,—I received two days ago your favor of the 15th, with the written and printed accompaniments.

Writings of Madison, Volume 3: 1816-1828, p.52

I am glad to find that your personal interviews with Mr. Bentham afforded an entertainment which may have been some recompense for the trouble which I contributed to give you in relation to him. The celebrity which this philosophic politician has acquired abroad, as well as in his own Country, does not permit one to doubt the extent of his capacity or of his researches; and there is still less room to question the philanthropy which adorns his character. It is unfortunate that he has not added to his merits a style and manner of conveying his ideas which would do more justice to their profoundness and importance. With all his qualifications, however, I greatly overrate, or he greatly underrates, the task in which he has been so anxious to employ his intellectual labours and treasures, for the reformation of our Code of laws, especially in the advanced age at which the work was to be commenced. And I own that I find some difficulty in reconciling the confidence he feels in the adequacy of his powers, not only for a digest of our statutes into a concise and clear system, but a reduction of our unwritten to a text law, with that penetrating and accurate judgment for which he has the reputation. The disinterestedness and friendly zeal, nevertheless, which dictated the offer of his services to our Country, are entitled to its acknowledgments, and no one can join in them with more cordiality than myself.

Writings of Madison, Volume 3: 1816-1828, p.53

I have looked over and return the letters from Governor Plumer and his son. The work conceived by the latter, and the manner in which he has presented an outline of it, indicate talents which merit cultivation and encouragement. The best answer I can give to your communication on the subject of his wish for a copy of the Journal of the Convention is to state the circumstance that, at the close of the Convention, the question having arisen what was to be done with the Journal and the other papers, and it being suggested that they ought to be either destroyed or deposited in the custody of the President, it was determined that they should remain in his hands, subject only to the orders of the National Legislature. Whether a publication of them ought to be promoted, as having a useful tendency, you will probably be better able to decide, on a perusal of the document, than one who cannot take the same abstract view of the subject.

Writings of Madison, Volume 3: 1816-1828, p.53

I cannot be insensible to the terms in which you refer to the official relations which have subsisted between us, but must disclaim the obligations which you consider as lying on your side. The results of what took place on mine prove that I only avoided the demerit of a different course.

To Henry St. George Tucker.

MONTPELLIER, December 23, 1817.

Writings of Madison, Volume 3: 1816-1828, p.53

DEAR SIR,—I have received your favor of the 18th, inclosing the Report on roads and canals.

Writings of Madison, Volume 3: 1816-1828, p.53

I respect too much the right and the duty of the Representatives of the people to examine for themselves the merits of all questions before them, and am too conscious of my own fallibility, to view the most rigid and critical examination of the particular question referred to your committee with any other feeling than a solicitude for a result favorable to truth and the public good.

Writings of Madison, Volume 3: 1816-1828, p.54

I am not unaware that my belief, not to say knowledge, of the views of those who proposed the Constitution, and, what is of more importance, my deep impression as to the views of those who bestowed on it the stamp of authority, may influence my interpretation of the Instrument. On the other hand, it is not impossible that those who consult the instrument without a danger of that bias, may be exposed to an equal one in their anxiety to find in its text an authority for a particular measure of great apparent utility.

Writings of Madison, Volume 3: 1816-1828, p.54

I must pray you, my dear sir, to be assured that, although I cannot concur in the latitude of construction taken in the Report, or in the principle that the consent of States, even of a single one, can enlarge the jurisdiction of the General Government, or in the force and extent allowed to precedents and analogies introduced into the Report, I do not permit this difference of opinion to diminish my esteem for the talents, or my confidence in the motives, of its author. I am far more disposed to acknowledge my thankfulness for the polite attention shown in forwarding the document, and for the friendly expressions which accompanied it. Be pleased to accept a sincere return of them.

To President Monroe.

MONTPELLIER, December 27, 1817.

Writings of Madison, Volume 3: 1816-1828, p.54

DEAR SIR,—Your favor of the 22nd has been duly received.

Writings of Madison, Volume 3: 1816-1828, p.54

I am so much aware that you have not a moment to spare from your public duties, that I insist on your never answering my letters out of mere civility. This rule I hope will be applied to the present as well as future letters.

Writings of Madison, Volume 3: 1816-1828, p.54

My quere as to the expedition against Amelia Island turned solely on the applicability of the Executive power to such a case. That relating to the right to Indian lands was suggested by the principle which has limited the claim of the U. S. to a right of pre-emption. It seemed, also, that an unqualified right of a civilized people to land used by people in the hunter state, on the principle that the earth was intended for those who would make it most conducive to the sustenance and increase of the human race, might imply a right in a people cultivating it with the spade to say to one using the plough, either adopt our mode or let us substitute it ourselves. It might also be not easy to repel the claims of those without land in other countries, if not in our own, to vacant lands within the U.S. likely to remain for a long period unproductive of human food. The quere was not meant to contest the doctrine of the message, under qualifications which were probably entertained without being specified.

Writings of Madison, Volume 3: 1816-1828, p.55

The Cumberland road having been a measure taken during the administration of Mr. Jefferson, and, as far as I recollect, not then brought to my particular attention, I cannot assign the grounds assumed for it by Congress, or which produced his sanction. I suspect that the question of Constitutionality was but slightly, if at all, examined by the former, and that the Executive assent was doubtingly or hastily given. Having once become a law, and being a measure of singular utility, additional appropriations took place, of course, under the same Administration, and, with the accumulated impulse thence derived, were continued under the succeeding one, with less of critical investigation, perhaps, than was due to the ease. Be all this as it may, the ease is distinguished from that now before Congress by the circumstances—1. That the road was undertaken essentially for the accommodation of a portion of the country with respect to which Congress have a general power not applicable to other portions. 2. That the funds appropriated, and which alone have been applied, were also under a general power of Congress, not applicable to other funds. As a precedent, the ease is evidently without the weight allowed to that of the National Bank, which had been often a subject of solemn discussion in Congress, had long engaged the critical attention of the public, and had received reiterated and elaborate sanctions of every branch of the Government; to all which had been su-peradded many positive concurrences of the States, and implied ones by the people at large. The Bank case is analogous to that of the carriage tax, which was generally regarded by those who opposed the Bank as a direct tax, and, therefore, unconstitutional, and did not receive their acquiescence until these objections were superseded by the highest Judicial, as well as other sanctions. As to the case of post roads and military roads, instead of implying a general power to make roads, the constitutionality of them must be tested by the bona fide object of the particular roads. The post cannot travel, nor troops march, without a road. If the necessary roads cannot be found, they must, of course, be provided.

Writings of Madison, Volume 3: 1816-1828, p.56

Serious danger seems to be threatened to the genuine sense of the Constitution, not only by an unwarrantable latitude of construction, but by the use made of precedents which cannot be supposed to have had in the view of their Authors the bearing contended for, and even where they may have crept through inadvertence into acts of Congress, and been signed by the Executive at a midnight hour, in the midst of a group scarcely admitting perusal, and under a weariness of mind as little admit. ring a vigilant attention.

Writings of Madison, Volume 3: 1816-1828, p.56

Another, and perhaps a greater danger, is to be apprehended from the influence which the usefulness and popularity of measures may have on questions of their constitutionality. It is difficult to conceive that any thing short of that influence could have overcome the constitutional and other objections to the Bill on roads and canals which passed the two Houses at the last session.

Writings of Madison, Volume 3: 1816-1828, p.56

These considerations remind me of the attempts in the Convention to vest in the Judiciary Department a qualified negative on Legislative bills. Such a control, restricted to Constitutional points, besides giving greater stability and system to the rules of expounding the Instrument, would have precluded the question of a judiciary annulment of Legislative acts.

Writings of Madison, Volume 3: 1816-1828, p.56

But I am running far beyond the subject presented in your letter, and will detain you no longer than to assure you of my highest respect and sincerest regard.

1818

To Eberd. Huntington.

MONTPELLIER, Jany 4, 1818.

Writings of Madison, Volume 3: 1816-1828, p.57

SIR,—I have duly received your letter of the 30th ult., in which you ask, "whether the proposition to commute the half pay was suggested by Congress to the Army, or by the Army to Congress."

Writings of Madison, Volume 3: 1816-1828, p.57

Not being able at this moment to consult the Journals of Congress, or the cotemporary documents, I cannot answer the enquiry with the certainty and precision I would wish. I believe that the measure was brought into view by the memorial of the Deputies from the Army, General McDougal, &c., in the year 1783; and that it originated with the army in the mortifying attempts to stigmatize the receivers of half pay as pensioners. It cannot be doubted, however, that the gross sum substituted was accepted in the expectation that it would be made of specie value to the Army. The Journals of the Revolutionary Congress will probably shew that unsuccessful propositions were made in that body to raise the sum to more than five years' full pay.

Writings of Madison, Volume 3: 1816-1828, p.57

I saw, with sincere pleasure, the late recommendation of the President on this subject, and wish that the sentiments of the Legislature may be found to correspond with those that dictated it.

To Charles J. Ingersoll.

MONTPELLIER, Jany 4, 1818.

Writings of Madison, Volume 3: 1816-1828, p.57

DR SIR,—I have received your letter of the 25th ult. Believing that the late war merits a historical review penetrating below the surface of events, and beyond the horizon of unexpanded minds, I am glad to learn that the task is contemplated by one whose talents, and, what is not less essential, whose fairness of dispositions, are entitled to so much confidence. Whatever be the light in which any individual actor on the public theatre may appear, the contest, exhibited in its true features, cannot fail to do honor to our Country; and, in one respect particularly, to be auspicious to its solid and lasting interest. If our first struggle was a war of our infancy, this last was that of our youth; and the issue of both, wisely improved, may long postpone, if not forever prevent, a necessity for exerting the strength of our manhood.

Writings of Madison, Volume 3: 1816-1828, p.58

With this view of the subject, and of the hands into which it is falling, I cannot be unwilling to contribute to the stock of materials. But you much overrate, I fear, "my private papers," as distinct from those otherwise attainable. They consist, for the most part, of my correspondence with the heads of Departments, particularly when separated from them, and of a few vestiges remaining of Cabinet consultations. It has been my purpose to employ a portion of my leisure in gathering up and arranging these, with others relating to other periods of our public affairs; and after looking over carefully the first, I shall be better able to judge how far they throw any valuable rays on your object, and are of a nature not improper for public use.

To Jacob Gideon.

MONTPELLIER, Jany 28, 1818.

Writings of Madison, Volume 3: 1816-1828, p.58

SIR,—I have received your letter of the 19th, and in consequence of the request it makes, I send you a copy of the first edition of the "Federalist," with the names of the writers pre-fixed to their respective numbers. Not being on the spot when it was in the press, the errors now noted in mine were not then corrected. You will be so good as to return the two volumes when convenient to you.

Writings of Madison, Volume 3: 1816-1828, p.58

The second Edition of the work comprised a pamphlet ascribed to one of its authors. The pamphlet had no connection with the plan to which the others were parties, and contains a comment on an important point in the Constitution, which was disapproved by one of them, who published an answer to it.

Writings of Madison, Volume 3: 1816-1828, p.59

I take the liberty of suggesting that as comparative views frequently occur in the work of the original "Articles of Confederation," and the Constitution, by which it was superseded, it might be convenient to the reader to have the former, as well as the latter, prefixed to the commentary on both.

To Gales & Seaton.

MONTPELLIER, Feby 2d, 1818.

Writings of Madison, Volume 3: 1816-1828, p.59

GENTLEMEN,—I have received your letter of January 26. The work to which you have turned your thoughts is of a character which justly claims for it my favorable wishes. A Legislative History of our Country is of too much interest not to be, at some day, undertaken; and the longer it be postponed, the more difficult and deficient must the execution become. In the event of your engaging in it, I shall cheerfully contribute any suggestions in my power as to the sources from which materials may be drawn; but I am not aware at present of any not likely to occur to yourselves.

To Jacob Gideon.

MONTPELLIER, Feby 20. 1818.

Writings of Madison, Volume 3: 1816-1828, p.59

SIR,—I have received your letter of the 12th. You are welcome to the copy of the Federalist sent you. If you refer to it in your proposed Edition, it will be more proper to note the fact that the numbers with my name prefixed were published from a copy containing corrections in my hand, than to use the phrase, "revised and corrected by J.M.," which would imply a more careful and professed revisal than is warranted by strict truth.

Writings of Madison, Volume 3: 1816-1828, p.59

You seem not rightly to have understood my remark on the circumstance of including in an edition of the Federalist a pamphlet written by one of its authors, which had been answered in one written by another. My object was to suggest for your consideration how far it would be proper to insert in your edition the former; not to suggest the insertion of both. The occasion, the plan, and the object of the Federalist, essentially distinguish it from the two pamphlets; and there may be a double incongruity in putting into the same publication a work in which the two writers co-operated, and productions at once unconnected with it, and in which they are so pointedly opposed to each other.

Writings of Madison, Volume 3: 1816-1828, p.60

That the motive to the observations may not be misconceived, it will not be amiss to say, that although I cannot at this day but be sensible that in the pamphlet under the name of Helvidius a tone is indulged which must seek an apology in impressions of the moment; and although in other respects it may be liable to criticisms, for which the occasions are increased by the particular haste in which the several papers were written, to say nothing of inaccuracies in transcribing them for the press; yet I see no ground to be dissatisfied with the Constitutional doctrine espoused, or the general scope of the reasoning used in support of it.

To Mr. Cutts.

MONTPELLIER, March 14, 1818.

Writings of Madison, Volume 3: 1816-1828, p.60

DEAR SIR,—As it appears from your letter of the 5th that Mr. Gideon adheres to his plan of publishing the two pamphlets in the same volumes with the Federalist, and desires a corrected copy of the one written by me, I have thought it best to send one. Be so good as to let it be put into his hands. I have limited the corrections to errors of the press and of the transcriber, and a few cases in which the addition of a word or two seemed to render the meaning more explicit. There are passages to which a turn a little different might have been conveniently given; particularly that speaking of treaties as laws, which might have been better guarded against a charge of inconsistency with the doctrine maintained on another occasion; and which probably would have been so guarded after the accurate investigation of the Constitutional doctrine occasioned by Mr. Jay's Treaty. The reasoning, however, in the pamphlet, is not affected by the question of consistency; and as the author of Pacificus is charged with the want of it, I have chosen rather to let the passage stand as it was first published, than to give it what might be considered a retrospective meaning. Intelligent readers will be sensible that the scope of the argument did not lead to a critical attention to Constitutional doctrines properly called forth on other occasions. If you think it worth while, you may give Mr. Gideon a hint of these observations.

Address to the Agricultural Society of Albemarle Virginia.

TUESDAY, May 12, 1818.

Resolved, That the thanks of the Agricultural Society of Albemarle are due to the president for the enlightened and important address, this day delivered; that the secretary be, and he is hereby authorized and required to request a copy for publication; that he cause the said address to be published in the Enquirer; as also 250 copies, to be printed in the pamphlet form, one of which he shall transmit to each member of the society.

Writings of Madison, Volume 3: 1816-1828, p.61

Extract from the minutes,

Writings of Madison, Volume 3: 1816-1828, p.61

P. MINOR, Secretary.

MONTPELLIER, May, 1818.

Writings of Madison, Volume 3: 1816-1828, p.61

DEAR SIR,—I have received your letter of the 12th inst., communicating the request of the Agricultural Society of Albemarle, for a copy of the remarks addressed to it, at its last meeting. I cannot decline a compliance with the request, though I have much reason to apprehend, that what the society received with so partial an ear will not bear the deliberate perusal, for which an opportunity will be afforded.

Writings of Madison, Volume 3: 1816-1828, p.61

With sincere esteem, I remain your friend and servant,

Writings of Madison, Volume 3: 1816-1828, p.61

JAMES MADISON.

Writings of Madison, Volume 3: 1816-1828, p.61

PETER MINOR, Esq.,

Secretary of the Agricultural Society of Albemarle.

Address.

Writings of Madison, Volume 3: 1816-1828, p.61

It having pleased the society to name me for their presiding member, I feel it a duty, on my first appearing among you, to repeat my acknowledgments for that honorary distinction; with the assurances of my sincere desire to promote the success of an establishment which has in view so valuable an object as that of improving the agriculture of our country.

Writings of Madison, Volume 3: 1816-1828, p.64

The faculty of cultivating the earth, and of rearing animals, by which food is increased beyond the spontaneous supplies of nature, belongs to man alone. No other terrestrial being has received a higher gift than an instinct, like that of the beaver or the ant, which merely hoards for future use the food spontaneously furnished by nature.

Writings of Madison, Volume 3: 1816-1828, p.64

As this peculiar faculty gives to man a pre-eminence over irrational animals, so it is the use made of it by some, and the neglect of it by other communities, that distinguish them from each other, in the most important features of the human character.

Writings of Madison, Volume 3: 1816-1828, p.64

The contrast between the enlightened and refined nations on some parts of the earth, and the rude and wretched tribes on others, has its foundation in this distinction. Civilization is never seen without agriculture; nor has agriculture ever prevailed where the civilized arts did not make their appearance.

Writings of Madison, Volume 3: 1816-1828, p.64

But closely as agriculture and civilization are allied, they do not keep pace with each other. There is probably a much higher state of agriculture in China and Japan than in many other countries far more advanced in the improvements of civilized life. It is surely no small reproach to the latter, that with so great a superiority in science, and in the fuller possession of the auxiliary arts, they should suffer themselves to be outstripped in the very art by which both are essentially distinguished from the brute creation.

Writings of Madison, Volume 3: 1816-1828, p.64

It must not be inferred, however, from the capacities and the motives of man, for an artificial increase of the productions of the earth, that the transition from the hunter, or even the herdsman's state, to the agricultural, is a matter of course. The first steps in this transition are attended with difficulty; and what is more, with disinclination.

Writings of Madison, Volume 3: 1816-1828, p.64

Without a knowledge of the metals, and the implements made of them, the process of opening and stirring the soil is not an easy operation; though one perhaps not requiring more effort and contrivance, than produced the instruments used by savages in war and in the chase.

Writings of Madison, Volume 3: 1816-1828, p.64

And that there is a disinclination in human nature to exchange the savage for the civilized life, cannot be questioned. We need not look for proofs beyond our own neighborhood. The Indian tribes have ever shewn an aversion to the change.

Writings of Madison, Volume 3: 1816-1828, p.65

Neither the persuasive examples of plenty and comfort derived from the culture of the earth by their white brethren, nor the lessons and specimens of tillage placed in the midst of them, and seconded by actual sufferings from a deficient and precarious subsistence, have converted them from their strong propensities and habitual pursuits. In the same spirit, they always betray an anxious disposition to return to their pristine life, after being weaned from it by time, and apparently moulded by intellectual and moral instruction, into the habits and tastes of an agricultural people. A still more conclusive evidence of the bias of human nature is seen in the familiar fact, that our own people, nursed and reared in these habits and tastes, easily slide into those of the savage, and are rarely reclaimed to civilized society with their own consent.

Writings of Madison, Volume 3: 1816-1828, p.65

Had the Europeans, on their arrival, found this continent destitute of human inhabitants, whose dangerous neighborhood kept them in a compact and agricultural state, and had their communication with the countries they left been discontinued, they might have spread themselves into the forests where game and fruits would have abounded; and gradually forgetting the arts, no longer necessary to their immediate wants, have degenerated into savage tribes.

Writings of Madison, Volume 3: 1816-1828, p.65

An admired historian,\* in his inquiry into the origin of the American savages, represents any such degeneracy as impossible. He lays it down as a certain principle that the necessary arts of life, when once introduced among a people, can never be lost; that the dominion over inferior animals once enjoyed, will never be abandoned; and that America, consequently, must have been peopled from a country as uncivilized as itself. Yet he derives the American savages, generally, from the Tartars, whose example must have taught them the use of certain animals, for which a substitute might have been found in the bison or buffalo at least, (the same animal with the cow,) if not in the elk, the moose, or the Caraboo; and he regards the Esquimaux, a tribe distinguished, in several respects, for their rude condition, as descendants from the Greenlanders, (of the same modes of life with themselves,) who were a colony from Norway, planted in the ninth century; an epoch prior to which the Norwegians had made such progress in the arts, as to be capable of formidable maritime expeditions. The Greenland colony, therefore, must have undergone a degeneracy from the condition of its parent country: Without supposing the possibility of a transition from a better state of human society to a savage state, how would the learned historian have accounted for the introduction of the savage state at all?

Writings of Madison, Volume 3: 1816-1828, p.66

The bent of human nature may be traced on the chart of our country. The manufacturer readily exchanges the loom for the plough, in opposition often to his own interest, as well as to that of his country. The cultivator, in situations presenting an option, to the labors of the field, the more easy employment of rearing a herd. And as the game of the forest is approached, the hunting life displays the force of its attractions. Where do we behold a march to the opposite direction? the hunter, becoming the herdsman; the latter a follower of the plough; and the last repairing to the manufactory or workshop.

Writings of Madison, Volume 3: 1816-1828, p.66

Such, indeed, is the fascination of that personal independence which belongs to the uncivilized state, and such the disrelish and contempt of the monotonous labor of tillage, compared with the exciting occupations of the chase, or with the indolence enjoyed by those who subsist chiefly on the mere bounties of nature, or on their migratory flocks, that a voluntary relinquishment of these latter modes of life is little to be expected. We certainly perceive nothing in the character of our savage neighbors, from which it could be inferred that even the germs of agriculture, observed in their spots of maize, and a few other cultivated plants, would ever be developed into the extent implied by an agricultural life. To that little resource, combined with the game furnished by the forest and by the lake or the stream, their population and habits are adjusted. There may be said, in fact, to be a plenum of the former; because it is commensurate with their food, and this cannot be increased without a change of habits, which being founded in natural propensities, do not change of themselves.

Writings of Madison, Volume 3: 1816-1828, p.67

The first introduction of agriculture among a savage people appears, accordingly, never to have taken place without some extraordinary interposition. Where it has not been obtruded by colonies transplanted from agricultural countries, as from Phoenicia and Egypt into Greece, and from Greece herself among her savage neighbors, the revolution has proceeded from some individual, whose singular endowments, and supernatural pretensions, had given him an ascendency for the purpose. All these great reformers, in ancient times, were regarded as more than men, and ultimately worshipped as gods. A very remarkable example, of modern date, is found in the revolution from the savage to the agricultural state, said to have been brought about by Manco Capac among the Peruvians, to whom he represented himself as the offspring of the sun.

Writings of Madison, Volume 3: 1816-1828, p.67

Agriculture, once effectually commenced, may proceed of itself, under impulses of its own creation. The months fed by it increasing, and the supplies of nature decreasing, necessity becomes a spur to industry; which finds another spur in the advantages incident to the acquisition of property, in the civilized state. And thus a progressive agriculture, and a progressive population ensue.

Writings of Madison, Volume 3: 1816-1828, p.67

But although no determinate limit presents itself to the increase of food, and to a population commensurate with it, other than the limited productiveness of the earth itself, we can scarcely be warranted in supposing that all the productive powers of its surface can be made subservient to the use of man, in exclusion of all the plants and animals not entering into his stock of subsistence; that all the elements and combinations of elements in the earth, the atmosphere, and the water, which now support such various and such numerous descriptions of created beings, animate and inanimate, could be withdrawn from that general destination, and appropriated to the exclusive support and increase of the human part of the creation; so that the whole habitable earth should be as full of people as the spots most crowded now are or might be made, and as destitute as those spots of the plants and animals not used by man.

Writings of Madison, Volume 3: 1816-1828, p.68

The supposition cannot well be reconciled with that symmetry in the face of nature, which derives new beauty from every insight that can be gained into it. It is forbidden also by the principles and laws which operate in various departments of her economy, falling within the scope of common observation, as well as within that of philosophic researches.

Writings of Madison, Volume 3: 1816-1828, p.68

The earth contains not less than thirty or forty thousand kinds of plants; not less than six or seven hundred of birds; nor less than three or four hundred of quadrupeds; to say nothing of the thousand species of fishes. Of reptiles and insects, there are more than can be numbered. To all these must be added, the swarms and varieties of animalcules and minute vegetables not visible to the natural eye, but whose existence is probably connected with that of visible animals and plants.

Writings of Madison, Volume 3: 1816-1828, p.68

On comparing this vast profusion and multiplicity of beings with the few grains and grasses, the few herbs and roots, and the few fowls and quadrupeds, which make up the short list adapted to the wants of man, it is difficult to believe that it lies with him so to remodel the work of nature as it would be remodelled, by a destruction not only of individuals, but of entire species; and not only of a few species, but of every species, with the very few exceptions which he might spare for his own accommodation.

Writings of Madison, Volume 3: 1816-1828, p.68

Such a multiplication of the human race, at the expense of the rest of the organized creation, implies that the food of all plants is composed of elements equally and indiscriminately nourishing all, and which, consequently, may be wholly appropriated to the one or few plants best fitted for human use.

Writings of Madison, Volume 3: 1816-1828, p.68

Whether the food or constituent matter of vegetables be furnished from the earth, the air, or water; and whether directly, or by either, through the medium of the others, no sufficient ground appears for the inference that the food for all is the same.

Writings of Madison, Volume 3: 1816-1828, p.68

Different plants require different soils; some flourishing in sandy, some in clayey, some in moist, some in dry soils; some in warm, some in cold situations. Many grow only in water, and a few subsist in the atmosphere. The forms, the textures, and the qualities of plants, are still more diversified. That things so various and dissimilar in their organization, their constitutions, and their characters, should be wholly nourished by, and consist of precisely the same elements, requires more proof than has yet been offered.

Writings of Madison, Volume 3: 1816-1828, p.69

A case which has been relied on to prove that different foods are not necessary for different plants, is that of grafting or inoculating one kind of plant on another kind; the sap obtained by the stock for itself, being found to feed and perfect the graft. But this operation has its limits. It does not extend beyond plants having a certain affinity. The apple tree may be planted on the pear or quince. It will not succeed on the peach or the cherry. If the cases prove that the same food suffices for the apple and the pear, they equally prove that different foods are required for the apple and peach. It is said, even, that the fruit from the peach graft on the almond is not precisely the same with that from a peach graft on a plum.

Writings of Madison, Volume 3: 1816-1828, p.69

It may be offered as another argument to the same effect, that all animal and vegetable decompositions answer indiscriminately as manures. The fact is not precisely so. Certain manures succeed best with certain plants. It is true, nevertheless, that animal and vegetable substances, in a decomposed state, are, generally, manures for plants. Fish even, an animal from the water, is successfully used as a manure for Indian corn and other crops. But this and similar examples prove only that some ingredients are the same in all animals and plants; not that all the ingredients in each are the same.

Writings of Madison, Volume 3: 1816-1828, p.69

The chemist, though as yet a fellow student, as much as a preceptor of the agriculturist, justly claims attention to the result of his processes. From that source we learn that the number of known elements, not yet decomposable, is between forty and fifty; that about seven or eight belong to the organs of plants; that different elements enter into the composition of the same plant; and that they are combined in different numbers and in different proportions, in different plants. Supposing, then, as must be supposed, that these different elements, in their actual quantities and proportions, are adapted to the quantities and the proportions of the existing varieties of plants, it would happen, in so great a change as that in question, with respect to the number and variety of plants, that the quantities and the proportions of the elements would not be adapted to the particular kinds and numbers of plants retained by man for his own use. Like the types of the alphabet, apportioned to the words composing a particular book, when applied to another book materially different in its contents, there would be of some a deficiency, of others, a useless surplus.

Writings of Madison, Volume 3: 1816-1828, p.70

Were it less difficult to admit that all the sources of productiveness could be exclusively appropriated to the food of man, is it certain that an obstacle to his indefinite multiplication would not be encountered in one of the relations between the atmosphere and organized beings?

Writings of Madison, Volume 3: 1816-1828, p.70

Animals, including man, and plants, may be regarded as the most important part of the terrestrial creation. They are preeminent in their attributes; and all nature teems with their varieties and their multitudes, visible and invisible. To all of them the atmosphere is the breath of life. Deprived of it, they all equally perish. But it answers this purpose by virtue of its appropriate constitution and character. What are these?

Writings of Madison, Volume 3: 1816-1828, p.70

The atmosphere is not a simple but a compound body. In its least compound state, it is understood to contain, besides what is called vital air, others noxious in themselves, yet without a portion of which, the vital air becomes noxious. But the atmosphere in its natural state, and in its ordinary communication with the organized world, comprises various ingredients or modifications of ingredients, derived from the use made of it, by the existing variety of animals and plants. The exhalations and perspirations, the effluvia and transpirations of these, are continually charging the atmosphere with a heterogeneous variety and immense quantity of matter, which together must contribute to the character which fits it for its destined purpose of supporting the life and health of organized beings. Is it unreasonable to suppose, that if, instead of the actual composition and character of the animal and vegetable creation, to which the atmosphere is now accommodated, such a composition and character of that creation were substituted, as would result from a reduction of the whole to man and a few kinds of animals and plants—is the supposition unreasonable, that the change might essentially affect the aptitude of the atmosphere for the functions required of it? and that so great an innovation might be found, in this respect, not to accord with the order and economy of nature?

Writings of Madison, Volume 3: 1816-1828, p.71

The relation of the animal part and the vegetable part of the creation to each other, through the medium of the atmosphere, comes in aid of the reflection suggested by the general relation between the atmosphere and both. It seems to be now well understood, that the atmosphere, when respired by animals, becomes unfitted for their further use, and fitted for the absorption of vegetables; and that when evolved by the latter, it is refitted for the respiration of the former; an interchange being thus kept up, by which this breath of life is received by each, in a wholesome state, in return for it in an unwholesome one.

Writings of Madison, Volume 3: 1816-1828, p.71

May it not be concluded from this admirable arrangement and beautiful feature in the economy of nature, that if the whole class of animals were extinguished, the use of the atmosphere by the vegetable class alone would exhaust it of its life-support-ing power? that, in like manner, if the whole class of vegetables were extinguished, the use of it by the animal class alone would deprive it of its fitness for their support? And if such would be the effect of an entire destruction of either class, in relation to the other, the inference seems to press itself upon us, that so vast a change in the proportions of each class to the other, and in the species composing the respective classes, as that in question, might not be compatible with the continued existence and health of the remaining species of the two classes.

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The immensity of the atmosphere, compared with the mass of animals and vegetables, forms an apparent objection only to this view of the subject. The comparison could at most suggest questions as to the period of time necessary to exhaust the atmosphere of its unrenewed capacity to keep alive animal or vegetable nature, when deprived, either, of the support of the other. And this period contracts itself at once to the imagination, when it is recollected that the immensity of the atmosphere is the effect of its elasticity and rarefaction. We know from the barometer, that condensed to the specific gravity of mercury, its rise above the surface of the earth would be but about thirty inches; and from the well pump, that condensed to the specific gravity only of water, which is nearly the same with that of the human body, its rise would be little more than as many feet; that is, a little more than five times the human stature. It is found that a single human person, employs in respiration not less than sixteen or eighteen times his own weight of common air, in every twenty-four hours. In different degrees, some greater, some less, the case is the same with most other animals. Plants make a correspondent use of air for their purposes.

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Other views of the economy of nature coincide with the preceding. There is a known tendency in all organized beings to multiply beyond the degree necessary to keep up their actual numbers. It is a wise provision of nature—1, to guard against the failure of the species: 2, to afford, in the surplus, a food for animals, whether subsisting on vegetables, or on other animals which subsist on vegetables. Nature has been equally provident in guarding against an excessive multiplication of any one species which might too far encroach on others, by subjecting each, when unduly multiplying itself, to be arrested in its progress by the effect of the multiplication—1, in producing a deficiency of food; and where that may not happen, 2, in producing a state of the atmosphere unfavorable to life and health. All animals as well as plants sicken and die in a state too much crowded. It is the case with our domestic animals of every sort, where no scarcity of food can be the cause. To the same laws mankind are equally subject. An increase, not consisting with the general plan of nature, arrests itself. According to the degree in which the number thrown together exceeds the due proportion of space and air, disease and mortality ensue. It was the vitiated air alone which put out human life in the crowded hole of Calcutta. In a space somewhat enlarged, the effect would have been slower, but not less certain. In all confined situations, from the dungeon to the crowded work-houses, and from these to the compact population of overgrown cities, the atmosphere becomes, in corresponding degrees, unfitted by reiterated use, for sustaining human life and health. Were the atmosphere breathed in cities not diluted and displaced by fresh supplies from the surrounding country, the mortality would soon become general. Were the surrounding country thickly peopled and not refreshed in like manner, the decay of health, though a later, would be a necessary consequence. And were the whole habitable earth covered with a dense population, wasteful maladies might be looked for, that would thin the numbers into a healthy proportion.

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Were the earth in every productive spot, and in every spot capable of being made productive, appropriated to the food of man; were the spade substituted for the plough, and all animals consuming the food of man, or food for which human food might be substituted, banished from existence, so as to produce the maximum of population on the earth, there would be more than an hundred individuals for every one now upon it. In the actual population of many countries, it brings on occasional epidemics, to be traced to no other origin than the state of the atmosphere. Increase the numbers ten or twenty fold, and can it be supposed that they would at any time find the breath of life in a condition to support it? or, if that supposition be admissible when limited to a single country, can it be admitted, when not only the contiguous countries, but the whole earth was equally crowded?

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Must we then adopt the opinion entertained by some philosophers, that no variation whatever in the numbers and proportions of the organized beings belonging to our globe, is permitted by the system of nature? that the number of species and of individuals, in the animal and vegetable empires, since they attained a destined complement, has been, and must always be, the same? that the only change possible, is in local augmentations and diminutions which balance each other, and thus maintain the established and unalterable order of things?

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This would be the opposite extreme to that which has been rejected. Man, though so similar in his physical constitution to many other animals, is essentially distinguished from all other organized beings, by the intellectual and moral powers with which he is endowed. He possesses a reason and a will, by which he can act on matter organized and unorganized. He can, by the exercise of these peculiar powers, increase his subsistence, by which his numbers may be increased beyond the spontaneous supplies of nature; and it would be a reasonable conclusion, that making, as he does, in his capacity of an intelligent and voluntary agent, an integral part of the terrestrial system, the other parts of the system are so framed as not to be altogether unsusceptible of his agency, and unpliable to its effects.

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This reasonable conclusion is confirmed by the fact, that the capacity of man, derived from his reason and his will, has ef-fected an increase of particular plants and animals conducive to an increase of his own race; and a diminution of the numbers, if not of the species, of plants and animals displaced by that increase.

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Most, if not all, our domesticated animals probably exceed the numbers which, without the intervention of man, would be their natural amount; whilst the animals preying on, or interfering with them, are proportionally reduced in their numbers.

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The case is the same with cultivated plants. They are increased beyond their natural amount; and banish or proportionally reduce such as interfere with them.

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Nor can it be said that these changes, made by human art and industry in some regions, are balanced by corresponding changes made by nature, in other regions. Take for examples, the articles of wheat, rice, millet, and maize, which are the chief food of civilized man; and which are now spread over such immense spaces. It is not possible to regard them, as occupying no more than their original and fixed proportions of the earth; and that in other parts of it, they have disappeared in the same degree in which they are thus artificially extended. These grains belong to the torrid and temperate zones only; and so great a portion of these zones has been explored, that it is certain, they could not have been displaced from other parts of the globe, in the degree in which they abound where they are now cultivated, and where it is certain they owe their abundance to cultivation. There must consequently be an absolute increase of them produced by the agency of man.

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Take more particularly for an example, the article of rice, which constitutes so large a portion of human food. The latitudes to which its growth is limited by the nature of the plant, are for the most part so well known, that it may be assumed for an unquestionable fact, that this grain cannot always have prevailed any where in the extent in which it is now cultivated. And it is equally certain, that the vegetable productions belonging to the same climates, which must have been displaced by its cultivation, have not received an equivalent introduction and extension elsewhere.

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It is remarkable that the vegetable productions, most extensively used as human food, are but little if at all found in their indigenous state; whether that state be the same as their present one, or a state from which they were improveable into their present state. They seem, indeed, not likely to flourish extensively in situations not prepared by the hand of man. The potato, so recently brought into use, and now spreading itself over so great a surface, can barely be traced to a native state in the mountains of Chili; nor can it be believed that previously to its adoption by man, it ever existed in the extent to which cultivation is now carrying it.

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These views of the subject seem to authorize the conclusion, that although there is a proportion between the animal and vegetable classes of beings on our globe, and between the species in each class, with respect to which nature does not permit such a change as would result from a destruction of the animals and vegetables not used by man; and a multiplication of the human race, and of the several species of animals and vegetables used by it, sufficient to fill up the void; yet that there is a degree of change which the peculiar faculties of man enable him to make, and by making which his fund of subsistence and his numbers may be augmented; there being at the same time, whenever his numbers, and the change, exceed the admitted degree, a tendency in that excess to correct itself.

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Could it, however, be supposed that the established system and symmetry of nature required the number of human beings on the globe to be always the same; that the only change permitted in relation to them was in their distribution over it: still, as the blessing of existence to that number would materially depend on the parts of the globe on which they may be thrown; on the degree in which their situation may be convenient or crowded; and on the nature of their political and social institutions, motives would not be wanting to obtain for our portion of the earth its fullest share, by improving the resources of human subsistence, according to the fair measure of its capacity. For in what other portion of equal extent will be found climates more friendly to the health, or congenial to the feelings of its inhabitants? In what other, a soil yielding more food with not more labor? And above all, where will be found institutions equally securing the blessings of personal independence and of social enjoyments? The enviable condition of the people of the United States is often too much ascribed to the physical advantages of their soil and climate, and to their uncrowded situation. Much is certainly due to these causes; but a just estimate of the happiness of our country will never overlook what belongs to the fertile activity of a free people, and the benign influence of a responsible Government.

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In proportion as we relax the hypothesis which makes the aggregate number of mankind unsusceptible of change, and believe that the resources of our country may not only contribute to the greater happiness of a given number, but to the augmentation of the number enjoying a greater happiness, the motives become stronger for the improvement and extension of them.

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But, whilst all are sensible that agriculture is the basis of population and prosperity, it cannot be denied that the study and practice of its true principles have hitherto been too generally neglected in the United States; and that this State has at least its full share of the blame. Now only, for the first time, notwithstanding several meritorious examples of earlier date, a general attention seems to be awakened to the necessity of a reform. Patriotic societies, the best agents for effecting it, are pursuing the object with the animation and intelligence which characterize the efforts of a self-governed people, whatever be the objects to which they may be directed.

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Among these promising institutions, I cannot glance at all the names of those composing that of Albemarle, without being assured that its full quota of information will be furnished to the general stock. I regret only, that my own competency bears so little proportion to my wishes to co-operate with them. That I may not be thought, however, deficient in good will, as well as in other requisites, I shall venture on the task; a task the least difficult, of pointing out some of the most prevalent errors in our husbandry, and which appear to be among those which may merit the attention of the society, and the instructive examples of its members.

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I. The error first to be noticed is that of cultivating land, either naturally poor or impoverished by cultivation. This error, like many others, is the effect of habit, continued after the reason for it has failed. Whilst there was an abundance of fresh and fertile soil, it was the interest of the cultivator to spread his labor over as great a surface as he could. Land being cheap and labor dear, and the land co-operating powerfully with the labor, it was profitable to draw as much as possible from the land. Labor is now comparatively cheaper and land dearer. Where labor has risen in price fourfold land has risen tenfold. It might be profitable, therefore, now to contract the surface over which labor is spread, even if the soil retained its freshness and fertility. But this is not the case. Much of the fertile soil is exhausted, and unfertile soils are brought into cultivation; and both co-operating less with labor in producing the crop, it is necessary to consider how far labor can be profitably exerted on them; whether it ought not to be applied towards making them fertile, rather than in further impoverishing them? or whether it might not be more profitably applied to mechanical occupations, or to domestic manufactures?

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In the old countries of Europe, where labor is cheap and land dear, the object is to augment labor, and contract the space on which it is employed. In the new settlements taking place in this country, the original practice here may be rationally pursued. In the old settlements, the reason for the practice in Europe is becoming daily less inapplicable; and we ought to yield to the change of circumstances, by forbearing to waste our labor on land which, besides not paying for it, is still more impoverished, and rendered more difficult to be made rich. The crop which is of least amount gives the blow most mortal to the soil. It has not been a very rare thing to see land under the plough not producing enough to feed the ploughman and his horse; and it is in such cases that the death-blow is given. The goose is killed, without even obtaining the coveted egg.

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There cannot be a more rational principle in the code of agriculture, than that every farm which is in good heart should be kept so; that every one not in good heart should be made so; and that what is right as to the farm, generally, is so as to every part of every farm. Any system, therefore, or want of system, which tends to make a rich farm poor, or does not tend to make a poor farm rich, cannot be good for the owner; whatever it may be for the tenant or superintendant, who has transient interest only in it. The profit, where there is any, will not balance the loss of intrinsic value sustained by the land.

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II. The evil of pressing too hard upon the land has also been much increased by the bad mode of ploughing it. Shallow ploughing, and ploughing up and down hilly land, have, by exposing the loosened soil to be carried off by rains, hastened more than any thing else the waste of its fertility. When the mere surface is pulverized, moderate rains on land but little uneven, if ploughed up and down, gradually wear it away. And heavy rains on hilly land, ploughed in that manner, soon produce a like effect, notwithstanding the improved practice of deeper ploughing. How have the beauty and value of this red ridge of country suffered from this cause? And how much is due to the happy improvement introduced by a member of this society, whom I need not name,\* by a cultivation in horizontal drills, with a plough adapted to it? Had the practice prevailed from the first settlement of the country, the general fertility would have been more than the double of what the red hills, and indeed all other hilly lands, now possess; and the scars and sores now defacing them would no where be seen. Happily, experience is proving that this remedy, aided by a more rational management in other respects, is adequate to the purpose of healing what has been wounded, as well as of preserving the health of what has escaped the calamity. It is truly gratifying to observe how fast the improvement is spreading from the parent example. The value of our red hills, under a mode of cultivation which guards their fertility against wasting rains, is probably exceeded by that of no uplands whatever; and without that advantage they are exceeded in value by almost all others. They are little more than a lease for years.

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Besides the inestimable advantage from horizontal ploughing, in protecting the soil against the wasting effect of rains, there is a great one in its preventing the rains themselves from being lost to the crop. The Indian corn is the crop which most exposes the soil to be carried off by the rains; and it is at the same time the crop which most needs them. Where the land is not only hilly, but the soil thirsty, (as is the case particularly throughout this mountainous range,) the preservation of the rain as it falls, between the drilled ridges, is of peculiar importance; and its gradual settling downwards to the roots is the best possible mode of supplying them with moisture. In the old method of ploughing shallow, with the furrows up and down, the rain as well as the soil was lost.

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III. The neglect of manures is another error which claims particular notice. It may be traced to the same cause with our excessive cropping. In the early stages of our agriculture, it was more convenient, and more profitable, to bring new land into cultivation, than to improve exhausted land. The failure of new land has long called for the improvement of old land; but habit has kept us deaf to the call.

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Nothing is more certain than that continual cropping without manure deprives the soil of its fertility. It is equally certain that fertility may be preserved or restored, by giving to the earth animal or vegetable manure equivalent to the matter taken from it; and that a perpetual fertility is not, in itself, incompatible with an uninterrupted succession of crops. The Chinese, it is said, smile at the idea that land needs rest; as if, like animals, it had a sense of fatigue. Their soil does not need rest, because an industrious use is made of every fertilizing particle that can contribute towards replacing what has been drawn from it. And this is the more practicable with them, as almost the whole of what is grown on their farms is consumed within them. That a restoration to the earth of all that annually grows on it prevents its impoverishment is sufficiently seen in our forests, where the annual exuviae of the trees and plants replace the fertility of which they deprive the earth. Where frequent fires destroy the leaves and whatever else is annually dropped on the earth, it is well known that the land becomes poorer: this destruction of the natural crop having the same impoverishing effect as a removal of a cultivated crop. A still stronger proof that an annual restoration to the earth of all its annual produce will perpetuate its productiveness, is seen where our fields are left uncultivated and unpastured. In this case the soil, receiving from the decay of the spontaneous weeds and grasses more fertility than they extract from it, is, for a time at least, improved, not impoverished. Its improvement may be explained, by the fertilizing matter which the weeds and grasses derive from water and the atmosphere, which forms a net gain to the earth. At what point, or from what cause, the formation and accumulation of vegetable mould from this gain ceases, is not perhaps very easy to be explained. That it does cease, is proved by the stationary condition of the surface of the earth in old forests; and that the amount of the accumulation varies with the nature of the subjacent earth is equally certain. It seems to depend, also, on the species of trees and plants which happen to contribute the materials for the vegetable mould.

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But the most eligible mode of preserving the richness, and of enriching the poverty of a farm, is certainly that of applying to the soil a sufficiency of animal and vegetable matter in a putrified state, or a state ready for putrefaction; in order to procure which, too much care cannot be observed in saving every material furnished by the farm. This resource was among the earliest discoveries of men living by agriculture; and a proper use of it has been made a test of good husbandry, in all countries, ancient and modern, where its principle and profits have been studied.

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Some farmers of distinction, headed by Tull, supposed that mere earth, in a pulverized state, was sufficient without manure for the growth of plants; and consequently that continued pul-verization would render the soil perpetually productive; a theory which never would have occurred to a planter of tobacco or of Indian corn, who finds the soil annually producing less, and less, under a constant pulverizing course. The known experiment of Van Helmont seemed to favor the opposite theory, that the earth parted with nothing towards the plants growing on it. If there were no illusion in the case, the earth used by him must at least have been destitute of vegetable mould; for in an experiment by Woodhouse, a garden mould was diminished in its weight by a plant which grew in it. And the latest chemical examinations of the subject coincide with the general opinion of practical husbandmen, that the substance of plants partakes of the substance of the soil.

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The idea is, indeed, very natural that vegetable matter which springs from the earth, and of itself returns to the earth, should be one source at least of the earth's capacity to reproduce vegetable matter.

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It has been asked, how it happens that Egypt and Sicily, which have for ages been exporting their agricultural produce, without a return of any equivalent produce, have not lost their reproductive capacity. One answer has been, that they have lost no small degree of it. If the fact be otherwise with regard to Egypt, it might be accounted for by the fertilizing inundations of the Nile. With regard to Sicily, there may be something in the system of husbandry, or some particular local circumstances, which countervail the continued asportation of the fruits of the soil. But it is far more probable, that the Island is less productive than it once was. It is certainly less of a granary for other countries now, than it was when it received that title from the ancient Romans. And its population being diminished, the internal consumption must also be diminished. If a single farm is rendered less productive by a continued removal of its crops, without any adequate returns, no reason occurs why it should not happen to a number of farms multiplied to the extent of a whole country.

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And that individual farms do lose their fertility, in proportion as crops are taken from them, and returns of manure neglected, is a fact not likely to be questioned.

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If it were, Virginia, unfortunately, is but too capable of furnishing the proofs. Her prevailing crops have been very exhausting, and the use of manures has been particularly neglected.

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Tobacco and Indian corn, which for a long time, on the east side of the Blue Mountains, were the articles almost exclusively cultivated, and which continue to be cultivated, the former extensively, the latter universally, are known to be great impoverishers of the soil. Wheat, which has for a number of years formed a large portion of the general crop, is also an exhausting crop. So are rye and oats, which enter occasionally into our farming system.

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With so many consumers of the fertility of the earth, and so little attention to the means of repairing their ravages, no one can be surprised at the impoverished face of the country; whilst every one ought to be desirous of aiding in the work of reformation.

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The first main step towards it, is to make the thieves restore as much as possible of the stolen fertility. On this, with other improvements which may be made in our husbandry, we must depend for the rescue of our farms from their present degraded condition.

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Of tobacco, not a great deal more than one-half of the entire plant is carried to market. The residue is an item on the list of manures; and it is known to be in its quality a very rich one. The crop of tobacco, however, though of great value, covers but a small proportion of our cultivated ground; and its offal can, of course, contribute but inconsiderably to the general stock of manure. It is probable, also, that what it does contribute, has been more carefully used as a manure than any other article furnished by our crops.

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The article which constitutes our principal manure, is wheat straw. It is of much importance, therefore, to decide aright on the mode of using it. There are three modes: 1. Carrying it from the farm yard, after having passed through, or being trodden and enriched by cattle. In that mode, the greater part of it must be used, if used at all; the straw going through that process being a necessary part of the food allotted to the cattle. To derive the full advantage from it, it ought to be hauled out before the substance has been wasted by rain, by the sun, and by the wind; and to be buried in the earth as soon after as possible. 2. Spreading the straw on the surface of the ground. Many respectable farmers are attached to this mode, as protecting the soil from the sun; and by keeping it moist, favoring the vegetation underneath, whether spontaneous or artificial; whilst the straw itself is gradually decomposed into a manure. The objection to this mode is the loss by evaporation, before this last effect is obtained. 3. Turning the straw at once under the surface of the earth. This would seem to be the best mode of managing manures generally; least of their substance being then lost. When the grain is trodden out from the straw, it is left in a state easily admitting this operation. Some difficulty may attend it, when the grain is threshed from the straw, by the flail, or by the machines now in use, neither of which break the straw sufficiently to pieces.

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It may be remarked with regard to this article of manure: 1. That its weight is barely more than that of the grain. 2. That the grain is the part which makes the greatest draft on the fertility of the earth. 3. That the grain is for the most part not consumed within the farm. It is found on trial that a stalk of wheat, as generally cut, including the chaff, and the grains borne by the stalk, are pretty nearly of equal weight. The case is probable the same with rye, and not very different with oats. The proportion of fertilizing matter in the straw, to that in the grain, has not, as far as I know, been brought to any satisfactory test. It is, doubtless, much less in the straw, which alone, in the case of wheat, is with us returnable in any form to the earth. This consideration, whilst it urges us to make the most of the article as a manure, warns us of its insufficiency.

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The stubble, and the roots of the small grains, not being taken from the earth, may be regarded as elapsing into a fertility equal to that of which they deprived the earth. This remark is applicable to all cultivated plants, the roots of which are not an esculent part.

Writings of Madison, Volume 3: 1816-1828, p.84

An eminent citizen and celebrated agriculturist\* of this State has, among other instructive lessons, called the public attention to the value of the corn stalk as a manure. I am persuaded that he has not overrated it. And it is a subject of agreeable reflection, that an article which is so extensively cultivated as that of Indian corn, and which is so particularly exhausting, should be the one so capable of repairing the injury it does. The cornstalk as a fodder is of great value. Not only the leaves, but the husk inclosing the ear, and the cob enclosed by it, are all more or less valuable food, when duly preserved and dealt out to cattle. There is no better fodder than the leaves or blades for horses and oxen, nor any so much approved for sheep; the husk or shuck is a highly-nourishing food for neat cattle. And the pickings of the stock, even at a late season, and after much exposure to the weather, support them better than any of the straws. From the saccharine matter in the stock, which is long retained about the joints, it cannot be doubted that if cut early, or before exposure to the weather, into parts small enough for mastication, it would well repay, as a food for cattle, the labor required for it.

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The great value of the cornstalk, in all its parts, as a fodder, was brought into full proof, by the use made of it, during the late general failure of crops. It is to be hoped that the lesson will not be suffered to pass into oblivion.

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But it is as a resource for re-fertilizing the soil, that the cornstalk finds the proper place here; and as such it merits particular notice, whether it be passed through animals, or be prepared by fermentation in the farm yard; or be merely spread on the surface of the earth, the mode in which its effects must be least considerable. The same qualities which render every part of it nutritious to animals, render it nutritious to the earth; and it is accompanied with the peculiar advantages—1. That the grain itself is mostly every where, and altogether, in places distant from navigation, consumed within the farms producing it. 2. That as the grain is in greater proportion to the space on which it grows than most other grains, so the rest of the plant is in greater proportion to the grain than the rest of any other grain plant. The straw and chaff of the smaller grains, as already remarked, are in weight but about one-half of the grain. The cornstalk, with all its appurtenant offal, is of less than three times, and if taken early from the field, probably of not less than four or five times the weight of the grain belong. ing to it. 3. The fertilizing matter contained in the cornstalk is greater in proportion to its weight, than that contained in the straw and offal of other grains is to the weight of the straw and offal.

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Would it be hazarding too much to say, that where a level surface, or the mode of cultivating a hilly one, prevents the rains from carrying off the soil, a restoration of an entire crop of Indian corn, in the form of manure, to the space producing it, (there being no other intervening crop not so restored,) would replace the fertility consumed by the crop, and maintain a perpetual productiveness? Reason, the case of forest and fallow fields, where the spontaneous crop falls back of itself on the earth, and the Chinese example, where the cultivated crop is restored to the earth, all pronounce that such would be the effect. And yet the fact stares us in the face, that our most impoverished fields, even the most level of them, owe their condition more to the crops of Indian corn, than to any other crops.

Writings of Madison, Volume 3: 1816-1828, p.86

The cotton plant, which is so extensive a crop in the more Southern and the South Western States, is but little cultivated in Virginia, and scarcely at all in this part of it. I am not able to say how far it is comparatively an exhausting crop. But it would seem to be more capable than any crop, not wholly consumed within the farm, of preserving its fertility. The only part of the plant carried away is the cotton fibre, or woolly part, which bears an inconsiderable proportion to the other parts in weight, and, as may be inferred, in fertilizing matter also. The seed alone, passing by the ball and haulm, is of three times its weight, and contains the chief part of the oil in the plant. In the countries where cotton makes the principal part of the crop, the superfluous seed must deserve great attention as a manure. Where the fields are level, or cultivated in horizontal drills, it might go far towards supporting a continued cropping, without a diminished fertility.

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The sum of these remarks on cultivating poor lands, and neglecting the means of keeping or making land rich, is, that if every thing grown on a soil is carried from it, it must become unproductive; that if every thing grown on it be directly or indirectly restored to it, it would not cease to be productive; and, consequently, that according to the degree in which the one or the other practice takes place, a farm must be impoverished, or be permanently productive and profitable. Every acre made by an improved management to produce as much as two acres, is, in effect, the addition of a new acre; with the great advantages of contracting the space to be cultivated, and of shortening the distance of transportation between the fields and the barn or the farm yard. One of the Roman writers\* on husbandry enforces the obligation to an improving management by a story of one Paridius, who had two daughters and a vineyard: when the elder was married, he gave her a third part of the vineyard: notwithstanding which, he obtained from two-thirds the same crop as from the whole; when his other daughter was married, he portioned her with the half of what remained, and still the produce of his vineyard was undiminished. The story, short as it is, contains a volume of instruction.

Writings of Madison, Volume 3: 1816-1828, p.87-p.88

The plaster of gypsum, though not a manure within the farm itself, has been too long neglected, as a fertilizing resource. It is now beginning to take a high and just rank as such. The proofs of its efficacy are as incontestable as the causes of it are obscure. The experiments of a very distinguished chemist\* led him to the opinion that its substance enters into the substance of the plant. Without doubting the fact, it does not sufficiently account for the addition made to the size and weight of the plant, which greatly exceed the quantity of the plaster. It must therefore have some further mode of operating. Whether it be by neutralizing some noxious ingredient in the earth, one of the modes by which lime is supposed to operate; or by attracting and conveying to the plant, food from the earth, the air, or water, or by exciting the plant to a more active use of its feeding powers, whatever they be; or by its accretion assimilating to the particular parts of plants on which these powers depend, thereby augmenting and strengthening those particular parts, and enabling the feeding powers to give proportional augmentation to every other part; whether by any one or more of these processes, or by some other or others distinct from them all, the growth of plants be promoted by this mineral, remains, it would seem, to be yet explained. In the mean time, a more extensive use of it promises much advantage to our agriculture. I take it, however, that this advantage cannot be permanent without making the increased product of the soil a source of manure to the soil. That the effect of the plaster will be continued indefinitely, under a constant removal of the whole crop from the soil, surpasses belief. It can scarcely fail to exhaust, at length, the productive powers of the earth. The period of time necessary for the purpose may be uncertain; but that, as in the case of the other mineral manures, lime and marle, such must sooner or later be the result, cannot well be so. The effect of pulverizing the earth by tillage, as practised by Tull, is stated to have been uninterrupted crops of wheat, without manure, for more than twenty years; which was regarded as a demonstration that tillage was a complete substitute for manure. Supposing the statement to be free from error, the inference is certainly not warranted by the fact. We know that some of our soils, not naturally richer than the highly-manured soils on which Tull probably commenced his tillage, will bear a succession of crops for an equal period; and we know as well, that their fertility will not hold out forever. How long plaster, whatever be its mode of operation, will hold out, may not yet have been fully tried. But to make it permanently successful, it will be wise to take for granted, that it must be made a source of future manure, as well as of immediate productiveness. If the crop, as augmented by the plaster, be given back to the soil, the soil may be benefited more than it would be by the return of a crop not augmented by the plaster. And in this way fertility may be accelerated. The restoration of a crop, increased by ordinary cultivation, to the soil on which it grew, would, I presume, fertilize it more than the restoration of a smaller crop spontaneously produced; although in both cases the whole taken from the soil would return to it.

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IV. Among the means of aiding the productiveness of the soil, which have not received merited attention, is irrigation. In scarcely any country does this resource abound more than in the United States; nor is there any, where there is so little sensibility to its value. The inconsiderable use made of it is chiefly by emigrants, particularly Germans, or the immediate descendants of them. I have understood that the market of Baltimore has been much benefited in dry seasons by the irrigation introduced by exiles from St. Domingo. For a distinguished proof of the importance of the practice, I may refer to the fact which has been stated, that in the neighborhood of Barcelona, in Spain, where a part of the land is under irrigation, and a part is not susceptible of it, both being otherwise of equal fertility, the part irrigated is of double price in the market. It is to be noted, indeed, that the climate is a dry one, and that the article cultivated is Lucerne: and this, a plant which, though much aided in its growth by moisture, is at the same time remarkable for the length of a tap root, and fitted by that, as well as by the absorbent quality of its leaves, to flourish in a thirsty soil and warm climate. Our particular district of country, abounding in springs, small streams, and suitable declivities, admits greatly of irrigation; and being generally of a thirsty nature, the more strongly invites the use of it.

Writings of Madison, Volume 3: 1816-1828, p.89

I cannot but consider it as an error in our husbandry, that oxen are too little used in place of horses.

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Every fair comparison of the expense of the two animals favors a preference of the ox. But the circumstance particularly recommending him is, that he can be supported when at work by grass and hay; whilst the horse requires grain, and much of it; and the grain generally given him, Indian corn, the crop which requires most labor, and greatly exhausts the land.

Writings of Madison, Volume 3: 1816-1828, p.89

From the best estimate I have been enabled to form, more than one-half of the corn crop is consumed by horses, including the ungrown ones; and not less than one-half by other than pleasure horses. By getting free from this consumption, one-half the labor, and of the wear of the land, would be saved, or rather more than one-half; for on most farms, one-half of the crop of corn grows on not more than two-fifths, and sometimes a smaller proportion of the cultivated fields; and the more fertile fields would of course be retained for cultivation. Every one can figure to himself the case and conveniency of a revolution which would so much reduce the extent of his corn fields; and substitute for the labor bestowed on them the more easy task of providing pasturage and hay.

Writings of Madison, Volume 3: 1816-1828, p.89

But will not the ox when kept at hard labor require grain food as well as the horse? Certainly much less, if any. Judging from my own observation, I should say, that a plenty of good grass or good hay will suffice without grain, where the labor is neither constant nor severe. But I feel entire confidence in saying, that a double set of oxen alternately at work, and, therefore, half the time at rest, might be kept in good plight without other food than a plenty of grass and good hay. And as this double set would double the supply of beef, tallow, and leather, a set-off is found in that consideration for a double consumption of that kind of food.

Writings of Madison, Volume 3: 1816-1828, p.90

The objections generally made to the ox are: 1. That he is less tractable than the horse. 2. That he does not bear heat as well. 3. That he does not answer for the single plough used in our corn fields. 4. That he is slower in his movement. 5. That he is less fit for carrying the produce of the farm to market.

Writings of Madison, Volume 3: 1816-1828, p.90

The first objection is certainly founded in mistake. Of the two animals, the ox is the more docile. In all countries where the ox is the ordinary draught animal, his docility is proverbial. His intractability, where it exists, has arisen from an occasional use of him only, with long and irregular intervals, during which, the habit of discipline being broken, a new one is to be formed.

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The 2d objection has as little foundation. The constitution of the ox accommodates itself, as readily as that of the horse, to different climates. Not only in ancient Greece and Italy, but throughout Asia, as presented to us in ancient history, the ox and the plow are associated. At this day, in the warm parts of India and China, the ox, not the horse, is in the draught service. In every part of India the ox always appears, even in the train of her armies. And in the hottest parts of the West Indies, the ox is employed in hauling the weighty produce to the sea ports. The mistake here, as in the former case, has arisen from the effect of an occasional employment only, with no other than green food. The fermentation of this in the animal, heated by the weather and fretted by the discipline, will readily account for his sinking under his exertions; when green food even, much less dry, with a sober habit of labor, would have no such tendency.

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The 3d objection, also, is not a solid one. The ox can, by a proper harness, be used singly, as well as the horse, between the rows of Indian corn; and equally so used for other purposes. Experience may be safely appealed to on this point.

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In the fourth place, it is alledged that he is slower in his movements. This is true, but in a less degree than is often taken for granted. Oxen that are well chosen for their form; are not worked after the age of about 8 years, (the age at which they are best fitted for beef;) are not worked too many together; and are suitably matched; may be kept to nearly as quick a step as the horse. May I not say a step quicker than that of many of the horses we see at work, who, on account of their age, or the leanness occasioned by the costliness of the food they require, lose this advantage, where they might have once had it?

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The last objection has most weight. The ox is not as well adapted as the horse to the road service, especially for long trips. In common roads, which are often soft, and sometimes suddenly become so, the form of his foot and the shortness of his leg are disadvantages; and on roads frozen, or turnpiked, the roughness of the surface in the former case, and its hardness in both cases, are inconvenient to his cloven hoof. But where the distance to market is not great, where the varying state of the roads and of the weather can be consulted, and where the road service is in less proportion to the farm service, the objection is almost deprived of its weight. In cases where it most applies, its weight is diminished by the consideration that a much greater proportion of service on the farm may be done by oxen than is now commonly done, and that the expense of shoeing them is little different from that of keeping horses shod. It is observable that when oxen are worked on the farm, over rough, frozen ground, they suffer so much from the want of shoes, however well fed they may be, that it is a proper subject for calculation whether true economy does not require of them that accommodation, even on the farm, as well as for the horses.

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A. more important calculation is, whether, in many situations, the general saving by substituting the ox for the horse, would not balance the expense of hiring a carriage of the produce to market. In the same scale with the hire, is to be put the value of the grass and hay consumed by the oxen; and in the other scale, the value of the corn, amounting to one-half of the crop, and of the grass and hay consumed by the horses. Where the market is not distant, the value of the corn saved would certainly pay for the carriage of the market portion of the crop, and balance, moreover, any difference between the value of the grass and hay consumed by oxen, and the value of the oxen when slaughtered for beef. In all these calculations it is, doubtless, proper not to lose sight of the rule, that farmers ought to avoid paying others for doing what they can do themselves. But the rule has its exceptions; and the error, if it be committed, will not lie in departing from the rule, but in not selecting aright the cases which call for the departure. It may be remarked, that the rule ought to be more or less general, as there may or may not be at hand a market by which every produce of labor is convertible into money. In the old countries this is much more the case than in the new; and in the new, much more the case near towns than at a distance from them. In this, as in most other parts of our country, a change of circumstances is taking place, which renders every thing raised on a farm more convertible into money than formerly; and as the change proceeds, it will be more and more a point for consideration, how far the labor in doing what might be bought could earn more in another way than the amount of the purchase. Still, it will always be prudent, for reasons which every experienced farmer will understand, to lean to the side of doing, rather than hiring or buying, what may be wanted.

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The mule seems to be, in point of economy between the ox and the horse; preferable to the latter, inferior to the former; but so well adapted to particular services, that he may find a proper place on many farms. He is liable to the objection which weighs most against the ox. He is less fitted than the horse for road service.

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V. A more manifest error in the husbandry of the older settlements is that of keeping too many neat cattle on their farms. As a farm should not be cultivated farther than it can be continued in good heart, the stock of cattle should not be in greater number than the resources of food will keep in good plight. If a poor farm be unprofitable, so are poor cattle. It is particularly the case with the milch cows. When the whole of the food given them is necessary to support a lean existence, no part can be spared for the milk pail. The same food given to the proper number will not only keep them in a thrifty state, but enable them to supply the dairy. Even the manure from several poor cattle is worth less than that from a single fat one. The remark holds equally good with respect to the hide.

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The misjudged practice in question is another effect of inattention to the change of circumstances through which our country has passed. Originally the forest abounded in rich herbage, which fed and fatted, without expense, all the cattle that could be brought through the winter into the spring. It was natural at that time to keep as large a stock as could be preserved through the winter. For a long time past, the forest is scarcely any where a resource for more than two or three months; and in many places no resource at all. A greater difficulty is often felt in finding summer, than winter subsistence. And yet where no inclosed pasturage is provided to take the place of the extinct one in the forest, the habit, rounded in reasons which have entirely ceased, is but too generally retained. The same number of cattle is aimed at, as if the forest was ready to receive and fatten them now as formerly. The size and appearance of our neat cattle, compared with those for which nature or good husbandry has provided sufficient food, are proofs that their food is not in proportion to their number; and that where the food cannot be increased, the number ought to be reduced.

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VI. Of all the errors in our rural economy none is perhaps so much to be regretted, because none is so difficult to be repaired, as the injudicious and excessive destruction of timber and firewood. It seems never to have occurred that the fund was not inexhaustible, and that a crop of trees could not be raised as quickly as one of wheat or corn.

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Here again we are presented with a proof of the continuance of a practice for which the reasons have ceased. When our ancestors arrived, they found the trees of the forest the great obstacle to their settlement and cultivation. The great effort was, of course, to destroy the trees. It would seem that they contracted and transmitted an antipathy to them; for the trees were not even spared around the dwellings, where their shade would have been a comfort, and their beauty an ornament; and it is of late years only that these advantages have been attended to. In fact, such has been the inconsiderate and indiscriminate use of the axe, that this country is beginning to feel the calamity as much as some of the old countries of Europe; and it will soon be forced to understand the difficulty of curing it. A vast proportion of the farms on the eastern side of the Blue Ridge, and some even on the other side, have but a scanty fund for present use, and are without a fund for permanent use. And, to increase the evil, the remnant of timber and fuel on many farms, inadequate as it is, is left in situations remote from the dwelling, and incapable of being divided according to the divisions and subdivisions into which all the larger farms must be rapidly forced by the law of descents, the impulses of parental affection, and other causes.

Writings of Madison, Volume 3: 1816-1828, p.94

It is high time for many farmers, even in this quarter, and still more so in the country below us, to take this subject into serious consideration. Prudence will no longer delay to economize what remains of woodland; to foster the second growths where taking place in convenient spots; and to commence, where necessary, plantations of the trees recommended by their utility and quickness of growth.

Writings of Madison, Volume 3: 1816-1828, p.94

I wish I could more satisfactorily estimate the proportion of woodland which ought to belong to every farm, as a permanent fund of timber for building and repairing houses; for fences, where live or stone ones may not be introduced; for wheel carriages, and the other apparatus needed on farms. The estimate is the more difficult, because it must be varied according to many circumstances, particularly according to the nature of the soil, and the kind of trees at once suited to it, and to the uses to be made of them.

Writings of Madison, Volume 3: 1816-1828, p.94

Estimating the crop of wood yielded by an acre at twenty cords, the period of reproduction at twenty years, and the average number of cords annually consumed at a fire-place, including the culinary consumption, at ten cords, every fire-place on a farm will require ten acres for a permanent supply of fuel. For the other necessities of a farm, several acres more ought to be added.

Writings of Madison, Volume 3: 1816-1828, p.95

An estimate in a very sensible publication, entitled "The New England Farmer," makes seventeen acres necessary for a fire-place. The winters there are longer, and the climate may be less favorable to the quick growth of trees. But their houses are generally closer than with us, to say nothing of a more judicious management than can be enforced on most of our farms.

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To this catalogue of errors in our rural economy, considerable as it is, many, I fear, might be added. The task of pointing them out I gladly leave to others, less incapable than I have shewn myself to be by the very imperfect manner in which I have performed the one on which I ventured.

To M. M. Noah.

LETTERS, ETC.

To M. M. Noah.

MONTPELLIER, May 15, 1818.

Writings of Madison, Volume 3: 1816-1828, p.95

SIR,—I have received your letter of the 6th, with the eloquent discourse delivered at the consecration of the Jewish Synagogue. Having ever regarded the freedom of religious opinions and worship as equally belonging to every sect, and the secure enjoyment of it as the best human provision for bringing all either into the same way of thinking, or into that mutual charity which is the only substitute, I observe with pleasure the view you give of the spirit in which your sect partake of the blessings offered by our Government and laws.

To President Monroe.

MAY 21, 1818.

Writings of Madison, Volume 3: 1816-1828, p.95

DEAR SIR,—I have just been favored with yours of the 18th, enclosing the Moscow document. I had previously received that written on your setting out for London.

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The Russian paper accounts for the confident tone of Spain towards the U.S., and throws light on the equivocal conduct of Great Britain in relation to Spanish America. It corroborates, at the same time, the circumspect policy observed by the Government of the U.S., and in which the nation undoubtedly concurs. Perhaps the most delicate point to be decided awaits the return of your Commissioners. Their report may call for a formal and full acknowledgment of the Independence of Buenos Ayres, and the step be threatened with the active resentment of all Europe. The character and views of Alexander appear to be more and more wrapped in mystery. It would seem that he aspired to be the conservator of the peace of the world, in contrast with the conquering genius of Napoleon, and that he mingles with this ambition a spice of fanaticism, which, whether, as often happens, it ends in hypocrisy, or, on the contrary, grows into stronger delusions of supernatural guidance, may transform the Saint into the Despot. Already he talks of coercion, though he disclaims the sword.

Writings of Madison, Volume 3: 1816-1828, p.98

We have here a very remarkable spring. It is nearly three weeks later than usual, and has been attended with frosts in the present month, which have, with little exception, destroyed the peaches and cherries, and some other fruits. They have deprived me, also, of the best, though not the largest portion, of my wheat. What was of the forward sort, and in the strongest soil, was entirely cut off. The crop will come entirely from new shoots, which will, under the most favorable circumstances, not yield more than half of what would otherwise have been reaped. The cold and dry weather has given some alarm with respect to the corn fields. It is now more than a month since most of the grain was put into the ground, and but a small proportion is, in many places, getting above it, with a discovery that a great deal of it never can, and the season is now much later than the usual one for the last replanting. Fortunately, the Hessian fly does not seem likely to make its ravages very extensive, though in particular fields it will materially diminish the crop. The Lawler wheat, in the main, sustains its invulnerable character. It has suffered, however, much, in common with the other kinds, from the peculiar unfavorableness of the winter.

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I hope you will dispose of yourself during the summer in the manner most friendly to your health. As nature does less for us, we should take more care of ourselves. We shall count, of course, on the pleasure of seeing you all in your transits between Washington and Albemarle, if the latter, as we presume will be the case, should be the scene of your relaxations.

Writings of Madison, Volume 3: 1816-1828, p.98

P.S. Whether the wish of Spain to obtain the mediation of Great Britain on the subject of our differences with her proceed from a presumed bias of the third party in her favor, or from a growing disposition to bring about an adjustment on fair terms, there can be no doubt as to the propriety of withholding our concurrence in such an appeal, and none certainly as to that of doing it in the manner least unconciliatory.

Writings of Madison, Volume 3: 1816-1828, p.99

If it be worth while to invalidate by positive proof the statement of Toledo, that he was improperly countenanced by the American Government during his professed connection with the revolutionary party in Mexico, circumstances have been lately brought to my knowledge, confidentially, which make it probable that a statement to the contrary under his own hand is attainable. How far the dates of the two statements might furnish any room for prevarication, I am not able to say. But it is presumable that, even if the false one should be of posterior date, the true one would sufficiently maintain itself.

To Mr. Paulding, at Washington.

Writings of Madison, Volume 3: 1816-1828, p.99

DR SIR,—I return your copy of Gideon's edition of the Federalist, with the memorandums requested in your note of the 16th. I shall take a pleasure in adding any other circumstances which you may wish to know, and I may be able to communicate.

Writings of Madison, Volume 3: 1816-1828, p.99

The following memorandum complies with Mr. Paulding's request of the 16th instant:

Writings of Madison, Volume 3: 1816-1828, p.99

The papers under the title of" Federalist," and signature of "Publius," were written by Alexander Hamilton, James Madison, and John Jay, in the latter part of the year 1787 and the former part of the year 1788. The immediate object of them was, to vindicate and recommend the new Constitution to the State of New York, whose ratification of the instrument was doubtful, as well as important. The undertaking was proposed by A. Hamilton (who had probably consulted Mr. Jay and others) to J. M., who agreed to take a part in it. The papers were originally addressed to the people of N. York, under the signature of a "Citizen of New York." This was changed for that of "Publius," the first name of Valerius Publicola. A reason for the change was, that one of the writers was not a citizen of that State; another, that the publication had diffused itself among most of the other States. The papers were first published at New York in a newspaper printed by Francis Childs, at the rate, during great part of the time, at least, of four numbers a week; and notwithstanding this exertion, they were not compleated till a large proportion of the States had decided on the Constitution. They were edited as soon as possible in two small volumes, the preface to the first volume, drawn up by Mr. Hamilton, bearing date N. York, March, 1788. In a publication at New York, in 1810, entitled "the works of A. Hamilton," is comprized an edition of the Federalist, in which the names of the writers are erroneously prefixed to a number of the papers. These errors are corrected in this edition by Jacob Gideon, Jr., which assigns to the several authors their respective shares in them.

MONTPELLIER, July 24, 1818.

To Benjamin H. Latrobe.

MONTPELLIER, July 24, 1818.

Writings of Madison, Volume 3: 1816-1828, p.100

DR SIR,—I have received your favor of the 8th instant, and am much less surprised at your finding occasion for friendly criticism on one passage in the paper to which you refer, than that you did not perceive the occasions for them in others.

Writings of Madison, Volume 3: 1816-1828, p.100

In bringing into view Robertson's explanation of the origin of the Greenlanders, the object which ought to have been more clearly conveyed was rather to lessen the weight of his opinion, by pointing out the inconsistency between his reasoning and his facts, than to decide on the accuracy of the latter, as to which there was not, in truth, time, nor, perhaps, means sufficient for a full investigation.

Writings of Madison, Volume 3: 1816-1828, p.100

Robertson evidently regards the descent of the Greenlanders from a Norwegian Colony in the 9th century as possible, and either that Colony or a prior one as the most probable origin, first of them, and then of the Esquimaux. Krantz, whom he quotes, and who merits the praises you give him, states, I observe, the fact of a Norwegian Colony in the 9th century, and, in another place, observes that there was no evidence that Greenland had inhabitants of sort when first visited by the Norwegians. But he considers it as most probable that the present Greenlanders are derived from the Esquimaux, and that the latter came from Northern Tartary; entering the American

Writings of Madison, Volume 3: 1816-1828, p.101

Continent on the Northwest coast, and spreading eastward over the Northern region in which they are now found. This opinion is, at least, more rational than that of Robertson, as is shown by your striking contrast of the Greenlanders with the Norwegians. Is it not possible that the Greenlanders and Es-quimaux may, like many other people, have a compound origin, made up of Samoyedes, the nearest of the Northern Tartars; of Laplanders, who were driven, according to some accounts, frost the coast of Norway, by their Gothic successors; and of Colonies from these last, facilitated by the interjacent Island of Iceland? From these different sources they may have obtained their Tartar features. their Lapland stature, and their approach towards Gothic or Teutonic complexions. Krantz intimates that their children are born quite white, and that when grown, the red skins in many faces appear through their brown skins. He says, also, that their noses are not flat, though projecting but little, and that their mouths are commonly small and round; peculiarities more naturally traced to a Norwegian parentage than to any other. The subject is an obscure one, and in itself not an important one; but is connected with some interesting questions, which give it a claim to more investigation than will probably be convenient to either of us.

To Richard Rush.

MONTPELLIER, July 24, 1818.

Writings of Madison, Volume 3: 1816-1828, p.101

DEAR SIR,—Your two favors of Jany 14th and May 2d came duly to hand; the former accompanied by the three volumes of Malthus, with a No. of the Quarterly Review, and four volumes of Eustace. They claim many thanks, which I pray you to accept. I have not yet entered on the latter work. I have looked over Malthus, and think the world much indebted to him for the views he has given of an interesting subject; and for the instructive application he makes of them to a state of things inseparable from old countries, and awaiting the maturity of young ones. I did not know, till I was lately apprized by the return of a letter from Annapolis as a dead one, that a few lines to you, inclosing a small Bill of Exchange on Mr. Baring, had not reached that place before you left it. I now put the Bill under this cover, and must ask of you to reimburse out of it the cost of the books above mentioned, retaining the little balance for any addition to them which you may think worth sending across the Atlantic. I am truly sorry for the trouble which the search for Mr. Keilsall has occasioned you. I hope it was not prolonged.

Writings of Madison, Volume 3: 1816-1828, p.102

Notwithstanding the dark aspect of the Metropolis, and the damp atmosphere of the country where you are, I cannot doubt that you will be indemnified for both by the objects they will present to a discerning eye. London is also, perhaps, at this time, the best political observatory for the phases and movements of the Great Powers of Europe, which are far from being indifferent to this half of the Globe. As long as those powers remain in their present confederacy, the objects and results of every session of their Congress will be important to the prospects of human society everywhere. At this distance, and with our growing capacities, our fate, I trust, cannot depend on any such contingencies; but it is much to be wished that our career may in no respect be embarrassed by interpositions, of which united dislikes and projects of European Governments might be capable.

Writings of Madison, Volume 3: 1816-1828, p.102

In all that relates to the transactions of the Government here, and to the communications from the Southern parts of this Continent, you will be informed, of course, from Washington, and infinitely better than from my retirement. The President has, no doubt, some delicate and thorny points on hand; but his sound judgment may be relied on to dispose of them in the best manner they will admit.

Writings of Madison, Volume 3: 1816-1828, p.103

I take for granted, that, if not already, you soon will be engaged with the British Government on the subject of a Commercial Treaty. I sincerely wish the negotiation may aid in friendly arrangements on fair conditions. But I have no doubt that in the the event of a statutory contest, the victory, or if not that, the conspicuous advantage, will be on the American side. Congress seem at length to have adopted the true principle, that as we require nothing from other nations more than a real reciprocity, we ought to submit to nothing less; and from .the unanimity and tone of their proceedings, it may be inferred that the public mind here is made up for an inflexible perseverance. It will remain with the British Government, therefore, to estimate comparative effects of the extremity to which a mutual perseverance must lead on the commerce and navigation of the parties. This extremity will be not merely an abolition of all direct commerce between the U. States and the British Colonies, but of all direct commerce between the U. States and the parent Country. The bulky exports of the U. States for G. Britain will go in American vessels to Havre, Amsterdam, or Rotterdam, whence they will bring the returns of British merchandise; and British vessels will, at most, be employed in the very short transportations between those ports and her own. It is true, this circuitous interchange will be a sacrifice on both sides; but it is obvious that there will be on our side an increase of navigation, the great object in competition; and on the British side, not only a decrease of navigation, but a disadvantage to her manufactures, the raw materials for which will go dearer to her than to her continental rivals. There will be a diminution, also, of the profits she now derives from her re-exportation of our products to other parts of the world. I cannot believe that G. Britain would long make such a sacrifice to feelings supported neither by reason nor interest; and unless she vainly counts on a retreat here from a policy now headed by those who alone heretofore dissented from it, she will see the wisdom of sinking the contest at once in an equitable and amicable compact.

Jno. Randolph.

[For the public, if found expedient.—J.M.]

(In reference to John Randolph's assertion as to Florida, and the alledged expression that France wanted money and must have it.)

Writings of Madison, Volume 3: 1816-1828, p.104

It may be due to the station, &c., to state, that without undertaking to recollect the particular expressions used by me on the occasion, or remarking on the facility of misconceptions incident to transient conversations, my consciousness assures mo that on no occasion, nor with any person whatever, have I ever attached to expressions used by me a meaning that it was within the view of the Executive, or of myself, to apply in whole, or in part, monies which might be appropriated by Congress in consequence of the Message of the President of the day of —— or otherwise, but in a bona fide purchase for a valuable consideration in territory; or to purchase any territory from, or pay the price thereof to, any other than the nation owning the territory and conveying the legal title thereto. I may add that this statement coincides with the fact that no other application was ever contemplated by the Executive, or is au-thorised by its instructions given in the case, as will, in due time, appear from the official records. I might further add, that it corresponds with the established principles and sentiments of the Executive, sufficiently manifest in recorded transactions considerably antecedent to the occasion which has suggested this statement.

To John Adams.

MONTPELLIER, August 7, 1818.

Writings of Madison, Volume 3: 1816-1828, p.105

DEAR SIR,—On my return, two days ago, from a meeting appointed to report to the Legislature of the State a proper site for a University, I found your obliging favor of the 25 ult., with its inclosed copies of Doctor Mayhew's sermon. I have read with pleasure this symbol of the political tone of thinking at the period of its original publication. The Author felt the strength of his argument, and has given a proof of his own.

Writings of Madison, Volume 3: 1816-1828, p.105

Your remark is very just on the subject of Independence. It was not the offspring of a particular man or a particular moment. If Mr. Wirt be otherwise understood in his life of Mr. Henry, I cannot but suppose that his intention has been not clearly expressed, or not sufficiently scrutinized. Our forefathers brought with them the germ of Independence in the principle of self-taxation. Circumstances unfolded and perfected it.

Writings of Madison, Volume 3: 1816-1828, p.105

The first occasion which aroused this principle was, if I can trust my recollection, the projected Union at Albany in 1754, when the proposal of the British Government to reimburse its advances for the Colonies by a parliamentary tax on them was met by the letter from Doctor Franklin to Governor Shirley, pointing out the unconstitutionality, the injustice, and the im-policy of such a tax.

Writings of Madison, Volume 3: 1816-1828, p.105

The opposition and discussions produced by the stamp and subsequent Acts of Parliament make another stage in the growth of Independence. The attempts to distinguish between legislation on the subject of taxes, and on other subjects, terminated in the disclosure that no such distinction existed.

Writings of Madison, Volume 3: 1816-1828, p.105

And these combats against the arrogated authority of the British Legislature paved the way for burying in the same grave with it the forfeited authority of the British King.

Writings of Madison, Volume 3: 1816-1828, p.105

If the merit of Independence, as declared in 1776, is to be traced to individuals, it belongs to those who first meditated the glorious measure, who were the ablest in contending for it, and who were the most decided in supporting it. Future times will be disposed to apportion this merit justly, and the present times ought to bequeath the means for doing it, unstained with the unworthy feelings which you so properly deprecate.

To Ashur Robbins.

MONTPELLIER, Augt 8th, 1818.

Writings of Madison, Volume 3: 1816-1828, p.106

DEAR SIR,—I have received your letter of July the 17th, and thank you for your friendly criticism on the passage in the Address to the Agricultural Society of Albemarle relating to the Theory of Tull.

Writings of Madison, Volume 3: 1816-1828, p.106

Many years had elapsed since I read the work of Tull; and I was of course guided by my recollection, only aided by the references of others to it, which had occasionally fallen in my way. I was very ready, therefore, to suppose that I had been betrayed into the misconception of his theory which you intimated; and having not found it convenient to examine it throughout, still think it possible that I may have done him injustice.

Writings of Madison, Volume 3: 1816-1828, p.106

It would seem, however, from a glance at his chapters on the food of plants, on tillage, and on hoeing, that I was not wrong in considering it as a part of his Theory that pulverized earth is the food of plants; and that you have not sufficiently adverted to his reason for leaving and tilling the intervals between the rows of drilled grain. The reason appears to be, not that the interval earth may be untaxed by the growing crop, and may be aided by the other elements for the succeeding crop; but that it may enlarge the pasture for the growing crop, the roots of which, like those of Indian Corn and tobacco, spread and feed in the adjacent soil when opened for them by the plough; the benefit to the succeeding crop being found in the better tilth resulting from the preparatory tillage. It is, indeed, a question, whether a fallow kept in a naked or pulverized state does not lose more by exhalation than it gains by absorption. In hot climates and summer fallows, at least, this is understood to be the case.

Writings of Madison, Volume 3: 1816-1828, p.107

Notwithstanding the fundamental error which I have ascribed to Tull, I regard him as a great benefactor to the agricultural art. The error was of a nature to correct itself, it being impossible that continued pulveration, [pulverization?] without manure, should not be attended with diminishing crops; whilst the improved tillage to which it led could not fail to recommend itself by its good effects. His book contains, also, many interesting facts, and judicious inferences from them.

Writings of Madison, Volume 3: 1816-1828, p.107

I join you sincerely in the pleasure excited by the growing taste for agricultural improvements; and am justified, by the scope of the observations which your letter contains, in numbering you among those most capable of promoting them.

To Govr Plumer, (N. H.)

MONTPELLIER, VA.., Augt 10th, 1818.

Writings of Madison, Volume 3: 1816-1828, p.107

DEAR SIR,—I have received your favor of the 28th ultimo, inclosing a copy of your last Message to the Legislature.

Writings of Madison, Volume 3: 1816-1828, p.107

I cannot doubt that the motives to which you have yielded for discontinuing your public labours are such as to justify your purpose; and I congratulate you on the improved and prosperous circumstances of the State, under which your retirement will take place.

Writings of Madison, Volume 3: 1816-1828, p.107

I must thank you, at the same time, for the kind interest you take in what concerns myself. If I can find, in a review of the anxious periods through which we have passed, a consoling consciousness of having been faithful to my trust, I am not the less bound to recollect the co-operation of those in important stations, at a distance, as well as on the spot, whose love of Country was commensurate with their talents for supporting its rights, its honor, and its interests.

Writings of Madison, Volume 3: 1816-1828, p.107

In anticipation of the Epoch of your return to private life, I offer my best wishes for the health and repose necessary for its enjoyments, and for the well-chosen pursuits to which you mean to consecrate it; to which permit me to add assurances of my high esteem and cordial respects.

To Judge Peters, (Pennsa.)

MONTPR, August 15, 1818.

Writings of Madison, Volume 3: 1816-1828, p.108

DR SIR,—I have received your favor of the 30th ult., and trouble you with an acknowledgment of it, for the sake of thanking you for the "Notices for a young farmer." I do not know that there exist any where so many good lessons compressed into so small a space, and placed in so fair a light. I have read the little manual with profit, and with the gratification derived from its sanction to some of the ideas hazarded. The discourse you omitted to inclose had been formerly received, and is preserved with the similar favors I have from time to time had from you. I am much obliged by your kind purpose of sending me the 4th Vol., to be published by your Society; but having taken measures which will otherwise procure it, (the preceding volumes being already in my possession,) you need not be at that trouble.

Writings of Madison, Volume 3: 1816-1828, p.108

I was surprized to see that your remark on the tendency of the earth to vary its spontaneous productions has been treated as a fancy, and still more as a heresy. Equivocal generation, had that been your meaning, necessarily implies no more than that Omnipotence has bestowed on nature greater capacities than is generally supposed. But the fact you state requires no resort to that hypothesis, it being well understood that the earth abounds with seeds, grains, &c., which remain for an indefinite period without vegetating or rotting, until circumstances happen to promote the one or the other, not to mention the various ways in which they are continually conveyed from one place to another. As to the fact itself, it is beyond question. Within my recollection, there have been three or four changes in the spontaneous herbage of our old, uncultivated fields. The same tendency is exemplified in the ease of trees. Originally, not a pine was seen in our red mountain forests. Now, all our red fields, long unplowed, are overspread with pines, as thick as they can grow; whilst the adjacent grey lands, originally clothed with a pine forest, are gradually losing that kind of trees under the depredation of a particular worm; and many years may not pass before the oak and other trees, hitherto an undergrowth only, will, instead of a new forest of pines, become the masters of the soil. I have seen it remarked as a fact familiar in relation to the French forests, cut from time to time for fuel, that the trees removed are generally replaced spontaneously by a different species.

Writings of Madison, Volume 3: 1816-1828, p.109

You seem to adopt the idea that cheat is deteriorated wheat. This is the common opinion, and cases within my own notice make it difficult to question the fact. Yet the conversion of any plant into a distinct one, with a germinating faculty, is much akin to the creation of a new plant by what is called equivocal generation. I had supposed that if cheat was a degeneracy of wheat, it might be regenerated into wheat; and a good many years sowed a prepared spot in the garden with cheat, and continued the experiment for five or six years, taking the seed each year from the crop of the preceding one, but without any other product than unaltered cheat. It is possible, nevertheless, that cheat may have been the origin of wheat, and that, as in other cases, it returns to its savage state more readily than it is reclaimed to its cultivated one. But even on this supposition, there is so little in the characteristics of cheat indicating an improveableness into any esculent grain, that it is not easy to account for the discovery. It would be an interesting experiment to sow wheat in a parcel of earth sifted from every ingredient as large as a grain of cheat, guarding, at the same time, against the entrance of any thing as large, and keeping the earth and the plant as nearly as possible under the circumstances which are thought to favor the change of wheat into cheat. I have requested a neighbouring gentleman, who has promised, to ascertain the result of such a process.

Writings of Madison, Volume 3: 1816-1828, p.109

You recommend wheat with solid and hard stalks as most likely to resist the Hessian fly, and reason seems to second the advice. It is contradicted, however, by facts on my own farm. Of the several sorts I sow, the purple straw, which has a hard and stiff stalk, is found to be the greatest favorite of that insect; and it is so considered by every one with whom I have conversed. On the other hand, the Lawler wheat, which is well ascertained here to resist best the ravages of the fly, has a very hollow and soft stalk, all my harvest men concurring in saying that it cuts almost as easily as oats. The scythe and cradle are generally used with us.

Writings of Madison, Volume 3: 1816-1828, p.110

Having the pen in my hand, I have indulged these remarks, which occurred while perusing your valuable little tract. You will see that they bear a private stamp, and may be assured that they are not meant to draw you either into discussion or explanation.

Writings of Madison, Volume 3: 1816-1828, p.110

After detaining you so long, I will bid you an abrupt, but not the less respectful and cordial farewell.

To Jacob Gideon.

MONTPELLIER, Aug. 20, 1818.

Writings of Madison, Volume 3: 1816-1828, p.110

SIR,—I have duly received your letter of the 5th instant, with the handsome copy of your edition of the "Federalist." As this replaces the copy sent you, there is the less occasion for a return of the latter. It may be proper, perhaps, to observe, that it is not the only one containing the names of the writers correctly prefixed to their respective papers. I had a considerable time ago, at the request of particular friends, given the same advantage to their copies.

Writings of Madison, Volume 3: 1816-1828, p.110

I have not yet been able to look over the passages corrected by me; but, from the care you bestowed on the edition, I cannot doubt that in that instance, as well as others, it is free from errors.

To President Monroe.

October, 1818.

Writings of Madison, Volume 3: 1816-1828, p.110

DEAR SIR,—I have duly received yours of the 27th ult. I am very sorry that I shall not be able to have the pleasure of joining you at the meeting of the visitors. We must await, therefore, that of seeing you and Mrs. Monroe on your way to Washington, and hope you will set out in time to spare us some days.

Writings of Madison, Volume 3: 1816-1828, p.111

The communications from Mr. Rush are very interesting. Great Britain seems so anxious to secure the general trade with the U. S., and at the same time to separate that from the question of the colonial trade, that I fear she will use means to struggle against a change in the latter. I had not understood that the renewal of the existing Treaty was desired by our merchants and ship owners, unless coupled with a reciprocity in the colonial trade; and had supposed that by making the latter a condition of the former, it would be the more attainable, especially as it would be more easy for the British ministry to find a cover for the concession in a mixed than a simple transaction. I readily presume, however, that the official views of the subject are the result of much better estimates than my information can furnish. Were it practicable, it would be an agreeable precedent to effectuate a Treaty making no distinction between colonial and other ports of the same nation, as no distinction is made between our ports. I have no doubt that this will ultimately be the case in all our Treaties; but we must move in concert with one great and good ally, Time.

Writings of Madison, Volume 3: 1816-1828, p.111

It proves, as all of us suspected, that the sauciness of Spain proceeded from her expectation of being powerfully backed in Europe. The situation of Great Britain is a little envious [?] and not a little perplexing. She sees the jealousy of the continental powers, and endeavors to manage it by acquiescing in the proposed mediation between Spain and South America, and by protesting against peculiar advantages in the trade of the latter. On the other hand, she wishes to stand as well as possible with the revolutionary countries, and does not wish the U.S. to be ahead of her in countenancing them. It would be a fortunate thing if she could be prevailed on to unite with our views, instead of inviting a union of ours with hers. If she restricts the mediation to an advisory one, a great point will be gained for all parties. In every view, it is very gratifying to find her become so much disposed to meet the U. S. on that conciliatory policy, for which they have so long kept the way open, and which is evidently the true interest of both parties.

Writings of Madison, Volume 3: 1816-1828, p.112

Yours, respectfully and affectionately.

To President Monroe.

MONTPELLIER, NOV. 28, 1818.

Writings of Madison, Volume 3: 1816-1828, p.112

DEAR SIR,—Your favour of the 23rd having passed on to Milton, whence it came back to Orange Court-House, I did not receive it until yesterday.

Writings of Madison, Volume 3: 1816-1828, p.112

I am glad to find that our proportion of shipping in the direct trade with Great Britain is increasing. It must continue to do so under an established reciprocity, with regard to the trade with the British colonies, whether that be founded on the admission or exclusion of the ships of both countries.

Writings of Madison, Volume 3: 1816-1828, p.112

I thank you for the printed copy of the documents relating to our long controversy with Spain. It forms a valuable continuation of the State papers already published.

Writings of Madison, Volume 3: 1816-1828, p.112

It is pleasing to see proofs of the growing respect for us among the great powers of Europe, which must be cherished and enhanced by the current developments of a just and elevated policy on the part of the United States. It is not [Is it not] worth while to found on this respect an experiment to draw Russia and France, who particularly profess it, into our liberal and provident views in favor of South America. The great work of its emancipation would then be completed per saltum; for Great Britain could not hold back, if so disposed, and Spain would have no choice but acquiescence.

Writings of Madison, Volume 3: 1816-1828, p.112

The inference of Mr. Rush, from the circumstances of his last interview with Lord Castlereagh, in the moment of his departure for Aix la Chapelle, is as judicious as it is favorable to our hopes of terminating the thorny question of impressment. The British Cabinet gave up its sine qua non, in order to get rid of a war with us at a crisis rendering it embarrassing to its affairs, internal and external. It may be equally ready to obviate, by another sacrifice, the danger of one which might be not less embarrassing in both respects. Impressment and peace, it must now be evident, are irreconcilable. It will be happy if the apparent disposition to yield in this case be carried into effect; and it may be hoped the same flexibility may be extended to the case of blockades, which, in the event of a maritime war in Europe, would have a like tendency with impressments. The remaining danger to a permanent harmony would then lie in the possession of Canada; which, as Great Britain ought to know, whenever rich enough to be profitable, will be strong enough to be independent. Were it otherwise, Canada can be of no value to her when at war with us; and when at peace, will be of equal value, whether a British colony or an American State. Whether the one or the other, the consumption of British manufactures and export of useful materials will be much the same. The latter would be guarded even against a tax on them by an article in our Constitution.

Writings of Madison, Volume 3: 1816-1828, p.113

But notwithstanding the persuasive nature of these considerations, there is little probability of their overcoming the national pride, which is flattered by extended dominion; and still less, perhaps, ministerial policy, always averse to narrow the field of patronage. As far as such a transfer would affect the relative power of the two nations, the most unfriendly jealousy could find no objection to the measure, for it would evidently take more weakness from Great Britain than it would add strength to the U.S. In truth, the only reason we can have to desire Canada ought to weigh as much with G. Britain as with us. In her hands it must ever be a source of collision, which she ought to be equally anxious to remove; and a snare to the poor Indians, towards whom her humanity ought to be equally excited. Interested individuals have dwelt much on its importance to G. Britain as a channel for evading and crippling our commercial laws. But it may well be expected that other views of her true interest will prevail in her councils, if she permits experience to enlighten them. I return the private letter you enclosed from Mr. Rush.

Writings of Madison, Volume 3: 1816-1828, p.113

Health and success.

To Monsr Hyde De Neuville.

MONTPELLIER, Decr 9, 1818.

Writings of Madison, Volume 3: 1816-1828, p.114

DR SIR,—I have been duly favored with your interesting communication of the 3d instant. The evacuation of France by the occupying armies is a just subject of the joy you express. It is an important event in the affairs of Europe; and an epoch particularly so in those of France. Her recovery of an uncon-trouled will must be gratifying to all who wish to see nations in full possession of the independence belonging to them. And I sincerely hope that the enjoyment of it, whilst it gives happiness to your Country, may promote also the reign of justice and peace over the quarter of the Globe of which it makes so conspicuous a part.

Writings of Madison, Volume 3: 1816-1828, p.114

Mrs. M. charges me with her acknowledgments and best returns for the kind recollections of Mad. de Neuville and yourself, and unites with me in adding, that we shall be happy in any future occasion of manifesting our impressions to you both at Montpellier.

1819

To John Nicholas.

JANUARY 4th, 1819.

Writings of Madison, Volume 3: 1816-1828, p.114

DR SIR,—I received a few days ago a copy of your agricultural address, under a blank cover. Presuming that I am indebted for it to your kind attention, I offer you my thanks for the favor. I have read your observations with pleasure, and not without instruction. Whatever differences of opinion may exist on particular points, the substance and scope of the address cannot fail to be acceptable and useful to those who take an interest in the subject, as all must do who love their Country.

Writings of Madison, Volume 3: 1816-1828, p.114

You adhere, I see, as I do, to the expediency of a tax on distilleries, combined with a prohibition of foreign spirits. Its advantages, under several aspects, ought to recommend the measure; particularly to the owners of the soil, as an extensive and certain market for the grain which seems to find the foreign one more and more limited and precarious; whilst a proper modification of the tax would free it from most of the objections to excises. Yet such is the force of prepossession, and such the charm of a silent and surreptitious revenue from the duties on imports, that the innovation will require both a lucky moment and a concert of powerful talents.

Writings of Madison, Volume 3: 1816-1828, p.115

I am sorry to learn that the ox is giving way, among your farmers, to the horse. You will see how partial I am to the former, with the reasons which make me so. And I have always backed my argument with the practice, which I knew, from a conversation with you, to prevail in your quarter. I wish your expostulations on the subject may recall your brethren to their true economy, and restore to my reasoning the sanction of their example.

Writings of Madison, Volume 3: 1816-1828, p.115

I cannot, my dear Sir, take leave of you without expressing my unfeigned concern at the account you give of your health. I well know that friendly sympathies are without avail in con-trouling physical maladies, or I should ardently dwell on them. I am equally aware that you derive your consolations from sources which do not need the aid of such as I could offer. I restrict myself, therefore, to the hope, which I do not relinquish, that your complaint may be less serious than its actual symptoms might suggest; and that a life valuable in so many relations may be long preserved. I pray you to be assured that the circle is very small which contains those who would be more sincerely rejoiced at such a result than your past fellow-labourer in the service of our Country, and your present as well as past affectionate friend.

To Thomas Jefferson.

MONTPELLIER, Feb, 12, 1819.

Writings of Madison, Volume 3: 1816-1828, p.115

DEAR SIR,—I have not been able to learn a little of your health since I saw you. It has, I hope, been entirely re-established. I congratulate you on the success of the Report to the Legislature on the subject of the University. It does not yet appear what steps have been taken by the Governor towards giving effect to the law.

Writings of Madison, Volume 3: 1816-1828, p.116

Will you be so good as to have the inclosed forwarded, when convenient, to Mr. Minor? I leave it open that you may peruse the printed memoir, which the author, T. Coxe, wishes you may have an opportunity of doing. It is short, and contains facts and remarks which will pay for the trouble. He refers me, also, to an article from his pen in the American Edition of Rees's Cyclopedia, under the head "United States," which I believe he would be gratified by your looking into. I have not seen it, but understand that it contains not only other remarks on the subject of the Memoir, under the sectional head "Agriculture," but a review of the most important translations—quorum partes fuimus.

Writings of Madison, Volume 3: 1816-1828, p.116

The President intimates to me that there is a prospect of an early and satisfactory close to the negotiations with Spain, promoted, he doubts not, by the course of events of late date, and the account to which they have been turned.

To Tench Coxe.

MONTPELLIER, Feby 12th, 1819.

Writings of Madison, Volume 3: 1816-1828, p.116

DR SIR,—I have received your favor of the 2d instant, with the printed addition to your Memoir relating to Cotton. This further view of the subject gives peculiar force to your former observations, and I wish it may attract all the attention which is due from our public Councils. Without a just estimate of her manufacturing and commercial interests, as I should understand them, Great Britain seems intent on supplanting our cotton staple in her market, and consequently forcing it into rival markets, whence the fabrics made of it will be taken in return; and into our domestic manufactories, which may prevent a recovery of what she may lose by the experiment. In every view of the subject, it becomes us to anticipate a fall in the price of that important portion of our agricultural products. And if peace continues in Europe, as ought to be the wish of all, nothing but seasons extensively unfavorable can give us an adequate market for the next greatest portion, that of our grain crop. Whilst the third, tobacco, cannot fail to be reduced in price by the more extended culture of it even in our own Country, which will be accelerated by the reduced markets for the two other great staples. These prospects merit general attention, and suggest conclusions such as you will draw from them.

To President Monroe.

MONTPELLIER, February 13, 1819.

Writings of Madison, Volume 3: 1816-1828, p.117

DEAR SIR,—I received by the last mail your favor of the 7th. The death of Genl Mason, with the manner of it, is an event truly lamentable. The only alleviation it admits is in the hope that its admonitions will not be fruitless.

Writings of Madison, Volume 3: 1816-1828, p.117

The newspapers from Washington not having come to hand regularly of late, and other matters having engaged my attention, I am but partially acquainted with what has passed in Congress on the subject of the proceedings in Florida. The views of the Executive could not certainly have been better directed than to the objects of shielding the Constitution, silencing Spain and her allies, and turning every thing to the best account for the nation. It will be a most happy termination of the business if Onis should make good the prospect of the desired accommodation of our affairs with Spain.

Writings of Madison, Volume 3: 1816-1828, p.117

It would be a happiness, also, if the subject, as it relates to General Jackson, could have an issue satisfactory to his feelings, and to the scruples of his friends and admirers. Mr. Adams has given all its lustre to the proof that the conduct of the General is invulnerable to complaints from abroad; and the question between him and his country ought to be judged under the persuasion that if he has erred, it was in the zeal of his patriotism, and under a recollection of the great services he has rendered.

Writings of Madison, Volume 3: 1816-1828, p.118

You have seen the agreeable result at Richmond to the Report of the University Commissioners. I do not know what steps have been taken for carrying the law into execution.

Writings of Madison, Volume 3: 1816-1828, p.118

I have heard nothing from or of Mr. Jefferson since the visit of Dr Eustis and myself to Monticello. I mentioned to you the state of his health at that time, and our hopes that it would be soon entirely restored. It is to be wished that he may witness and guide the launching of the Institution which he put on the stocks, and the materials for which were supplied from his stores.

To President Monroe.

MONTPELLIER, February 18, 1819.

Writings of Madison, Volume 3: 1816-1828, p.118

DEAR SIR,—I have received your favor of the 13th. I beg that you will not think of the pecuniary subject until it be in every respect perfectly convenient to you.

Writings of Madison, Volume 3: 1816-1828, p.118

The real sense of the nation with respect to the Revolutionary struggle in South America cannot, I should suppose, be mistaken. Good wishes for its success, and every lawful manifestation of them, will be approved by all, whatever may be the consequences. The nation will equally disapprove any measures unnecessarily involving it in the danger of a war, which might even do less good to the Spanish patriots than harm to the United States, or any underhand measures bringing a just stain on the national character. Those who are most disposed to censure the tardiness of the Executive in acknowledging the Independence of Buenos Ayres, which alone has the appearance of having reached maturity, should recollect that it was never declared until July, 1806, and that it has been rendered uncertain whether the declaration would preclude a modified re-establishment of a dependent State.

Writings of Madison, Volume 3: 1816-1828, p.118

The account of Mr. Rush's conversation must be founded at least in some egregious mistake. No one who is acquainted with his good sense, his self-command, his official habits, and his personal dispositions, can easily believe that he would commit either the Executive or himself in the manner stated, and still less that he would have withheld what he had done from you. Besides, what considerate citizen could desire that the Government should purchase Florida from such an adventurer as McGregor, whose conquest, if a real one, could give no title that would be alienable, before it should be consummated by a termination of the contest between the parties? the purchase of such a title from such a quarter would have exposed the United States to the utmost odium as to the mode of gaining the possession, without any greater security for keeping it than would attend a direct seizure on the plea of an obstinate refusal to pay an acknowledged debt.

To Richard Peters.

FEBY 22d, 1819.

Writings of Madison, Volume 3: 1816-1828, p.119

DR SIR,—I perceive that I am indebted to you for the copy of an Agricultural Almanack and Memorial, brought me by a late mail, for which I offer my thanks. Accept them, also, for the copy of Mr. Rawle's address, which you have been so kind as to send me.

Writings of Madison, Volume 3: 1816-1828, p.119

I am particularly pleased with your scheme of a "pattern farm." There is no form in which Agriculture can be so successfully conveyed. Nor is there any situation so favorable for the establishment of them as the neighbourhood of a large commercial city. The vessels going thence to every part of the globe can obtain from our Consuls, or from mercantile correspondents, specimens of every article, vegetable and animal, which deserve experiment; and from such a position the fruits of successful experiments can be conveniently diffused, by water as well as by land. The only objection likely to be started is the expense. But I do not see that even this extends much, if at all, beyond the outfit. A small proportion only of the experiments would be a dead loss; whilst many would yield lucrative samples for distributive sale.

Writings of Madison, Volume 3: 1816-1828, p.119-p.120

The subject of Mr. Rawle's address is an important one, and he has handled it with the ability of which he enjoys the reputation. My own ideas run much in the same channel with his. Our kind reception of emigrants is very proper, but it is dictated more by benevolent than by interested considerations, though some of them seem to be very far from regarding the obligations as lying on their side. I think he has justly graduated, also, the several classes of emigrants. The cultivators of the soil are of a character, and in so minute a proportion to our Agricultural population, that they give no foreign tint whatever to its complexion. When they come among us, too, it is with such a deep feeling of its being for the good of all, that their adopted Country soon takes the place of a native home. These remarks belong, in a considerable degree, to the Mechanical class. The Mercantile class has different features. Their proportional number, their capital or their credit, and their intelligence, often give them pretensions, and even an influence, among the native class, which you can better appreciate, perhaps, than I can. They are also less permanently tied to their new Country by the nature of their property and pursuits than either of the other classes, a translation of them to another being mere easy. And even after naturalization, the rights involved in their native allegiance facilitate violations of the duties of their assumed one. According to the general laws of Europe, no emigrant ceases to be a subject. With this double aspect, I believe it cannot be doubted that naturalized citizens among us have found it more easy than native ones to practise certain frauds. I have been led to think it worthy of consideration whether our law of naturalization might not be so varied as to communicate the rights of citizens by degrees, and in that way preclude the abuses committed by naturalized Merchants, particularly ship owners. The restrictions would be felt, it is true, by meritorious individuals, of whom I could name some, and you doubtless more; but this always happens in precautionary regulations for the general good. But I forget that I am only saying what Mr. Rawle has much better told you, or what, if just, will not have escaped your own reflections.

To Robert Walsh.

MONTPELLIER, Mar. 2d, 1819.

Writings of Madison, Volume 3: 1816-1828, p.121

DR SIR,—I received some days ago your letter of Feby 15, in which you intimate your intention to vindicate our Country against misrepresentations propagated abroad, and your desire of information on the subject of negro slavery, of moral character, of religion, and of education in Virginia, as affected by the Revolution, and our public Institutions.

Writings of Madison, Volume 3: 1816-1828, p.121

The general condition of slaves must be influenced by various causes. Among these are: 1. The ordinary price of food, on which the quality and quantity allowed them will more or less depend. This cause has operated much more unfavorably against them in some quarters than in Virginia. 2. The kinds of labour to be performed, of which the sugar and rice plantations afford elsewhere, and not here, unfavorable examples. 3. The national spirit of their masters, which has been graduated by philosophic writers among the slaveholding Colonies of Europe. 4. The circumstance of conformity or difference in the physical characters of the two classes: such a difference cannot but have a material influence, and is common to all the slave-holding countries within the American hemisphere. Even in those where there are other than black slaves, as Indians and mixed breeds, there is a difference of colour not without its influence. 5. The proportion which the slaves bear to the free part of the community, and especially the greater or smaller numbers in which they belong to individuals.

Writings of Madison, Volume 3: 1816-1828, p.121

This last is, perhaps, the most powerful of all the causes deteriorating the condition of the slave, and furnishes the best scale for determining the degree of its hardship.

Writings of Madison, Volume 3: 1816-1828, p.121

In reference to the actual condition of slaves in Virginia, it may be confidently stated as better, beyond comparison, than it was before the Revolution. The improvement strikes every one who witnessed their former condition, and attends to their present. They are better fed, better clad, better lodged, and better treated in every respect; insomuch, that what was formerly deemed a moderate treatment, would now be a rigid one, and what formerly a rigid one, would now be denounced by the public feeling. With respect to the great article of food particularly, it is a common remark among those who have visited Europe, that it includes a much greater proportion of the animal ingredient than is attainable by the free labourers even in that quarter of the Globe. As the two great causes of the melioration in the lot of the slaves since the establishment of our Independence, I should set down: 1. The sensibility to human rights, and sympathy with human sufferings, excited and cherished by the discussions preceding, and the spirit of the Institutions growing out of, that event. 2. The decreasing proportion which the slaves bear to the individual holders of them; a consequence of the abolition of entails and the rule of primogeniture; and of the equalizing tendency of parental affection unfettered from all prejudices, as well as from the restrictions of law.

Writings of Madison, Volume 3: 1816-1828, p.122

With respect to the moral features of Virginia, it may be observed, that pictures which have been given of them are, to say the least, outrageous caricatures, even when taken from the state of society previous to the Revolution; and that so far as there was any ground or colour for them then, the same cannot be found for them now.

Writings of Madison, Volume 3: 1816-1828, p.122-p.123

Omitting more minute or less obvious causes, tainting the habits and manners of the people under the Colonial Government, the following offer themselves: 1. The negro slavery chargeable in so great a degree on the very quarter which has furnished most of the libellers. It is well known that, during the Colonial dependence of Virginia, repeated attempts were made to stop the importation of slaves, each of which attempts was successively defeated by the foreign negative on the laws, and that one of the first offsprings of independent republican legislation was an act of perpetual prohibition. 2. The too unequal distribution of property, favored by laws derived from the British code, which generated examples in the opulent class inauspicious to the habits of the other classes. 3. The indolence of most, and the irregular lives of many, of the established clergy, consisting, in a very large proportion, of foreigners, and these, in no inconsiderable proportion, of men willing to leave their homes in the parent country, where their demerit was an obstacle to a provision for them, and whose degeneracy here was promoted by their distance from the controuling eyes of their kindred and friends; by the want of Ecclesiastical superiors in the Colony, or efficient ones in G. Britain, who might maintain a salutary discipline among them; and, finally, by their independence both of their congregations and of the civil authority for their stipends. 4. A source of contagious dissipation might be traced in the British factors, chiefly from Scotland, who carried on the general trade, external and internal, of the Colony. These being interdicted by their principals from marrying in the Country, being little prone to apply their leisure to intellectual pursuits, and living in knots scattered in small towns or detached spots, affording few substitutes of social amusements, easily fell into irregularities of different sorts, and of evil example. I ought not, however, to make this remark without adding, not only that there were exceptions to it, but that those to whom the remark is applicable often combined with those traits of character others of a laudable and amiable kind. Such of them as eventually married and settled in the country were, in most cases, remarked for being good husbands, parents, and masters, as well as good neighbours, as far as was consistent with habits of intemperance, to which not a few became victims. The weight of this mercantile class in the community may be inferred from the fact that they had their periodical meetings at the seat of Government, at which they fixed the rate of foreign exchange, the advance on their imported merchandise, universally sold on credit, and the price of tobacco, the great, and, indeed, the only staple commodity for exportation; regulations affecting more deeply the interests of the people at large than the ordinary proceedings of the Legislative body. As a further mark of their importance, their influence as creditors was felt in elections of the popular branch of that body. It had the common name of the Ledger interest. 5. Without laying undue stress on it, I may refer to the rule of septennial elections for the Legislature, which led, of course, to the vitiating means to which candidates are more tempted to resort by so durable, than by a shorter, period of power.

Writings of Madison, Volume 3: 1816-1828, p.124

With the exception of slavery, these demoralizing causes have ceased, or are wearing out; and even that, as already noticed, has lost no small share of its former character. On the whole, the moral aspect of the State may, at present, be fairly said to bear no unfavorable comparison with the average standard of the other States. It certainly gives the lie to the foreign calumniators whom you propose to arraign.

Writings of Madison, Volume 3: 1816-1828, p.124

That there has been an increase of religious instruction since the Revolution, can admit of no question. The English church was originally the established religion; the character of the clergy, that above described. Of other sects there were but few adherents, except the Presbyterians, who predominated on the West side of the Blue Mountains. A little time previous to the Revolutionary struggle the Baptists sprang up, and made a very rapid progress. Among the early acts of the Republican Legislature were those abolishing the Religious establishment, and putting all sects at full liberty and on a perfect level. At present, the population is divided, with small exceptions, among the Protestant Episcopalians, the Presbyterians, the Baptists, and the Methodists. Of their comparative numbers I can command no sources of information. I conjecture the Presbyterians and Baptists to form each about a third, and the two other sects together, of which the Methodists are much the smallest, to make up the remaining third. The old churches, built under the establishment at the public expense, have in many instances gone to ruin, or are in a very dilapidated state, owing chiefly to a transition of the flocks to other worships. A few new ones have latterly been built, particularly in the towns. Among the other sects, Meeting Houses have multiplied and continue to multiply; though, in general, they are of the plainest and cheapest sort. But neither the number nor the style of the religious edifices is a true measure of the state of religion. Religious instruction is now diffused throughout the community by preachers of every sect, with almost equal zeal, though with very unequal acquirements; and at private houses, and open stations, and occasionally in such as are appropriated to civil use, as well as buildings appropriated to that use. The qualifications of the preachers, too, among the new sects, where there was the greatest deficiency, are understood to be improving. On a, general comparison of the present and former times, the balance is certainly vastly on the side of the present, as to the number of religious teachers, the zeal which actuates them, the purity of their lives, and the attendance of the people on their instructions. It was the universal opinion of the century preceding the last, that civil Government could not stand without the prop of a religious establishment, and that the Christian religion itself would perish if not supported by a legal provision for its clergy. The experience of Virginia conspicuously corroborates the disproof of both opinions. The civil Government, though bereft of every thing like an associated hierarchy, possesses the requisite stability, and performs its functions with complete success; whilst the number, the industry, and the morality of the Priesthood, and the devotion of the people, have been manifestly increased by the total separation of the church from the State.

Writings of Madison, Volume 3: 1816-1828, p.125

On the subject of education, I am not enough informed to give a view of its increase. The system contemplated by the literary fund cannot yet be taken into the estimate, farther than as it may be an index of the progress of knowledge prerequisite to its adoption. Those who are best able to compare the present intelligence of the mass of the people with that antecedent to the revolution, will all agree, I believe, in the great superiority of the present.

Writings of Madison, Volume 3: 1816-1828, p.125

I know not how far these notices may fall within the precise scope of your meditated exposition. Should any of them do so, I communicate them with pleasure, well assured that they will be in good hands for a good purpose. The only restriction I wish in the use of them is, that my name may not be referred to.

Writings of Madison, Volume 3: 1816-1828, p.125

In compliance with your request, I send a copy of the observations addressed to the Agricultural Society of Albemarle. I regret that they are not more worthy of the place to which you destine them. I am not unaware that some of the topics introduced may be interesting ones; but they required a development very different from that which I gave them.

Writings of Madison, Volume 3: 1816-1828, p.126

As you intend to notice the variance between my statement and that of Mr. Hamilton, relating to certain numbers in the Federalist, I take the liberty of remarking, that independent of any internal evidences that may be discernible, the inaccuracy of Mr. Hamilton's memory is illustrated by the circumstance that his memorandum ascribes not only to Mr. Jay a paper, N° 54, not written by him, but to himself a paper, N° 64, written by Mr. Jay. This appears by the statement (presumed to be authentic) in the life of Mr. Jay, by Delaplaine. If I have any interest in proving the fallibility of Mr. Hamilton's memory, or the error of his statement, however occasioned, it is not that the authorship in question is of itself a point deserving the solicitude of either of the parties; but because I had, at the request of a confidential friend or two, communicated a list of the numbers in that publication, with the names of the writers annexed, at a time and under circumstances depriving me of a plea for so great a mistake in a slip of the memory or attention.

To Thomas Jefferson.

MONTPELLIER, March 6, 1819.

Writings of Madison, Volume 3: 1816-1828, p.126

DEAR SIR,—Your favor of March 3d came safe to hand, with the seeds you were so kind as to send with it.

Writings of Madison, Volume 3: 1816-1828, p.126

I return Mr. Cabell's letter. I hope his fears exaggerate the hostility to the University; though, if there should be a dearth in the Treasury, there may be danger from the predilection in favor of the popular schools. I begin to be uneasy on the subject of Cooper. It will be a dreadful shock to him if serious difficulties should beset his appointment. A suspicion of them, even, will deeply wound his feelings, and may alienate him from his purpose. I understand that a part of his articles are packed up, to be in readiness for his removal.

Writings of Madison, Volume 3: 1816-1828, p.126

I had noticed the liberty taken by the press with my opinion as well as yours, as to the conduct of General Jackson. I certainly never said any thing justifying such a publication, or any publication. In truth, I soon perceived that both the legality and the expediency of what was done depended essentially on all the circumstances; and this information I do not even yet fully possess, having not read the documents, and part only of the debates, which give different shades, at least, to the facts brought into view. As far as I have taken any part in conversations, I have always expressed the fullest confidence in the patriotism of his views; that if he should have erred in any point, the error ought not to be separated from that merit; and that no one could thoroughly appreciate the transactions without putting himself precisely in his situation. I believe I expressed, also, in a few lines answering a letter from a friend, my regret that the question in Congress could not take some turn that would satisfy the feelings of the General, and the scruples of his friends and admirers.

Writings of Madison, Volume 3: 1816-1828, p.127

The paper from Detroit, which you will see is from Woodward, came to me by mistake, with one directed to me. I inclose it, as a more certain conveyance than the newspaper mail.

To Richard Rush.

MONTPELLIER, May 10th, 1819.

Writings of Madison, Volume 3: 1816-1828, p.127

DEAR SIR,—I have looked over with amusement the two posthumous works of Watson and Walpole. The former has an importance to which the latter cannot pretend. But both, in drawing aside the curtain from the secrets of Monarchy, offer at once lessons and eulogies to Republican Government. As you have in hand a remnant of the fund from the bill on Mr. Baring, I avail myself of your kindness so far as to request that you will procure for me and forward the last and fullest edition of the posthumous Works of Gibbon. If the cost should exceed the fund, let me know; if it should leave any little balance, this may be laid out in some literary article of your choice for which it will suffice. As you sent a copy of what was addressed to the Agricultural Society of Albemarle to Sir John Sinclair, I owe, perhaps, an apology for not doing it myself, having been favored with several marks of that sort of attention from him. The truth is, I did not wish to attach to so inadequate a discussion of the subject the importance implied by regarding it as worth his acceptance; and if any unsought opportunity should make it proper, you will oblige me by intimating to him such a view of the omission.

Writings of Madison, Volume 3: 1816-1828, p.128

It is much to be regretted that the British Government had not the magnanimity nor the forecast to include in the late Treaty a final adjustment of all the questions on which the two Countries have been at variance. A more apt occasion cannot be expected, and it must be evident, that if not adjusted by treaty, the first war in Europe will leave G. Britain no alternative but an ungracious and humiliating surrender of her pretensions, or an addition of this Country to the number of her enemies. With regard to the West India trade, she is not less inconsiderate. Nothing but a retrograde course by Congress, not to be presumed, can save her from ultimate defeat in the Legislative contest.

Writings of Madison, Volume 3: 1816-1828, p.128

The President is executing the Southern half of his projected tour, and is every where greeted with public testimonies of affection and confidence. Whatever may be the motives of some who join in the acclamations, the unanimity will have the good effect of strengthening the Administration at home and inspiring respect abroad.

Writings of Madison, Volume 3: 1816-1828, p.128

Our printed journals of every denomination will present to you the perplexed situation of our monied and mercantile affairs, and the resulting influence on the general condition of the Country. The pressure is severe, but the evil must gradually cure itself. The root of it lies more particularly in the multitude and mismanagement of the Banks. It has always been a question with some how far Banks, when best constituted, and when limited to mercantile credits, furnished set-offs in the abuse of them by the imprudent, against the advantage of them to the prudent. But there are few now who are not sensible that when distributed throughout the land, and carrying, or rather hawking, their loans at every man's door, they become a real nuisance. They not only furnish the greedy and unskilful with means for their enterprises, but seduce the mass of the people into gratifications beyond their resources; and these gratifications consisting chiefly of imported articles, it follows that the entire Country consumes more of them than it can pay for. Hence the balance of trade against it; hence the demand on the Banks for specie to pay it; hence their demands on their debtors; and hence the bankruptcies of both. This is the little circle of causes and effects, which shew that the Banks are themselves the principal authors of the state of things of which they are the victims. A better state of things, it is to be hoped, will grow out of their ashes.

Writings of Madison, Volume 3: 1816-1828, p.129

In the mean time, the policy of the great nations with which we have most intercourse co-operates in augmenting the temporary difficulties experienced. Whether it may not in the end have a more salutary operation for us than for themselves, remains to be seen. G. Britain is endeavouring to make herself independent of us and of the world for supplies of food. In this she is justified by cogent views of the subject; although with her extensive capital and maritime power she would seem in little danger of being unable at any time to supply her deficiency; whilst the tendency of this policy is to contract the range of her commerce, on which she depends for her wealth and power. If agricultural nations cannot sell her the products of their soil, they cannot buy the products of her looms. They must plough less and manufacture more. The fall in the price of our wheat and flour is already reanimating the manufacturing spirit, and enforcing that of economy. She is endeavouring, also, to make herself independent of the U. States for the great article of cotton wool, by encouraging East India substitutes. If she pays that part of her dominions for its raw material by the return of it in a manufactured state, the loss of our custom may be balanced; perhaps for a time overbalanced. But a proportional loss of our custom, great and growing as it is, must be certain. One-half of our ability to purchase British manufactures is derived from the cotton sold to her. The effect of her India importations in reducing the demand and the price of that article is already felt, both in the necessity and the advantage of working it up at home.

Writings of Madison, Volume 3: 1816-1828, p.130

France, too, is making herself independent of the U. States for one of their great staples. Before our Revolution, she consumed, if I rightly remember, about thirty thousand hogsheads of tobacco. Her market now receives but a very few thousand, and it is said that land enough is appropriated in France for the culture of the balance. If France means to be a commercial and maritime power, this policy does not bespeak wisdom in her councils. She ought rather to promote an exchange of her superfluous wines and silks for a foreign article, which, not being a necessary of life, need not be forced into cultivation at home; which she will rarely, if ever, be unable to procure when she pleases from abroad; and which is well adapted by its bulk to employ shipping and marines. The price of this article, like that of cotton, has rapidly fallen, and will contribute, of course, to turn the attention here to the obligation of substituting internal manufactures for imports which the exports will not balance. Neither Great Britain nor France seems sufficiently aware that a self-subsisting system in some nations must produce it in others, and that the result of it in all must be most injurious to those whose prosperity and power depend most on the freedom and extent of the commerce among them.

Writings of Madison, Volume 3: 1816-1828, p.130

I find myself very pertinently called off from speculations which, whether just or otherwise, cannot be new to you, by a charge from Mrs. Madison to present her very affectionate regards to Mrs. Rush, with many thanks for the repetitions of her kind offers. I pray that my respectful ones may be added, and that you will accept for yourself assurances of my great esteem and unvaried friendship.

To J. Q. Adams.

MONTPELLIER, May 18, 1819.

Writings of Madison, Volume 3: 1816-1828, p.131

DEAR SIR,—I have received your favor of the 14th, in behalf of Mr. Cardelli. The examples and auspices alone under which his request is made entitle it to a ready compliance. And I know at present no objection to the particular time at which he proposes to make his visit.

Writings of Madison, Volume 3: 1816-1828, p.131

Mrs. Madison is very thankful to Mrs. Adams for the kind expressions you convey from her, and charges me to offer a cordial return of them. I beg that I may be respectfully presented, also, and that you will accept for yourself assurances of my high esteem and sincere regard.

To William King.

MONTPELLIER, May 20, 1819.

Writings of Madison, Volume 3: 1816-1828, p.131

SIR,—I have received yours of the 10th, requesting an account of the proceedings of Virginia in reference to the separation of Kentucky into an Independent State.

Writings of Madison, Volume 3: 1816-1828, p.131

Not being able to recur to the early proceedings of the Legislature on that subject, I can only give the substance of what was done on it.

Writings of Madison, Volume 3: 1816-1828, p.131

As soon as it was understood to be the wish of the people of Kentucky, which had previously been formed into a separate District, that it should become a co-ordinate State, and that the only proper question related to the time for it, the Legislature submitted the question to a convention, to be chosen by the people of the District, specifying, at the same time, conditions on which the event should take place.

Writings of Madison, Volume 3: 1816-1828, p.131

The consideration of the subject, and of the conditions equitable between the parties, was prolonged for several years. The final act of Virginia, which led to the contemplated result, was passed near the close of the year 1789. It provided for a Convention, to be elected by the free male inhabitants, with full power to determine whether it be expedient for, and the will of, the good people of the said District that the same be erected into an Independent State.

Writings of Madison, Volume 3: 1816-1828, p.132

The principal conditions proposed were, that all private rights to land within the new State, derived from the laws of Virginia, should remain valid, and be determined by the laws then existing; that the lands, reciprocally, of non-resident proprietors should not be taxed higher than those of residents, nor be subjected, within six years after the admission of the new State into the Union, to forfeiture or other penalty, by neglect of cultivation or improvement; that no grant of land be made by the new State interfering with a grant issued by Virginia, and located prior to September, 1791, on land within Kentucky liable thereto at the passage of the law; that unlocated lands within Kentucky, standing appropriated by Virginia to individuals for military or other services, should remain subject to her disposal until May, 1792; the residue of the lands to be subject to the disposal of the new State; that in case of disagreement as to the meaning of these articles, it should be settled by six commissioners, two to be chosen by each of the parties, and the others by them; that the Convention of Kentucky might fix a day posterior to November, 1791, at which the authority of Virginia should cease; provided, that prior thereto, Congress should assent to the separation, and the admission of the new State into the Union.

Writings of Madison, Volume 3: 1816-1828, p.132

To prevent an interval of anarchy, it was declared that the Convention to decide on the separation was to be understood as having authority to take provisional measures for the choice and meeting of another Convention, with full power to establish a Constitution for the new State.

Writings of Madison, Volume 3: 1816-1828, p.132

I regret, Sir, that, for the reason mentioned, I have not been able to furnish more precisely the course pursued in the precedent of a voluntary separation of two parts of the same community into an equal independence of each other, which I should otherwise have done with pleasure. And from the tenor of your letter, I infer that this early answer would be preferred to tho delay of a fuller one.

To J. Q. Adams.

MONTPELLIER, June 7, 1819.

Writings of Madison, Volume 3: 1816-1828, p.133

DEAR SIR,—I have duly received your letter of the 1st instant. On recurring to my papers for the information it requests, I find that the speech of Col. Hamilton, in the Convention of 1787, in the course of which he read a sketch of a plan of Government for the United States, was delivered on the 18th of June; the subject of debate being a resolution proposed by Mr. Dickinson, "that the Articles of Confederation ought to be revised and amended, so as to render the Government of the United States adequate to the exigencies, the preservation, and the prosperity of the Union."

To Robert J. Evans,

(Author of the Pieces Published

Under the Name of Benjamin Rush.)

MONTPELLIER, June 15, 1819.

Writings of Madison, Volume 3: 1816-1828, p.133

SIR,—I have received your letter of the 3d instant, requesting such hints as may have occurred to me on the subject of an eventual extinguishment of slavery in the United States.

Writings of Madison, Volume 3: 1816-1828, p.133

Not doubting the purity of your views, and relying on the discretion by which they will be regulated, I cannot refuse such a compliance as will, at least, manifest my respect for the object of your undertaking.

Writings of Madison, Volume 3: 1816-1828, p.133

A general emancipation of slaves ought to be—1. Gradual. 2. Equitable, and satisfactory to the individuals immediately concerned. 3. Consistent with the existing and durable prejudices of the nation.

Writings of Madison, Volume 3: 1816-1828, p.133

That it ought, like remedies for other deep-rooted and widespread evils, to be gradual, is so obvious, that there seems to be no difference of opinion on that point.

Writings of Madison, Volume 3: 1816-1828, p.133

To be equitable and satisfactory, the consent of both the master and the slave should be obtained. That of the master will require a provision in the plan for compensating a loss of what he held as property, guarantied by the laws, and recognised by the Constitution. That of the slave, requires that his condition in a State of freedom be preferable, in his own estimation, to his actual one in a state of bondage.

Writings of Madison, Volume 3: 1816-1828, p.134

To be consistent with existing and probably unalterable prejudices in the United States, the freed blacks ought to be permanently removed beyond the region occupied by, or allotted to, a white population. The objections to a thorough incorporation of the two people are, with most of the whites, insuperable; and are admitted by all of them to be very powerful. If the blacks, strongly marked as they are by physical and lasting peculiarities, be retained amid the whites, under the degrading privation of equal rights, political or social, they must be always dissatisfied with their condition, as a change only from one to another species of oppression; always secretly confeder-ated against the ruling and privileged class; and always uncontrolled by some of the most cogent motives to moral and respectable conduct. The character of the free blacks, even where their legal condition is least affected by their colour, seems to put these truths beyond question. It is material, also, that the removal of the blacks be to a distance precluding the jealousies and hostilities to be apprehended from a neighbouring people, stimulated by the contempt known to be entertained for their peculiar features; to say nothing of their vindictive recollections, or the predatory propensities which their state of society might foster. Nor is it fair, in estimating the danger of collisions with the whites, to charge it wholly on the side of the blacks. There would be reciprocal antipathies doubling the danger.

Writings of Madison, Volume 3: 1816-1828, p.134

The colonizing plan on foot has, as far as it extends, a due regard to these requisites; with the additional object of bestowing new blessings, civil and religious, on the quarter of the Globe most in need of them. The Society proposes to transport to the African coast all free and freed blacks who may be willing to remove thither; to provide by fair means, and, it is understood, with a prospect of success, a suitable territory for their reception; and to initiate them into such an establishment as may gradually and indefinitely expand itself.

Writings of Madison, Volume 3: 1816-1828, p.134

The experiment, under this view of it, merits encouragement from all who regard slavery as an evil, who wish to see it diminished and abolished by peaceable and just means, and who have themselves no better mode to propose. Those who have most doubted the success of the experiment must, at least, have wished to find themselves in an error.

Writings of Madison, Volume 3: 1816-1828, p.135

But the views of the Society are limited to the case of blacks already free, or who may be gratuitously emancipated. To provide a commensurate remedy for the evil, the plan must be extended to the great mass of blacks, and must embrace a fund sufficient to induce the master, as well as the slave, to concur in it. Without the concurrence of the master, the benefit will be very limited as it relates to the negroes, and essentially defective as it relates to the United States; and the concurrence of masters must, for the most part, be obtained by purchase.

Writings of Madison, Volume 3: 1816-1828, p.135

Can it be hoped that voluntary contributions, however adequate to an auspicious commencement, will supply the sums necessary to such an enlargement of the remedy? May not another question be asked? Would it be reasonable to throw so great a burden on the individuals distinguished by their philanthropy and patriotism?

Writings of Madison, Volume 3: 1816-1828, p.135

The object to be obtained, as an object of humanity, appeals alike to all; as a national object, it claims the interposition of the nation. It is the nation which is to reap the benefit. The nation, therefore, ought to bear the burden.

Writings of Madison, Volume 3: 1816-1828, p.135

Must, then, the enormous sums required to pay for, to transport, and to establish in a foreign land, nil the slaves in the United States, as their masters may be willing to part with them, be taxed on the good people of the United States, or be obtained by loans, swelling the public debt to a size pregnant with evils next in degree to those of slavery itself?

Writings of Madison, Volume 3: 1816-1828, p.135

Happily, it is not necessary to answer this question by remarking, that if slavery, as a national evil, is to be abolished, and it be just that it be done at the national expense, the amount of the expense is not a paramount consideration. It is the peculiar fortune, or, rather, a providential blessing of the United States, to possess a resource commensurate to this great object, without taxes on the people, or even an increase of the public debt.

Writings of Madison, Volume 3: 1816-1828, p.136

I allude to the vacant territory, the extent of which is so vast, and the vendible value of which is so well ascertained.

Writings of Madison, Volume 3: 1816-1828, p.136

Supposing the number of slaves to be 1,500,000, and their price to average 400 dollars, the cost of the whole would be 600 millions of dollars. These estimates are probably beyond the fact; and from the number of slaves should be deducted: 1. Those whom their masters would not part with. 2. Those who may be gratuitously set free by their masters. 3. Those acquiring freedom under emancipating regulations of the States. 4. Those preferring slavery where they are to freedom in an African settlement. On the other hand, it is to be noted that the expense of removal and settlement is not included in the estimated sum; and that an increase of the slaves will be going on during the period required for the execution of the plan.

Writings of Madison, Volume 3: 1816-1828, p.136

On the whole, the aggregate sum needed may be stated at about six hundred millions of dollars.

Writings of Madison, Volume 3: 1816-1828, p.136

This will require 200 millions of acres, at three dollars per acre; or 300 millions at two dollars per acre; a quantity which, though great in itself, is perhaps not a third part of the disposable territory belonging to the United States. And to what object so good, so great, and so glorious, could that peculiar fund of wealth be appropriated? Whilst the sale of territory would on one hand, be planting one desert with a free and civilized people, it would, on the other, be giving freedom to another people, and filling with them another desert. And if in any instances wrong has been done by our forefathers to people of one colour, by dispossessing them of their soil, what better atonement is now in our power than that of making what is rightfully acquired a source of justice and of blessings to a people of another colour?

Writings of Madison, Volume 3: 1816-1828, p.136

As the revolution to be produced in the condition of the negroes must be gradual, it will suffice if the sale of territory keep pace with its progress. For a time, at least, the proceeds would be in advance. In this case, it might be best, after deducting the expense incident to the surveys and sales, to place the surplus in a situation where its increase might correspond with the natural increase of the unpurchased slaves. Should the proceeds at any time fall short of the calls for their application, anticipations might be made by temporary loans, to be discharged as the land should find a market.

Writings of Madison, Volume 3: 1816-1828, p.137

But it is probable that for a considerable period the sales would exceed the calls. Masters would not be willing to strip their plantations and farms of their labourers too rapidly. The slaves themselves, connected, as they generally are, by tender ties with others under other masters, would be kept from the list of emigrants by the want of the multiplied consents to be obtained. It is probable, indeed, that for a long time a certain portion of the proceeds might safely continue applicable to the discharge of the debts or to other purposes of the nation; or it might be most convenient, in the outset, to appropriate a certain proportion only of the income from sales to the object in view, leaving the residue otherwise applicable.

Writings of Madison, Volume 3: 1816-1828, p.137

Should any plan similar to that I have sketched be deemed eligible in itself, no particular difficulty is foreseen from that portion of the nation which, with a common interest in the vacant territory, has no interest in slave property. They are too just to wish that a partial sacrifice should be made for the general good, and too well aware that whatever may be the in. trinsic character of that description of property, it is one known to the Constitution, and, as such, could not be constitutionally taken away without just compensation. That part of the nation has, indeed, shewn a meritorious alacrity in promoting, by pecuniary contributions, the limited scheme for colonizing the blacks, and freeing the nation from the unfortunate stain on it, which justifies the belief that any enlargement of the scheme, if rounded on just principles, would find among them its earliest and warmest patrons. It ought to have great weight that the vacant lands in question have, for the most part, been derived from grants of the States holding the slaves to be redeemed and removed by the sale of them.

Writings of Madison, Volume 3: 1816-1828, p.137

It is evident, however, that in effectuating a general emancipation of slaves in the mode which has been hinted, difficulties of other sorts would be encountered. The provision for ascertaining the joint consent of the masters and slaves; for guarding against unreasonable valuations of the latter; and for the discrimination of those not proper to be conveyed to a foreign residence, or who ought to remain a charge on masters in whose service they had been disabled or worn out, and for the annual transportation of such numbers, would require the mature deliberations of the national councils. The measure implies, also, the practicability of procuring in Africa an enlargement of the district or districts for receiving the exiles sufficient for so great an augmentation of their numbers.

Writings of Madison, Volume 3: 1816-1828, p.138

Perhaps the Legislative provision best adapted to the case would be an incorporation of the Colonizing Society, or the establishment of a similar one, with proper powers, under the appointment and superintendence of the National Executive.

Writings of Madison, Volume 3: 1816-1828, p.138

In estimating the difficulties, however, incident to any plan of general emancipation, they ought to be brought into comparison with those inseparable from other plans, and be yielded to or not according to the result of the comparison.

Writings of Madison, Volume 3: 1816-1828, p.138

One difficulty presents itself which will probably attend every plan which is to go into effect under the Legislative provisions of the National Government. But whatever may be the defect of existing powers of Congress, the Constitution has pointed out the way in which it can be supplied. And it can hardly be doubted that the requisite powers might readily be procured for attaining the great object in question, in any mode whatever approved by the nation.

Writings of Madison, Volume 3: 1816-1828, p.138

If these thoughts can be of any aid in your search of a remedy for the great evil under which the nation labors, you are very welcome to them.

To Govr Plumer.

MONTPELLIER, June 20, 1819.

Writings of Madison, Volume 3: 1816-1828, p.138

DEAR SIR,—I have received your favor of the 8th, covering a copy of your interesting address to your Legislature, for which I pray you to accept my thanks.

Writings of Madison, Volume 3: 1816-1828, p.139

Allow me, at the same time, to congratulate you on the auspicious circumstances, personal as well as public, under which you retire to the shade of private life, and to offer my sincere wishes that you experience in it many years of health and happiness.

To J. Q. Adams.

MONTPELLIER, June 27, 1819.

Writings of Madison, Volume 3: 1816-1828, p.139

DEAR SIR,—I return the list of yeas and nays in the Convention, with the blanks filled, according to your request, as far as I could do it by tracing the order of the yeas and nays, and their coincidences with those belonging to successive questions in my papers. In some instances, the yeas and nays in the list, corresponding with those on more questions than one, did not designate the particular question on which they were taken, and of course did not enable me to fill the blanks. In other instances, as you will find by the paper formerly sent you, there are questions noted by me for which the list does not contain yeas and nays. I have taken the liberty, as you will see, of correcting one or two slips in the original list, or in the copy; and I have distinguished the days on which the several votes passed.

Writings of Madison, Volume 3: 1816-1828, p.139

Will you permit me to trouble you with the inclosed letter, misdirected to me, on a subject to which the Department of State has usually paid whatever attention benevolence might suggest.

Writings of Madison, Volume 3: 1816-1828, p.139

I commit this to Mr. Cardelli, just setting out for Washington. He is thought to have succeeded extremely well in the purpose which brought him here.

To Dr. William Eustis.

MONTPELLIER, July 6, 1819.

Writings of Madison, Volume 3: 1816-1828, p.139

DEAR SIR,—I have delayed to thank you for your favors from Williamsburg and New York till I should learn that a letter would find you at Boston.

Writings of Madison, Volume 3: 1816-1828, p.140

I am glad that your interview with Dr. Mason has authenticated a circumstance which, though of a minute character, it is well enough should not be left in uncertainty.

Writings of Madison, Volume 3: 1816-1828, p.140

And I am very glad that you sought the conversation with Van Wirt. The particulars of it have a public interest, and I hope your communication of them to me is not the only mode you will take of guarding them against oblivion.

Writings of Madison, Volume 3: 1816-1828, p.140

Ought you not to do equal justice to other things of a public bearing which may exist in no other memory or memoranda than yours, or in none where they will not perish with the possessor? The infant periods of most nations are buried in silence, or veiled in fable; and perhaps the world may have lost but little which it need regret. The origin and outset of the American Republic contain lessons of which posterity ought not to be deprived; and, happily, there never was a case in which a knowledge of every interesting incident could be so accurately preserved. You have lights, I am persuaded, which ought not to be forever under a bushel.

Writings of Madison, Volume 3: 1816-1828, p.140

We have had the pleasure of finding, by information from Williamsburg, where Mrs. E. and yourself left every impression you could wish, that your health had become well established. As your letter from New York does not contradict the favorable account, we hope you continued, and still continue, to enjoy it. Should symptoms of a reverse at any time occur, you know the quarter to which you are to look for relief; and why should you not look to it as a preventive, as well as a restorative? Be assured, both of you, from Mrs. M. and myself, that Montpellier will always have a glad and affectionate welcome for you; and that, in the mean time, we wish you both not only health, but every other happiness.

Writings of Madison, Volume 3: 1816-1828, p.140

In asserting my papers, I stumbled on the enclosed, which ought to have been long ago returned.

Writings of Madison, Volume 3: 1816-1828, p.140

The Boston Patriot, which was a volunteer paper to the President whilst I was at Washington, has for more than a year come on to me here. Whether during the preceding interval it was discontinued, or was regarded as a derelict at the city, I know not. The latter was probably the case. I intended, but forgot, to mention this circumstance to you when with us. Will you now do me the favor, by a word at the printing office, to ascertain the footing on which it is now forwarded; and to pay whatever may be due, or expected, dropping a line that the advance may be immediately replaced? In any event, I wish the paper to be no longer sent. As a compliment, it is too much for the Editor; and as a cost, more than so distant, and even a daily paper, repays to me.

To Joseph C. Cabell.

JULY 26, 1819.

Writings of Madison, Volume 3: 1816-1828, p.141

DEAR SIR,—Your favour of the 10th did not come to hand till Saturday morning last.

Writings of Madison, Volume 3: 1816-1828, p.141

I concur in thinking it will be expedient to request from the General Assembly any interest which may be allowed on the debt due from the United States, unless it should appear that the attempt will be hopeless, or it be morally certain that no such allowance will be made. On these points you will be able to form the best judgment when the occasion arises.

Writings of Madison, Volume 3: 1816-1828, p.141

I am disposed to think that the difficulty with Congress will not proceed from the case of the Massachusetts claim. The objection to that is rounded on considerations peculiar to it. The claim is certainly without any legal validity, and it is barred in the opinion of those who oppose it by a just policy. Were it to be allowed, it would probably be on the ground of an extraordinary indulgence. The idea of interest would hardly be brought forward, or, if so, with any expectation of success. The objection to interest on the Virginia claim will arise chiefly, if not solely, from the bearing of the precedent on cases past, present, and to come, similar to or not easily distinguishable from it, and which may be of vast extent. The justice of interest seems, in the abstract, not to be questionable, but it must often depend on the degree and kind of exertions used by the claimant on the public for the liquidation of his accounts; exertions not reducible, perhaps, to any safe or practicable test. The refusal of interest is a spur to the settlement of accounts with the public. Its allowance would have a dilatory tendency at the expense of the public. Does the State ever allow interest on advances by individuals? Something may depend on that fact.

Writings of Madison, Volume 3: 1816-1828, p.142

After all, may it not be hoped that the University, being now a State establishment, will be more and more felt as such, and as making a vital part of the system of education contemplated by a literary fund?

To Richard Bland Lee.

MONTPELLIER, August 5, 1819.

Writings of Madison, Volume 3: 1816-1828, p.142

DEAR SIR,—I have received your favor of the 2d, with a copy of your able and interesting Oration\* on the last anniversary of our Independence.

Writings of Madison, Volume 3: 1816-1828, p.142

The existing tranquillity and harmony in the public feeling, the result of the propitious evanescence of the causes of discord, is a just subject of congratulation. It is to be wished that they never may be interrupted by the worst of all political divisions, one founded on Geographical boundaries, and embittered by another discrimination among the States which happens to coincide with them. Political parties intermingled throughout the community unite as well as divide every section of it. Parties rounded on local distinctions and fixed peculiarities, which separate the whole into great conflicting masses, are far more to be dreaded in their tendency.

Writings of Madison, Volume 3: 1816-1828, p.142

I can have no remark to make on your public introduction of my name, but that I am aware of my deficient title to the merit allowed me, at the same time that I cannot be indifferent to any mark of esteem from one who is himself so justly esteemed.

To Judge Roane.

SEPTEMBER 2, 1819.

Writings of Madison, Volume 3: 1816-1828, p.143

DEAR SIR,—I have received your favour of the 22d ult., enclosing a copy of your observations on the judgment of the Supreme Court of the United States in the case of M'Culloh against the State of Maryland; and I have found their latitudinary mode of expounding the Constitution combated in them with the ability and the force which were to be expected.

Writings of Madison, Volume 3: 1816-1828, p.143

It appears to me, as it does to you, that the occasion did not call for the general and abstract doctrine interwoven with the decision of the particular case. I have always supposed that the meaning of a law, and, for a like reason, of a constitution, so far as it depends on judicial interpretation, was to result from a course of particular decisions, and not those from a previous and abstract comment on the subject. The example in this instance tends to reverse the rule, and to forego the illustration to be derived from a series of cases actually occurring for adjudication.

Writings of Madison, Volume 3: 1816-1828, p.143

I could have wished, also, that the judges had delivered their opinions seriatim. The case was of such magnitude, in the scope given to it, as to call, if any case could do so, for the views of the subject separately taken by them. This might either, by the harmony of their reasoning, have produced a greater conviction in the public mind; or, by its discordance, have impaired the force of the precedent, now ostensibly supported by a unanimous and perfect concurrence in every argument and dictum in the judgment pronounced.

Writings of Madison, Volume 3: 1816-1828, p.143

But what is of most importance is the high sanction given to a latitude in expounding the Constitution, which seems to break down the landmarks intended by a specification of the powers of Congress, and to substitute, for a definite connection between means and ends, a legislative discretion as to the former, to which no practical limit can be assigned. In the great system of political economy, having for its general object the national welfare, everything is related immediately or remotely to every other thing; and, consequently, a power over any one thing, if not limited by some obvious and precise affinity, may amount to a power over every other. Ends and means may shift their character at the will and according to the ingenuity of the legislative body. What is an end in one case may be a means in another; nay, in the same case may be either an end or a means, at the legislative option. The British Parliament, in collecting a revenue from the commerce of America, found no difficulty in calling it either a tax for the regulation of trade, or a regulation of trade with a view to the tax, as it suited the argument or the policy of the moment.

Writings of Madison, Volume 3: 1816-1828, p.144

Is there a legislative power, in fact, not expressly prohibited by the Constitution, which might not, according to the doctrine of the court, be exercised as a means of carrying into effect some specified power?

Writings of Madison, Volume 3: 1816-1828, p.144

Does not the court also relinquish, by their doctrine, all control on the legislative exercise of unconstitutional powers? According to that doctrine, the expediency and constitutionality of means for carrying into effect a specified power are convertible terms; and Congress are admitted to be judges of the expediency. The court certainly cannot be so; a question, the moment it assumes the character of mere expediency or policy, being evidently beyond the reach of judicial cognizance.

Writings of Madison, Volume 3: 1816-1828, p.144

It is true, the court are disposed to retain a guardianship of the Constitution against legislative encroachments. "Should Congress," say they, "under the pretext of executing its powers, pass laws for the accomplishment of objects not intrusted to the government, it would become the painful duty of this tribunal to say that such an act was not the law of the land." But suppose Congress should, as would doubtless happen, pass unconstitutional laws, not to accomplish objects not specified in the Constitution, but the same laws as means expedient, convenient, or conducive to the accomplishment of objects intrusted to the government; by what handle could the court take hold of the case? We are told that it was the policy of the old government of France to grant monopolies, such as that of tobacco, in order to create funds in particular hands from which loans could be made to the public, adequate capitalists not being formed in that country in the ordinary course of commerce. Were Congress to grant a like monopoly merely to aggrandize those enjoying it, the court might consistently say, that this not being an object intrusted to the government, the grant was unconstitutional and void. Should Congress, however, grant the monopoly, according to the French policy, as a means judged by them to be necessary, expedient, or conducive to the borrowing of money, which is an object intrusted to them by the Constitution, it seems clear that the court, adhering to its doctrine, could not interfere without stepping on legislative ground, to do which they justly disclaim all pretension.

Writings of Madison, Volume 3: 1816-1828, p.145

It could not but happen, and was foreseen at the birth of the Constitution, that difficulties and differences of opinion might occasionally arise in expounding terms and phrases necessarily used in such a charter; more especially those which divide legislation between the general and local governments; and that it might require a regular course of practice to liquidate and settle the meaning of some of them. But it was anticipated, I believe, by few, if any, of the friends of the Constitution, that a rule of construction would be introduced as broad and pliant as what has occurred. And those who recollect, and, still more, those who shared in what passed in the State conventions, through which the people ratified the Constitution, with respect to the extent of the powers vested in Congress, cannot easily be persuaded that the avowal of such a rule would not have prevented its ratification. It has been the misfortune, if not the reproach, of other nations, that their governments have not been freely and deliberately established by themselves. It is the boast of ours that such has been its source, and that it can be altered by the same authority only which established it. It is a further boast, that a regular mode of making proper alterations has been providently inserted in the Constitution itself. It is anxiously to be wished, therefore, that no innovations may take place in other modes, one of which would be a constructive assumption of powers never meant to be granted. If the powers be deficient, the legitimate source of additional ones is always open, and ought to be resorted to.

Writings of Madison, Volume 3: 1816-1828, p.146

Much of the error in expounding the Constitution has its origin in the use made of the species of sovereignty implied in the nature of government. The specified powers vested in Congress, it is said, are sovereign powers; and that, as such, they carry with them an unlimited discretion as to the means of executing them. It may surely be remarked, that a limited government may be limited in its sovereignty, as well with respect to the means as to the objects of its powers; and that to give an extent to the former superseding the limits to the latter is, in effect, to convert a limited into an unlimited government. There is certainly a reasonable medium between expounding the Constitution with the strictness of a penal law or other ordinary statute, and expounding it with a laxity which may vary its essential character, and encroach on the local sovereignties with which it was meant to be reconcilable.

Writings of Madison, Volume 3: 1816-1828, p.146

The very existence of these local sovereignties is a control on the pleas for a constructive amplification of the powers of the General Government. Within a single State possessing the entire sovereignty, the powers given to the Government by the people are understood to extend to all the acts, whether as means or ends, required for the welfare of the community, and falling within the range of just government. To withhold from such a government any particular power necessary or useful in itself, would be to deprive the people of the good dependent on its exercise, since the power must be there or not exist at all. In the Government of the United States the case is obviously different. In establishing that Government, the people retained other governments, capable of exercising such necessary and useful powers as were not to be exercised by the General Government. No necessary presumption, therefore, arises, from the importance of any particular power in itself, that it has been vested in that government, because, though not vested there, it may exist elsewhere, and the exercise of it elsewhere might be preferred by those who alone had a right to make the distribution. The presumption which ought to be indulged is, that any improvement of this distribution sufficiently pointed out by experience would not be withheld.

Writings of Madison, Volume 3: 1816-1828, p.147

Although I have confined myself to the single question concerning the rule of interpreting the Constitution, I find that my pen has carried me to a length which would not have been permitted by a recollection that my remarks are merely for an eye to which no aspect of the subject is likely to be new. I hasten, therefore, to conclude, with assurances, &c., &c.

To President Monroe.

SEPTEMBER 6, 1819.

Writings of Madison, Volume 3: 1816-1828, p.147

DEAR SIR,—Captain O'Brien having extended a ride into Virginia thus far, has, during his stay with me, communicated the state of a claim he has against the United States, being part of a claim, the other part of which was settled and allowed whilst I was Secretary of State. I understood from him that the vouchers to the settled part had certain references to the part not allowed, and that he afterwards procured documentary proof, with the aid of which the same vouchers would now support the latter. But these, it appears, were destroyed when the public offices at Washington were burnt in 1814, and he is desirous of obtaining some evidence of their contents from personal recollections, and from mine, among others. I need not express the reluctance with which I should recur to such transactions; still, I might not be justified in refusing to do so, in a case where justice had no other resource. But in this case I have no recollection either of the particular contents of those papers, or of any other circumstances which might throw light on it. This want of recollection, however, can have no adverse bearing on the claim of Capt. O'Brien, for whom I entertain friendly wishes, and whose personal character and interesting public career are known to you as well as myself.

To Robert Walsh.

MONTPELLIER, Octr 16th, 1819.

Writings of Madison, Volume 3: 1816-1828, p.148

DR SIR,—I have received, with your favor of Septr 30, the copy of the "United States and G. Britain," which you have been so kind as to send me, and for which I offer you many thanks.

Writings of Madison, Volume 3: 1816-1828, p.148

As yet, I have rather looked into the volume than over it. I have seen enough of it, however, to be satisfied that it is a triumphant vindication of our Country against the libels which have been lavished on it. If it be a battery as well as a rampart, it must occur to all that it could not well be the one without the other.

Writings of Madison, Volume 3: 1816-1828, p.148

Whatever may be the regret that such a warfare should prevail between two Countries having so many inducements to live in friendship, the just and impartial will charge it on the constant aggressions of the adverse party; aggressions daily increasing both in number and violence; increasing, too, with the increased motives for a change of conduct. Whenever they shall be disposed to lay down their pens, it cannot be doubted that a disposition equally pacific will be found here. In the mean time, the ground on which the United States stand is rising every day higher, and their character becoming more invulnerable as it becomes better known. To make it so, the task you have already executed cannot fail largely to contribute.

To Thomas Jefferson.

MONTPELLIER, Octr 25, 1819.

Writings of Madison, Volume 3: 1816-1828, p.148

DEAR SIR,—I received a few days ago the two inclosed letters, one from Mr. Hackley, the other from the Botanical professor at Madrid; the latter accompanied by the three little pamphlets also inclosed, and by thirty specimens of wheat, with four of barley, and between 2 and 300 papers of the seeds referred to as "rarion Horti Botan., Matritaises." The wheats and barleys, notwithstanding the numerous varieties, I will endeavor to have sowed. The garden seeds, which probably include many which would be very acceptable to a Botanical professor at the University, if we had one, I am at a loss what to do with. I know not that I can do better with them than to give you an opportunity of inspecting their names, and with the aid of Mr. Randolph, judging how far any of them ought to be kept for the University, and into what hands the others can best be disposed of. They are, therefore, herewith also inclosed. Be so good as to return the two letters. Mr. Randolph, perhaps, may be willing to look into the pamphlets, which he will best understand and appreciate.

To Robert Walsh.

MONTPELLIER, November 27, 1819.

Writings of Madison, Volume 3: 1816-1828, p.149

DEAR SIR,—Your letter of the 11th was duly received, and I should have given it a less tardy answer, but for a succession of particular demands on my attention, and a wish to assist my recollections by consulting both manuscript and printed sources of information on the subjects of your inquiry. Of these, however, I have not been able to avail myself but very partially.

Writings of Madison, Volume 3: 1816-1828, p.149

As to the intention of the framers of the Constitution in the clause relating to "the migration and importation of persons," &c., the best key may, perhaps, be found in the case which produced it. The African trade in slaves had long been odious to most of the States, and the importation of slaves into them had been prohibited. Particular States, however, continued the importation, and were extremely averse to any restriction on their power to do so. In the convention, the former States were anxious, in framing a new constitution, to insert a provision for an immediate and absolute stop to the trade. The latter were not only averse to any interference on the subject, but solemnly declared that their constituents would never accede to a Constitution containing such an article. Out of this conflict grew the middle measure, providing that Congress should not interfere until the year 1808; with an implication, that after that date they might prohibit the importation of slaves into the States then existing, and previous thereto, into the States not then existing. Such was the tone of opposition in the States of South Carolina and Georgia, and such the desire to gain their acquiescence in a prohibitory power, that, on a question between the epochs of 1800 and 1808, the States of New Hampshire, Massachusetts, and Connecticut, (all the Eastern States in the Convention,) joined in the vote for the latter, influenced, however, by the collateral motive of reconciling those particular States to the power over commerce and navigation, against which they felt, as did some other States, a very strong repugnance. The earnestness of South Carolina and Georgia was farther manifested by their insisting on the security in the Vth article, against any amendment to the Constitution affecting the right reserved to them, and their uniting with the small States, who insisted on a like security for their equality in the Senate.

Writings of Madison, Volume 3: 1816-1828, p.150

But some of the States were not only anxious for a Constitutional provision against the introduction; they had scruples against admitting the term "slaves" into the instrument. Hence the descriptive phrase, "migration or importation of persons;" the term migration allowing those who were scrupulous of acknowledging expressly a property in human beings to view imported persons as a species of emigrants, while others might apply the term to foreign malefactors sent or coming into the country. It is possible, though not recollected, that some might have had an eye to the case of freed blacks as well. as malefactors.

Writings of Madison, Volume 3: 1816-1828, p.150-p.151

But, whatever may have been intended by the term "migration," or the term "persons," it is most certain that they referred exclusively to a. migration or importation from other countries into the United States, and not to a removal, voluntary or involuntary, of slaves or freemen from one to another part of the United States. Nothing appears or is recollected that warrants this latter intention. Nothing in the proceedings of the State Conventions indicates such a construction there.\* Had such been the construction, it is easy to imagine the figure it would have made in many of the States, among the objections to the Constitution, and among the numerous amendments to it proposed by the State Conventions,\* not one of which amendments refers to the clause in question. Neither is there any indication that Congress have heretofore considered themselves as deriving from this clause a power over the migration or removal of individuals, whether freemen or slaves, from one State to another, whether new or old. For it must be kept in view, that if the power was given at all, it has been in force eleven years over all the States existing in 1808, and at all times over the States not then existing. Every indication is against such a construction by Congress of their constitutional powers. Their alacrity in exercising their powers relating to slaves is a proof that they did not claim what they did not exercise. They punctually and unanimously put in force the power accruing in 1808, against the farther importation of slaves from abroad. They had previously directed their power over American vessels on the high seas against the African trade. They lost no time in applying the prohibitory power to Louisiana, which, having maritime ports, might be an inlet for slaves from abroad. But they forbore to extend the prohibition to the introduction of slaves from other parts of the Union. They had even prohibited the importation of slaves into the Mississippi Territory froth without the limits of the United States, in the year 1798, without extending the prohibition to the introduction of slaves from within those limits; although, at the time, the ports of Georgia and South Carolina were open for the importation of slaves from abroad, and increasing the mass of slavery within the United States.

Writings of Madison, Volume 3: 1816-1828, p.152

If these views of the subject be just, a power in Congress to control the interior migration or removals of persons must be derived from some other source than section 9, Art. 1; either from the clause giving power "to make all needful rules and regulations respecting the territory or other property belonging to the United States," or from that providing for the admission of new States into the Union.

Writings of Madison, Volume 3: 1816-1828, p.152

The terms in which the first of these powers is expressed, though of a ductile character, cannot well be extended beyond a power over the territory, as property, and a power to make the provisions really needful or necessary for the government of settlers until ripe for admission as States into the Union. It may be inferred that Congress did not regard the interdict of slavery among the needful regulations contemplated by the Constitution, since in none of the territorial governments created by them is such an interdict found. The power, however, be its import what it may, is obviously limited to a territory while remaining in that character, as distinct from that of a State.

Writings of Madison, Volume 3: 1816-1828, p.153

As to the power of admitting new States into the federal compact, the questions offering themselves are: whether Congress can attach conditions, or the new States concur in conditions, which, after admission, would abridge or enlarge the con. stitutional rights of legislation common to the other States; whether Congress can, by a compact with a new member, take power either to or from itself, or place the new member above or below the equal rank and rights possessed by the others; whether all such stipulations, expressed or implied, would not be nullities, and so pronounced when brought to a practical test. It falls within the scope of your inquiry to state the fact that there was a proposition in the convention to discriminate between the old and new States, by an article in the Constitution declaring that the aggregate number of representatives from the States thereafter to be admitted should never exceed that of the States originally adopting the Constitution. The proposition, happily, was rejected. The effect of such a discrimination is sufficiently evident.

Writings of Madison, Volume 3: 1816-1828, p.153

In the case of Louisiana, there is a circumstance which may deserve notice. In the treaty ceding it, a privilege was retained by the ceding party, which distinguishes between its ports and others of the United States for a special purpose and a short period. This privilege, however, was the result, not of an ordinary legislative power in Congress, nor was it the result of an arrangement between Congress and the people of Louisiana. It rests on the ground that the same entire power, even in the nation, over that territory, as over the original territory of the United States, never existed; the privilege alluded to being in the deed of cession carved by the foreign owner out of the title conveyed to the purchaser. A sort of necessity, therefore, was thought to belong to so peculiar and extraordinary a case. Notwithstanding this plea, it is presumable that if the privilege had materially affected the rights of other ports, or had been of a permanent or durable character, the occurrence would not have been so little regarded. Congress would not be allowed to effect, through the medium of a treaty, obnoxious discriminations between new and old States more than among the latter.

Writings of Madison, Volume 3: 1816-1828, p.154

With respect to what has taken place in the N. W. Territory, it may be observed, that the ordinance giving its distinctive character on the subject of slaveholding proceeded from the old Congress, acting with the best intentions, but under a charter which contains no shadow of the authority exercised. And it remains to be decided how far the States formed within that territory, and admitted into the Union, are on a different footing from its other members as to their legislative sovereignty.

Writings of Madison, Volume 3: 1816-1828, p.154

For the grounds on which three-fifths of the slaves were admitted into the ratio of representation, I will, with your permission, save trouble by referring to No. 54 of the Federalist. In addition, it may be stated, that this feature in the Constitution was combined with that relating to the power over commerce and navigation. In truth, these two powers, with those relating to the importation of slaves, and the articles establishing the equality of representation in the Senate and the rule of taxation, had a complicated influence on each other, which alone would have justified the remark that the Constitution was "the result of mutual deference and concession."

Writings of Madison, Volume 3: 1816-1828, p.154

It was evident that the large States holding slaves, and those not large which felt themselves so by anticipation, would not have concurred in a constitution allowing them no more representation in one legislative branch than the smallest States, and in the other less than their proportional contributions to the common treasury.

Writings of Madison, Volume 3: 1816-1828, p.154

The considerations which led to this mixed ratio of taxation and representation, which had been very deliberately agreed on in April, 1783, by the old Congress, make it probable that the convention could not have looked to a departure from it in any instance where slaves made a part of the local population.

Writings of Madison, Volume 3: 1816-1828, p.154

Whether the convention could have looked to the existence of slavery at all in the new States, is a point on which I can add little to what has been already stated. The great object of the convention seemed to be to prohibit the increase by the importation of slaves. A power to emancipate slaves was disclaimed; nor is anything recollected that denoted a view to control the distribution of those within the country. The case of the Northwestern Territory was probably superseded by the provision against the importation of slaves by South Carolina and Georgia, which had not then passed laws prohibiting it. When the existence of slavery in that territory was precluded, the importation of slaves was rapidly going on, and the only mode of checking it was by narrowing the space open to them. It is not an unfair inference, that the expedient would not have been undertaken if the power afterward given to terminate the importation everywhere had existed, or been even anticipated. It has appeared that the present Congress never followed the example during the twenty years preceding the prohibitory epoch.

Writings of Madison, Volume 3: 1816-1828, p.155

The expediency of exercising a supposed power in Congress to prevent a diffusion of the slaves actually in the country, as far as the local authorities may admit them, resolves itself into the probable effects of such a diffusion on the interests of the slaves and of the nation.

Writings of Madison, Volume 3: 1816-1828, p.155

Will it, or will it not, better the condition of the slaves by lessening the number belonging to individual masters, and intermixing both with greater masses of free people? Will partial manumissions be more or less likely to take place, and a general emancipation be accelerated or retarded? Will the moral and physical condition of slaves, in the mean time, be improved or deteriorated? What do experiences and appearances decide as to the comparative rates of generative increase in their present and in a dispersed situation?

Writings of Madison, Volume 3: 1816-1828, p.155

Will the aggregate strength, security, tranquillity, and harmony of the whole nation, be advanced or impaired by lessening the proportion of slaves to the free people in particular sections of it?

Writings of Madison, Volume 3: 1816-1828, p.155

How far an occlusion of the space now vacant against the introduction of slaves may be essential to prevent completely a smuggled importation of them from abroad ought to influence the question of expediency, must be decided by a reasonable estimate of the degree in which the importation would take place, in spite of the spirit of the times, the increasing co-operation of foreign powers against the slave-trade, the increasing rigour of the acts of Congress, and the vigilant enforcement of them by the executive, and by a fair comparison of this estimate with the considerations opposed to such an occlusion.

Writings of Madison, Volume 3: 1816-1828, p.156

Will a multiplication of States holding slaves multiply advocates of the importation of foreign slaves, so as to endanger the continuance of the prohibitory acts of Congress? To such an apprehension seem to be opposed the facts, that the States holding fewest slaves are those which most readily abolished slavery altogether; that, of the thirteen primitive States, eleven had prohibited the importation before the power was given to Congress; that all of them, with the newly added States, unanimously concurred in exerting that power; that most of the present slaveholding States cannot be tempted by motives of interest to favour the reopening of the ports to foreign slaves; and that these, with the States which have even abolished slavery within themselves, could never be outnumbered in the national councils by new States wishing for slaves, and not satisfied with the supply attainable within the United States.

Writings of Madison, Volume 3: 1816-1828, p.156

On the whole, the Missouri question, as a constitutional one, amounts to the question whether the condition proposed to be annexed to the admission of Missouri would or would not be void in itself, or become void the moment the territory should enter as a State within the pale of the Constitution. And as a question of expediency and humanity, it depends essentially on the probable influence of such restrictions on the quantity and duration of slavery, and on the general condition of slaves in the United States.

Writings of Madison, Volume 3: 1816-1828, p.156

The question raised with regard to the tenour of the stipulation in the Louisiana treaty, on the subject of its admission, is one which I have not examined, and on which I could probably throw no light if I had.

Writings of Madison, Volume 3: 1816-1828, p.156

Under one aspect of the general subject, I cannot avoid saying, that, apart from its merits under others, the tendency of what has passed and is passing fills me with no slight anxiety. parties, under some denominations or other, must always be expected in a government us free as ours. When the individuals belonging to them are intermingled in every part of the whole country, they strengthen the union of the whole while they divide every part. Should a state of parties arise founded on geographical boundaries, and other physical and permanent distinctions which happen to coincide with them, what is to control those great repulsive masses from awful shocks against each other?

Writings of Madison, Volume 3: 1816-1828, p.157

The delay in answering your letter made me fear you might doubt my readiness to comply with its requests. I now fear you will think I have done more than these justified. I have been the less reserved because you are so ready to conform to my inclination formerly expressed, not to be drawn from my sequestered position into public view.

Writings of Madison, Volume 3: 1816-1828, p.157

Since I thanked you for the copy of your late volume, I have had the pleasure of going through it; and I should have been much disappointed if it had been received by the public with less favour than is everywhere manifested. According to all accounts from the Continent of Europe, the American character has suffered much there by libels conveyed by British prints, or circulated by itinerant calumniators. It is to be hoped the truths in your book may find their way thither. Good translations of the preface alone could not but open many eyes which have been blinded by prejudices against this country.

To Mr. Maury, (Son of J. Maury, Liverpool.)

DECR 24, 1819.

Writings of Madison, Volume 3: 1816-1828, p.157

DR SIR,—I thank you for the information given in your favor of the 4th instant, which was received but a few days ago, having been missent to Norfolk.

Writings of Madison, Volume 3: 1816-1828, p.157

No apology was needed for such a step from your mercantile path. There are few professions to which a knowledge of what belongs to others may not be useful, or, if not useful, ornamental; and the products of agriculture being among the most important subjects of commerce, the remark cannot be inapplicable to the relation between those pursuits.

Writings of Madison, Volume 3: 1816-1828, p.158

I have not at hand the means of identifying the salivating plant by its botanical name, or by that of Indian tobacco. There is a variety of weeds which spring up about midsummer and afterwards in the pastures having this effect on horses and other cattle. But I do not know that the effect has been ascribed here to any of them. Certain it is that it is not confined to fields of clover, red or white. There are few, if any, fields in which the phenomenon, whatever be its cause, does not occur.

Writings of Madison, Volume 3: 1816-1828, p.158

The discovery of the cause is important because it may lead to a remedy; half the problem, however, will be unsolved, until the recent date of the malady shall be reconciled with a cause not recent; unless, indeed, it be a fact that the Lobelia inflata has but lately appeared among us.

To Clarkson Crolius.

MONTPELLIER, December, 1819.

Writings of Madison, Volume 3: 1816-1828, p.158

I have received, Sir, the copy of the address of the Society of Tammany, with which I have been politely favored.

Writings of Madison, Volume 3: 1816-1828, p.158

The want of economy in the use of imported articles enters very justly into the explanation given of the causes of the present general embarrassments. Were every one to live within his income, or even the savings of the prudent to exceed the deficits of the extravagant, the balance in the foreign commerce of the nation could not be against it. The want of a due economy has produced the unfavorable turn which has been experienced. Hence the need of specie to meet it; the call on the vaults of the Banks, and the discontinuance of their discounts, followed by their curtailments. Hence, too, the failure of so many banks, with a diminished confidence in others; and hence, finally, a superabundance of debts without the means of paying them.

Writings of Madison, Volume 3: 1816-1828, p.158

The address seems very justly, also, to charge much of the general evil by which many of the Banks themselves have been overwhelmed on the multiplicity of these institutions, and a diffusion of the indiscriminate loans of which they have been the sources. It has been made a question whether Banks, when restricted to spheres in which temporary loans only are made to persons in active business, promising quick returns, do not as much harm to imprudent as good to prudent borrowers. But it can no longer be a doubt with any, that loan offices, carrying to every man's door, and even courting his acceptance of, the monied means of gratifying his present wishes under a prospect or hope of procrastinated repayments, must, of all devices, be the most fatal to a general frugality, and the benefits resulting from it.

Writings of Madison, Volume 3: 1816-1828, p.159

The effect of domestic manufactures in diminishing imports, and as far as they are carried on by hands attracted from abroad, or by hands otherwise idle or less productively employed at home, without a proportional diminution of the exports, merits, certainly, a distinguished attention in marking out an internal system of political economy, and in counteracting a tendency in our foreign commerce to leave a balance against us. The relief from this source would be more effectual, but for the circumstance that the articles which contribute much to an excess of our imports over our exports are articles, some not likely soon, others, perhaps, not at all, to be produced within ourselves. There is, moreover, a feature in the trade between this Country and most others which promotes not a little an unfavorable result. Our exports being chiefly articles for food, for manufactures, or for a consumption easily surcharged, the amount of them called for never exceeds what may be deemed real and definite wants. This is not the case with our imports. Many of them, some the most costly, are objects neither of necessity nor utility, but merely of fancy and fashion; wants of a nature altogether indefinite. This relative condition of the trading parties, although it may give to the one furnishing the necessary and profitable articles a powerful advantage over the one making its returns in superfluities, on extraordinary occasions of an interrupted intercourse; yet, in the ordinary and free course of commerce, the advantage lies on the other side; and it will be the greater in proportion to the lengthened credits on which the articles gratifying expensive propensities are supplied. Such an inequality must, in a certain degree, controul itself. It would be completely redressed by a change in the public preferences and habits, such as is inculcated in the address.

Writings of Madison, Volume 3: 1816-1828, p.160

In not regarding domestic manufactures as, of themselves, an adequate cure for all our embarrassments, it is by no means intended to detract from their just importance, or from the policy of legislative protection for them.

Writings of Madison, Volume 3: 1816-1828, p.160

However true it may be, in general, that the industrious pursuits of individuals ought to be regulated by their own sagacity and interest, there are practical exceptions to the theory, which sufficiently speak for themselves. the theory itself, indeed, requires a similarity of circumstances, and an equal freedom of interchange among commercial nations, which have never existed. All are agreed, also, that there are certain articles so indispensable, that no provident nation would depend for a supply of them on any other nation. But besides these, there may be many valuable branches of manufactures which, if once established, would support themselves, and even add to the list of exported commodities; but which, without public patronage, would either not be undertaken or come to a premature downfall. The difficulty of introducing manufactures, especially of a complicated character and costly outfit, and above all, in a market preoccupied by powerful rivals, must readily be conceived. They appear, accordingly, to have required for their introduction into the countries where they are now seen in their greatest extent and prosperity, either the liberal support of the Government, or the aid of exiled or emigrant manufacturers, or both of these advantages.

Writings of Madison, Volume 3: 1816-1828, p.160

In determining the degree of encouragement which can be afforded to domestic manufactures, it is evident, that among other considerations, a fair comparison ought to be made of what might be saved by supplies at home during foreign wars, to say nothing of our own, with the expense of supporting manufactures in times of peace against foreign competitions in our market. The price of domestic fabrics, though dearer than foreign in times of peace, might be so much cheaper in times of war as to be cheaper, also, than the medium price of the foreign, taking the two periods together. Yet the American manufacturer, if unprotected during the periods of peace, would necessarily be undermined by the foreign; and he could not be expected to resume his undertaking at the return of war, knowing the uncertainty of its continuance, and foreseeing his certain ruin at the end of it. Estimates on these points cannot be made with much precision, but they ought not on that account to be overlooked; and in making them, a strong leaning ought to be indulged towards the policy of securing to the nation independent resources within itself.

Writings of Madison, Volume 3: 1816-1828, p.161

If I have extended these remarks beyond the proper limits, I must find my apology in the nature of the subject, and in the tenor of your letter, for which I pray you to accept my acknowledgments, with my respects and best wishes.

To General Stark.

WASHINGTON, December 26, 1819.

Writings of Madison, Volume 3: 1816-1828, p.161

SIR,—A very particular friend of yours, who has been much recommended to my esteem, has lately mentioned you to me in a manner of which I avail myself to offer this expression of the sense I have always entertained of your character, and of the part you bore as a Hero and a Patriot in establishing the Independence of our Country.

Writings of Madison, Volume 3: 1816-1828, p.161

I cannot better render this tribute than by congratulating you on the happiness you cannot fail to derive from the motives which made you a champion in so glorious a cause; from the gratitude shewn by your fellow-citizens for your distinguished services; and especially from the opportunity which a protracted life has given you of witnessing the triumph of republican Institutions so dear to you, in the unrivalled prosperity flowing from them during a trial of more than a fourth of a century.

Writings of Madison, Volume 3: 1816-1828, p.162

May your life still be continued as long as it can be a blessing; and may the example it will bequeath never be lost on those who live after you.

1820

To Noah Webster.

MONTPELLIER, Jany —, 1820.

Writings of Madison, Volume 3: 1816-1828, p.162

DEAR SIR,—In looking over my papers in order to purge and finally arrange my files, my attention fell on your letter of Aug. 20, 1804, in which I was requested to give such information as I could as to the origin of the change in the Federal Government which took place in 1788. My answer does not appear, the copy of it having been lost, if one was retained, as is probable. Will you be so obliging as to enable me to replace it, and to pardon the trouble I am imposing on you; accepting, at the same time, assurances of my esteem, and of my friendly respects?

To Revd F. C. Schaeffer.

MONTPELLIER, Jany 8, 1820.

Writings of Madison, Volume 3: 1816-1828, p.162

REVD SIR,—I have received your favor of December 30, with a copy of the Report from the Committee to the Managers of the Society for the prevention of pauperism in N. York.

Writings of Madison, Volume 3: 1816-1828, p.162

To provide employment for the poor, and support for the indigent, is among the primary, and, at the same time, not least difficult cares of the public authority. In very populous Countries, the task is particularly arduous. In our favored Country, where employment and food are much less subject to failures or deficiencies, the interposition of the public guardianship is required in a far more limited degree. Some degree of interposition, nevertheless, is at all times and every where called for. In the cities, as the most crowded spots, this has been most the case; and in N. York, as appears, is in a greater degree the ease [than] at present elsewhere, or than is usual there. The causes of this peculiarity are satisfactorily explained in the Report. And among them, as was to be presumed, is the disproportionate resort thither of the poor of foreign countries.

Writings of Madison, Volume 3: 1816-1828, p.163

Of the remedial measures suggested, I cannot be a competent judge, so many local considerations being involved. I can say, however, that the general view taken of the subject, and the vein of good sense conspicuous in the Report, authorize a reliance on the judgment which dictated it, with respect to details on which it would be presumptuous in a stranger to decide.

Writings of Madison, Volume 3: 1816-1828, p.163

I beg you to receive my thanks for your polite communication, and a return of the good wishes with which you accompanied it.

To Robert Walsh.

MONTPELLIER, January 11, 1820.

Writings of Madison, Volume 3: 1816-1828, p.163

DEAR SIR,—I have received your favor of the 2nd, with the pamphlet on the Missouri question, and return my thanks for your politeness in the communication.

Writings of Madison, Volume 3: 1816-1828, p.163

Those who cannot assent to your conclusions as to the powers of Congress, and the preference of a confined to a dispersed situation of the slaves among us, must still be sensible of the lustre which ingenuity and eloquence have bestowed on some of your premises. And there cannot be many whose feelings will not accord with your pictures of the evils inherent in slavery itself.

Writings of Madison, Volume 3: 1816-1828, p.163

It is far from my purpose to resume a subject on which I have, perhaps, already exceeded the proper limits. But, having spoken with so confident a recollection of the meaning attached by the convention to the term "migration," which seems to be an important hinge to the argument, I may be permitted merely to remark that Mr. Wilson,\* with the proceedings of that assembly fresh on his mind, distinctly applies the term to persons coming to the United States from abroad, (see his printed speech, p. 59;) and that a consistency of the passage cited from the Federalist, with my recollections, is preserved by the discriminating term "beneficial," added to voluntary emigrations from Europe to America.

Writings of Madison, Volume 3: 1816-1828, p.164

I am glad to learn that your "appeal," &c., has so quickly got before the British public. It will satisfy the candid, and ought to silence the prudent part of the nation. From the press there it will spread the more easily over the continent, where its good effects will be not less certain. I congratulate you, sir, very sincerely on the prospect of ample success to your patriotic and very able performance, and beg leave to renew the assurances of my esteem and good wishes.

To President Monroe.

MONTPELLIER, February 10, 1820.

Writings of Madison, Volume 3: 1816-1828, p.164

DEAR SIR,—I have duly received your favor of the 5th, followed by a copy of the public documents, for which I give you many thanks. I should like to get a copy of the Journals of the Convention. Are they to be purchased, and where?

Writings of Madison, Volume 3: 1816-1828, p.164

It appears to me, as it does to you, that a coupling of Missouri with Maine, in order to force the entrance of the former through the door voluntarily opened to the latter, is, to say the least, a very doubtful policy. Those who regard the claims of both as similar and equal, and distrust the views of such as wish to disjoin them, may be strongly tempted to resort to the expedient; and it would, perhaps, be too much to say, that in no possible case such a resort could be justified. But it may at least be said that a very peculiar case only could supersede the general policy of a direct and magnanimous course, appealing to the justice and liberality of others, and trusting to the influence of conciliatory example.

Writings of Madison, Volume 3: 1816-1828, p.164

I find the idea is fast spreading that the zeal with which the extension, so called, of slavery is opposed, has, with the coalesced leaders, an object very different from the welfare of the slaves, or the check to their increase; and that their real object is, as you intimate, to form a new state of parties, founded on local instead of political distinctions, thereby dividing the Republicans of the North from those of the South, and making the former instrumental in giving to the opponents of both an ascendency over the whole. If this be the view of the subject at Washington, it furnishes an additional reason for a conciliatory proceeding in relation to Maine.

Writings of Madison, Volume 3: 1816-1828, p.165

I have been truly astonished at some of the doctrines and deliberations to which the Missouri question has led, and particularly so at the interpretations put on the terms "migration or importation, &c." Judging from my own impressions, I should deem it impossible that the memory of any one who was a member of the general convention, could favor an opinion that the terms did not exclusively refer to migration and importation into the United States. Had they been understood in that body in the sense now put on them, it is easy to conceive the alienation they would have then created in certain States; and no one can decide better than yourself the effect they would have had in the State Conventions, if such a meaning had been avowed by the advocates of the Constitution. If a suspicion had existed of such a construction, it would at least have made a conspicuous figure among the amendments proposed to the Instrument.

Writings of Madison, Volume 3: 1816-1828, p.165

I have observed, as yet, in none of the views taken of the ordinance of 1787, interdicting slavery N. W. of the Ohio, an allusion to the circumstance that, when it passed, the Congress had no authority to prohibit the importation of slaves from abroad; that all the States bad, and some were in the full exercise of, the right to import them; and, consequently, that there was no mode in which Congress could check the evil but the indirect one of narrowing the space open for the reception of slaves. Had a federal authority then existed to prohibit directly and totally the importation from abroad, can it be doubted that it would have been exerted? and that a regulation having merely the effect of preventing an interior dispersion of the slaves actually in the United States, and creating a distinction among the States in the degrees of their sovereignty, would not have been adopted, or perhaps thought of?

Writings of Madison, Volume 3: 1816-1828, p.165

No folly in the Spanish Government can now create surprise.

Writings of Madison, Volume 3: 1816-1828, p.166

I wish you happily through the thorny circumstances it throws in your way.

Writings of Madison, Volume 3: 1816-1828, p.166

Adieu, &c.

To C. D, Williams.

FEBr —, 1820.

Writings of Madison, Volume 3: 1816-1828, p.166

I have received your favor of ———, accompanied by the pamphlet on the subject of a circulating medium.

Writings of Madison, Volume 3: 1816-1828, p.166

I have not found it convenient to bestow on the plan proposed the attention necessary to trace the bearings and operations of new arrangements ingeniously combined on a subject which, in its most simple forms, has produced so much discussion among political economists.

Writings of Madison, Volume 3: 1816-1828, p.166

It cannot be doubted that a paper currency, rigidly limited in its quantity to purposes absolute necessary, may be made equal and even superior in value to specie. But experience does not favor a reliance on such experiments. Whenever the paper has not been convertible into specie, and its quantity has depended on the policy of the Government, a depreciation has been produced by an undue increase, or an apprehension of it. The expedient suggested in the pamphlet has the advantage of tying up the hands of the Government; but besides the possibility of Legislative interferences bursting the fetters, a discretion vested in a few hands over the currency of the nation, and, of course, over the legal value of its property, is liable to powerful objections; and, though confined to a range of 5 per cent., would have still room for a degree of error or abuse not a little formidable. The idea, also, of making foreign currency, depending on a foreign will, and the balance of trade always varying, and at no time reducible to certainty and precision, standards for a national currency, would not easily be admitted.

Writings of Madison, Volume 3: 1816-1828, p.166

I am sensible, sir, that these observations must have been in-eluded in your examination of the subject, and that they are to be regarded in no other light than as an expression of the respect and acknowledgment which I pray you to accept for your polite communication.

To Saml Wyllys Pomeroy.

MONTPELLIER, (VIRGA,) Feby, 1820.

Writings of Madison, Volume 3: 1816-1828, p.167

SIR,—Your favor of the 7th, with the Agricultural pamphlet, came duly to hand, and I offer my thanks for them. The letter on Dairy farms gives some interesting views of the subject. What relates to the use of the spayed heifer in place of the ox is new to me. If its qualities for draught be such as seems to be attested, they furnish new arguments for making less use of that expensive animal, the Horse. That their carcass will be improved for beef, comports with analogy. The case of the ox teams, as used in the Revolutionary war, is in point as to the aptitude of the ox for long trips and warm climates; and being of domestic experience and authority, may be expected to combat prejudices with more effect than evidence drawn from distant times and countries. It will merit, therefore, the attention you allot to it. I have not yet read the other papers in the publication; but from the subjects of them, and the reputation of the Society under whose auspices they appear, I regard them as promising me both pleasure and instruction.

To President Monroe.

MONTPELLIER, February 23, 1820.

Writings of Madison, Volume 3: 1816-1828, p.167

DEAR SIR,—I received yours of the 19th on Monday. General Brown, who returned from Monticello that evening, has been since with me till 10 o'clock to-day.

Writings of Madison, Volume 3: 1816-1828, p.167

Your letter found me indisposed from exposure to a cold wind, without due precaution, and I have continued so. I write now with a fever on me. This circumstance will account for both the delay and the brevity in complying with your request.

Writings of Madison, Volume 3: 1816-1828, p.167

The pinch of the difficulty in the case stated seems to be in the words "forever," coupled with the interdict relating to the Territory N. of lat. 36° 30'. If the necessary import of these words be, that they are to operate as a condition on future States admitted into the Union, and as a restriction on them after admission, they seem to encounter indirectly the argument which prevailed in the Senate for an unconditional admission of Missouri. I must conclude, therefore, from the assent of the Senate to these words, after the strong vote on constitutional grounds against the restriction on Missouri, that there is some other mode of explaining the words in their actual application.

Writings of Madison, Volume 3: 1816-1828, p.168

As to the right of Congress to apply such a restriction during the territorial periods, it depends on the clause in the Constitution specially providing for the management of these subordinate establishments.

Writings of Madison, Volume 3: 1816-1828, p.168

On one side, it naturally occurs that the right, being given from the necessity of the case, and in suspension of the great principle of self-government, ought not to be extended farther nor continued longer than the occasion might fairly require.

Writings of Madison, Volume 3: 1816-1828, p.168

On the other side, it cannot be denied that the Constitutional phrase, "to make all rules," &c., as expounded by uniform practice, is somewhat of a ductile nature, and leaves much to legislative discretion.

Writings of Madison, Volume 3: 1816-1828, p.168

The questions to be decided seem to be—1st, whether a territorial restriction be an assumption of illegitimate power, or—2, a measure of legitimate power. And if the latter only, whether the injury threatened to the nation from an acquiescence in the measure, or from a frustration of it, under all the circumstances of the case, be the greater. On the first point there is certainly room for difference of opinion, though, for myself, I must own that I have always leaned to the belief that the restriction was not within the true scope of the Constitution. In the alternative presented by the second point, there can be no room, with the cool and candid, for blame on those acquiescing in a conciliatory course, the demand for which was deemed urgent, and the course itself deemed not irreconcilable with the Constitution.

Writings of Madison, Volume 3: 1816-1828, p.168

This is the hasty view of the subject I have taken. I am aware that it may be suspected of being influenced by the habit of a guarded construction of Constitutional powers; and I have certainly felt all the influence that could justly flow from a conviction that an uncontrouled dispersion of the slaves now in the United States was not only best for the nation, but most favorable for the slaves also, both as to their prospects of emancipation, and as to their condition in the mean time.

Writings of Madison, Volume 3: 1816-1828, p.169

The inflammatory conduct of Mr. King surprises every one. His general warfare against the slaveholding States, and his efforts to disparage the securities derived from the Constitution, were least of all to be looked for. I have noticed less of recurrence to the contemporary expositions of the charter than was to be expected from the zeal and industry of the champions in debate. The proceedings of the Virginia Convention have been well sifted; but those of other States ought not to have been overlooked. The speeches of Mr. King in Massachusetts, and Mr. Hamilton in New York, shew the ground on which they vindicated particularly the compound rule of representation in Congress. And doubtless there are many other evidences of the way of thinking then prevalent on that and other articles equally the result of a sense of equity and a spirit of mutual concession.

To W. H. Crawford.

MONTPELLIER, February 25, 1820.

Writings of Madison, Volume 3: 1816-1828, p.169

DEAR SIR,—Yours of February 12th, with the medal from Count Marbois, were duly handed to me by General Brown. Will you do me the favor, whenever you have occasion to write to the Count, to make my acknowledgements for this token of his polite attention, and assure him that he has a full return of the friendly sentiments and wishes expressed by him?

Writings of Madison, Volume 3: 1816-1828, p.169

I learn, with pleasure, from General Brown, that you enjoy good health in the midst of your official fatigues. I hope the former will continue, and that the latter will accomplish for our Country all the good which I am sure is the object of them.

Writings of Madison, Volume 3: 1816-1828, p.169

When do you meditate an excursion into the Country, or a trip to Georgia? In either case, it need not be repeated that Montpellier has ever the most cordial welcome for Mrs. C. and yourself, to both of whom Mrs. M. joins in a tender of sincere respects, and of every good wish.

To Tench Coxe.

MONTPELLIER, March 20, 1820.

Writings of Madison, Volume 3: 1816-1828, p.170

DEAR SIR,—On the receipt of yours of the 7th, I dropped a few lines to the President on the subject of your son. I did it, however, rather in compliance with your desire, than from a doubt that his own dispositions would be as favorable as circumstances will permit. I sincerely wish that nothing in them may oppose the object you have so much and so justly at heart.

Writings of Madison, Volume 3: 1816-1828, p.170

I am glad to find you still sparing moments for subjects interesting to the public welfare. The remarks on the thorny one to which you refer in the "National Recorder," seem to present the best arrangement for the unfortunate part of our population whose case has enlisted the anxiety of so many benevolent minds, next to that which provides a foreign outlet and location for them. I have long thought that our vacant territory was the resource which, in some mode or other, was most applicable and adequate as a gradual cure for the portentous evil; without, however, being unaware that even that would encounter serious difficulties of different sorts.

Writings of Madison, Volume 3: 1816-1828, p.170

I had noticed the views published in the National Intelligencer on the culture of the vine, and conjectured the source to which they were to be credited. I heartily wish they may engage the same public attention, and with the same success as distinguished the efforts in behalf of the article of cotton; but it can scarcely be hoped that a progress equally rapid will take place in the case of the vine as was experienced in the other. I believe I have heretofore expressed my anticipation of a decreasing market for all our great staples for exportation, and of the consequent necessity of directing our labour to other objects. The vine would add a very important one, as you have shewn, to the manufacturing substitutes. With respect to these, I concur in the opinion which I take to be yours, that the zeal of some of their advocates has pushed them beyond the practicable and eligible limit; whilst others have run into the opposite extreme, by allowing no exceptions to a just theory. A middle course, difficult to be defined, and more difficult to be made the basis of a compromise in the National Councils and in the public opinion, would in this, as in most cases, be the advisable one. After all, I fear the greatest obstacle to domestic manufactures lies where it has not been sufficiently adverted to, and where it will be found most difficult to overcome it; I mean, in the credit which the foreign capital gives in the sale of imported manufactures over our manufacturers, who, giving little or no credit to the retail merchants, these must do the same to the consumer. The importing merchants, by the credits they enjoy, enabling the retailers to grant correspondent indulgences, the foreign fabrics readily exclude or supplant the domestic in the general consumption, notwithstanding the preference due to the quality and price of the domestic. I am led to believe, that apart from the difference between the credit and cash sales, the market for the domestic would rapidly extend itself. There seems to be an additional circumstance not friendly to the household branch, more than to our spinning establishments. The sale of yarns being of less importance to the retail merchants through the country than that of imported stuffs, they are not interested in favoring the household looms by keeping on hand the spun material.

Writings of Madison, Volume 3: 1816-1828, p.171

It is proposed in Congress, I see, to invigorate the statutory contest with G. Britain for a reciprocity in the West India trade, in which the address of the latter has thus far parried the measures on this side. Perseverance in countervailing her Protean expedients cannot fail of ultimate success. But the peace and plenty now enjoyed in Europe, and still more, the supplies attainable from Canada and from the contiguous parts of the United States, now become so productive, through Canada, may render the contest more obstinate than might have happened at periods when the dependence of the Islands on our exports was more acutely felt.

To William S. Cardell.

MARCH —, 1820.

Writings of Madison, Volume 3: 1816-1828, p.172

SIR,—I have received your favor of the 4th, inclosing a printed copy of a circular address on the subject of a "National Philological Academy."

Writings of Madison, Volume 3: 1816-1828, p.172

The object of such an Institution well recommends it to favorable attention. To provide for the purity, the uniformity, and the stability of language, is of great importance under many aspects; and especially as an encouragement to genius and to literary labours, by extending the prospect of just rewards. A universal and immortal language is among the wishes never likely to be gratified. But all languages are, more or less, susceptible of improvement and of preservation; and none can be better entitled to the means of perfecting and fixing it than that common to this country and Great Britain; since there is none that seems destined for a greater and freer portion of the human family. This consideration alone makes it desirable, that instead of allowing this common tongue to be gradually fashioned into distinct ones, or even to diverge into different dialects, there should be at least a tacit co-operation in perpetuating its identity by a joint standard. No obstacle on the side of Great Britain can arise from the present ascendency of British over American literature and population. Whilst it must be flattering to both nations to contemplate the prospect of covering with their posterity and their language a greater space on the earth than any other nation, it is obvious that a few years will transfer the ascendency to the United States, with respect to the number of people, and that a period of years may be calculated to have a like effect as to the number devoting themselves to scientific and literary pursuits.

Writings of Madison, Volume 3: 1816-1828, p.172

From this view of the subject you will not doubt my cordial wishes for the success of the projected Academy, nor the sense I have of the honorary relation to it held out to me. Foreseeing, at the same time, as I cannot but do, that, in accepting it, I should be a nominal functionary only, and in the way of some other choice which might justify the distinction by the services due from it, I must hope to be excused for requesting that my name may not be proposed, as suggested by your partiality and politeness.

Writings of Madison, Volume 3: 1816-1828, p.173

I know not well what to say in answer to your request of names worthy of being associated in the proposed Institution. I am not sure that any occur to me at present who are not sufficiently known to the public; nor can I lose sight of the risk of doing injustice, by omissions of which I should be unconscious. I shall not be backward, nevertheless, in contributing any future aid on this head which my better recollections, or further information, may put in my power.

To M. Van Buren, Albany.

MONTPELLIER, Mar. 27, 1820.

Writings of Madison, Volume 3: 1816-1828, p.173

SIR,—I have just received your communication of the 15th, in which my consent is requested to the publication of my correspondence in 1814 with the Vice President of the United States, then Governor of New York, on the subject of his proposed nomination for the Department of State. There being nothing in that correspondence which I could possibly wish to be regarded as under a seal of secrecy, I cannot hesitate in complying with the request.

Writings of Madison, Volume 3: 1816-1828, p.173

As most delicate to the Vice President, as well as becoming to myself, under existing circumstances, I forbear to add for publication any further expression of the high sense which I have always entertained of his exertions and services during the period of the late war, and which were so generally applauded throughout the Nation.

Writings of Madison, Volume 3: 1816-1828, p.173

The transcripts are returned, with the interlined correction from the papers in my possession of a few immaterial errata, the effect, probably, of the copying pen. I am not able to lay my hand on the first letter from me of September 28, 1814; but I cannot doubt the sufficient exactness of the copy now returned.

To M. Van Buren.\*

1820.

Writings of Madison, Volume 3: 1816-1828, p.174

DR SIR,—I find by a newspaper just come to hand that the publication of the correspondence with Governor Tompkins in 1814 is preceded by that, or rather part of that, between you and myself.

Writings of Madison, Volume 3: 1816-1828, p.174

I cannot but regret that my intention in this particular was not rightly understood. My hasty letter was written under the impression that nothing would go to the press but the original correspondence, with, at most, an intimation that it had been ascertained that on my part there was no desire that there should be any seal of secrecy on it. Writing under this impression, I did not distinguish between the letter from you as chairman and that in your own name; to the latter of which the terms of mine were more particularly adapted than to the other.

Writings of Madison, Volume 3: 1816-1828, p.174

I have not yet seen any comments on this publication, but am apprehensive of inferences from the face of it that I furnished the copies of the original correspondence, which I should have thought of doubtful propriety, at least if I should have readily done it; and that I publicly volunteered for the occasion an extra testimony of my high sense of the merits of the Vice President; which would not have accorded with the aversion I ought to feel at any thing like interfering with party politics, and which is commensurate with the manifest impropriety of it.

Writings of Madison, Volume 3: 1816-1828, p.174

I have thought it proper, Sir, to trouble you with these remarks, in full confidence that you will, in the mode you may deem best, controul such inferences as I have alluded to by letting it be publicly known that they are erroneous; which I presume may be done without a publication of this letter.

To Mark L. Hill.

APRIL —, 1820.

Writings of Madison, Volume 3: 1816-1828, p.175

DR SIR—I have received your favor of the 17th, inclosing two letters from Mr. Jefferson, one to the late Governor Langdon, the other to yourself, and a copy of your printed address to your constituents on the Missouri question. The letters I return, as you desired. Mr. Jefferson was very right, I think, in not assenting to the publication of his letter to your uncle.

Writings of Madison, Volume 3: 1816-1828, p.175

I was myself intimately acquainted with your uncle, and cheerfully concur in all the praise Mr. Jefferson bestows on him. He was a true patriot and a good man; with a noble way of thinking, and a frankness and warmth of heart that made his friends love him much, as it did me in a high degree, and disarmed his enemies of some of the asperity indulged towards others.

Writings of Madison, Volume 3: 1816-1828, p.175

The candid view you have given of the Missouri question is well calculated to assuage the party zeal which it generated. As long as the conciliatory spirit which produced the Constitution remains in the mass of the people, and the several parts Of the Union understand the deep interest which every part has in maintaining it, these stormy subjects will soon blow over; and the people, on the return of calm, be more disposed to consider wherein their interests agree, than wherein their opinions differ. The very discords to which they found themselves subject, even under the guardianship of a united Government, pre-monish them of the tempestuous hostilities which await a dissolution of it. I did not know that I had so much personal concern in the length of the session as I found I had by its effect on your intended visit. I well know how much room there is for sympathetic recollection of the political scenes through which we have passed, and should have found the pleasure of seeing you increased by the tranquil review which our conversations might have taken of them. I cannot but hope that a future opportunity will repair the disappointment, and that it may still be in my power to express to you, under my vine and fig tree, the esteem and friendly respects of which I pray you to accept this assurance at Washington.

To J. Q. Adams.

MONTPELLIER, June 13, 1820.

Writings of Madison, Volume 3: 1816-1828, p.176

DEAR SIR,—I have received and return my thanks for your polite favor accompanying the copy of the printed Journal of the Federal Convention, transmitted in pursuance of a late resolution of Congress.

Writings of Madison, Volume 3: 1816-1828, p.176

In turning over a few pages of the Journal, which is all I have done, a casual glance caught a passage which erroneously prefixed my name to the proposition made on the 7th day of September, for making a council of six members a part of the Executive branch of the Government. The proposition was made by Col. George Mason, one of the Virginia delegates, and seconded by Doctor Franklin. I cannot be mistaken in the fact; for, besides my recollection, which is sufficiently distinct on the subject, my notes contain the observations of each in support of the proposition. As the original Journal, according to my extract from it, does not name the mover of the proposition, the error, I presume, must have had its source in some of the extrinsic communications to you; unless, indeed, it was found in some of the separate papers of the Secretary of the Convention, or is to be ascribed to a copying pen. The degree of symphony in the two names, Madison and Mason, may possibly have contributed to the substitution of the one for the other.

Writings of Madison, Volume 3: 1816-1828, p.176

This explanation having a reference to others as well as myself, I have thought it would be neither improper nor unacceptable.

To G. W. Featherstonhaugh.

JUNE —, 1820.

Writings of Madison, Volume 3: 1816-1828, p.177

DEAR SIR,—I have received your favor of the let instant, with the pamphlet containing the "Address from the Board of Agriculture of the State of New York to the County Societies."

Writings of Madison, Volume 3: 1816-1828, p.177

I thank you, Sir, for the communication. The address seems happily calculated as well to dissuade from the fallacious pursuits which have been so extensively injurious, as to cherish a zeal for the one most essential, to the public prosperity; and which gives, at the same time, the best assurance of individual success.

Writings of Madison, Volume 3: 1816-1828, p.177

It is truly gratifying to see the interest now generally taken in Rural Economics. The extent in which the State of New York has patronized the study and practice of them is highly creditable to its liberality, and merits the more attention, as it forms a ground of instructive comparison with the experiments left by other States to the unaided associations of patriotic individuals. Thus far, the experiment in the latter form has a promising aspect with us. But it is of too recent a commencement for any final inference with regard to its comparative success.

Writings of Madison, Volume 3: 1816-1828, p.177

I shall deposit the publication, for which I am indebted, with the Board to which I belong, not doubting that it will readily accept the proffered correspondence with that of New York. I have as little reason to doubt a similar disposition of the other Societies within the State.

Writings of Madison, Volume 3: 1816-1828, p.177

I cannot at present send you the document requested in a pamphlet form. As soon as I can procure a copy, it shall be put under a cover and forwarded.

To George Alexander Otis.

MONTPELLIER, July 3d, 1820.

Writings of Madison, Volume 3: 1816-1828, p.177

SIR,—I have received your favor of June 20, with the translated copies of Pradt's Europe for 1819, and of the 1st Vol. of

Writings of Madison, Volume 3: 1816-1828, p.178

Botta's History of our War of Independence. Be pleased to accept my thanks for both.

Writings of Madison, Volume 3: 1816-1828, p.178

The literary reputation of the latter author, with the philosophic spirit and classic taste allowed abroad to this historical work, justly recommended the task in which you are engaged of placing a translation of it before American readers, to whom the subject must always be deeply interesting, and who cannot but feel a curiosity to see the picture of it as presented to Europe by so able a hand. The author seems to have the merit of adding to his other qualifications much industry and care in his researches into the best sources of information, and it may readily be supposed that he did not fail to make the most of iris access to those in France not yet generally laid open. A compleat view of our revolutionary contest involves transactions in and out of the Cabinets of the several nations who directly or indirectly participated in it, which time may be expected more and more to disclose.

Writings of Madison, Volume 3: 1816-1828, p.178

I sincerely wish, Sir, that you may meet with all the encouragement due to your laudable undertaking; which, besides the gratification it will afford to readers in general, will enable the more critical part of them to mark and correct errors which all the care and candor of Mr. Botta may not have avoided, and which either do injustice or not full justice to the American cause and character.

Writings of Madison, Volume 3: 1816-1828, p.178

I shall endeavour to give an opportunity for subscribing your proposals to such of the individuals in my vicinity as are most likely to make use of it. The number would be small under more favorable circumstances. Under those now felt every where, I cannot venture to expect any sensible aid to the publication.

To Dr De La Motta.

MONTPELLIER, Aug., 1820.

Writings of Madison, Volume 3: 1816-1828, p.178

SIR,—I have received your letter of the 7th instant, with the Discourse delivered at the Consecration of the Hebrew Synagogue at Savannah, for which you will please to accept my thanks.

Writings of Madison, Volume 3: 1816-1828, p.179

The history of the Jews must forever be interesting. The modern part of it is, at the same time, so little generally known, that every ray of light on the subject has its value.

Writings of Madison, Volume 3: 1816-1828, p.179

Among the features peculiar to the political system of the United States, is the perfect equality of rights which it secures to every religious sect. And it is particularly pleasing to observe in the good citizenship of such as have been most distrusted and oppressed elsewhere a happy illustration of the safety and success of this experiment of a just and benignant policy. Equal laws, protecting equal rights, are found, as they ought to be presumed, the best guarantee of loyalty and love of country; as well as best calculated to cherish that mutual respect and good will among citizens of every religious denomination which are necessary to social harmony, and most favorable to the advancement of truth. The account you give of the Jews of your congregation brings them fully within the scope of these observations.

To Richard Rush.

MONTPELLIER, Aug. 12, 1820.

Writings of Madison, Volume 3: 1816-1828, p.179

DR SIR,—In acknowledging your favor of September last, an interval between that date and this presents itself, which would call for apology were I less sure that you would put no miscon-struction on it. The truth is, I well know your time must be so engrossed with objects more important than my correspondence, that I am unwilling to multiply its interferences, notwithstanding the temptations I feel in the pleasure which your letters afford me.

Writings of Madison, Volume 3: 1816-1828, p.179

I thank you much, my dear sir, for your kindness in procuring the posthumous works of Gibbon, and the continuation of Eustace, by Sir R. Hoare. The latter I have not yet found it convenient to look over. The former has recreated not a few of my leisure hours. I have to thank you, also, for the copy you were so good as to spare of the pamphlet relating to the Holkam Estate. It contains some instructive, and many amusing, pages. I was surprised to see stated, as a new expedient, the substitution of dotting for turfing. I had practised the former for several years on a small scale, without regarding it in the least as a new idea.

Writings of Madison, Volume 3: 1816-1828, p.180

The scene you are witnessing, in the case of the British Queen, so agitating on the local theatre, is regarded not without curiosity at this distance. The Ministry seem to be entangled in their own web; and Monarchy itself may well dread the tendency of such specimens, in the present temper of the world, and with the contrast of an uncorrupted Republic giving full relief to such deformities. This consideration, I presume, accounts for the general anxiety to stifle the inquiry in its birth.

Writings of Madison, Volume 3: 1816-1828, p.180

You see that the evasive resorts of the British Parliament against the retaliating acts of Congress have produced a further effort to force a reciprocity in the West India trade. I heartily wish you may be able to negotiate the controversy into a just and amicable settlement, for the benefit of both parties. Resting, as the claims of Congress do, on the soundest of principles, and united and committed in the contest as all parties here now are, no retreat on this side can be expected on the other; notwithstanding the advantage it may have at this postponed epoch for making the British West Indies independent of direct supplies from the United States, particularly by supplies through Canada from the districts now so productive on the Lakes and the St Lawrence. It has always appeared to me that the British Government had no plausible plea for the course it has pursued. The rule of reciprocity, the only admissible one between independent nations, evidently forbade it. The very principle of Colonial monopoly gives no countenance to it; that principle excluding all commercial intercourse between a Colony and a foreign Country, other than through the parent State, and being abandoned the moment a direct intercourse is opened in national vessels. The Colonial ports in this case are assimilated to other ports of the same nation opened to such intercourse; and are brought, of course, within the same rule of reciprocity. Nor is there any truth in the plan, so much urged on the British side, and too often admitted on ours, which refers to the practice of other European nations having Colonies. The general practice of these nations, inconformably to the Colonial principle, is to shut the Colonies against all direct trade with foreign Countries. But it is equally their practice, whenever they find it requisite to suspend the principle by opening the Colonial ports to a foreign trade, to respect the principle of reciprocity, by allowing to foreign vessels the same carrying privileges with their own. If there be any exception, it is of recent date, and probably an effect of the British practice, instead of a precedent for it.

Writings of Madison, Volume 3: 1816-1828, p.181

You will learn, with pleasure, that the seasons of the present year are proving abundantly fruitful throughout our whole Country. For want of adequate markets, however, particularly for the esculent grains, the surplus will not give the desired relief from the pressure felt by so large a portion of the people. This must be the work of time and economy, aided by the professional household manufactures. The latter abridges the expenditures of individuals; and both, the amount to be paid to foreign nations. There are glimpses, it would seem, in late Parliamentary discussions, of some approaching relaxation of the system which precludes the sale of British products by refusing to purchase those of other Countries. In so plain a case, the error of the system cannot permanently resist the increasing light on all subjects of political economy. But it is so common to find a long interval between the discovery and the correction of a false policy, that other remedies must be relied on for the difficulties felt here.

To Bernard Smith.

SEPTR —, 1820.

Writings of Madison, Volume 3: 1816-1828, p.181

DR SIR,—I have just received yours of the 6th instant. Knowing nothing that could in the least detract from the respect and confidence of which you have had successive marks from me, I should always be ready to bear the testimony requested, under circumstances not liable to be misconstrued or misrepresented. How far those under which it would now be given are of that character, I cannot but think may deserve the consideration of us both. The people of the States are naturally and justly jealous of external interferences, and particularly so on occasions when they are exercising their elective rights; and any thing from me to be publicly used on the approaching one to which you refer, would be the more likely to awaken that feeling, as it involves, it seems, a great political question, on which a local bias might be alleged or suspected to be chargeable on me. With this view of the subject, I think I do not err in supposing that I consult your advantage, not less than what concerns myself, in leaving the result in the present case to the merit which heretofore procured the suffrages of your constituents, and to their intelligence and liberality in appreciating your discharge of the trust committed to you.

Writings of Madison, Volume 3: 1816-1828, p.182

I thank you, sir, for the very kind wishes you have expressed, and beg you to be assured of a sincere return of mine for a long and prosperous life.

To Judge Washington.

MONTPELLIER, Oct 14, 1820.

Writings of Madison, Volume 3: 1816-1828, p.182

DEAR SIR,—In fulfilment of my promise, I return the letters to General Washington which you were so obliging as to forward to me. I should have done it sooner, but that I had hoped to return at the same time the letters expected from Richmond. Will you permit me to recall your attention to the latter portion, (which, I believe, will comprise the letters I could most wish to obtain,) that the Chief Justice may not lose the opportunity of a recess for looking them up?

Writings of Madison, Volume 3: 1816-1828, p.182

Be assured always of my high esteem and my cordial respects.

To Joel K. Meade.

OCTOBER 16, 1820.

Writings of Madison, Volume 3: 1816-1828, p.183

SIR,—I have received your letter of the 12th instant, and cannot speak too favorably of the object which employs your thoughts, or of the distinguished zeal with which you devise means for accomplishing it. Of those which have occurred you ask my opinion. I wish it were better entitled to the confidence you seem to attach to it. Such as it is, I give it with the candour which I cannot doubt you will approve, however it may be wanting in any other recommendation.

Writings of Madison, Volume 3: 1816-1828, p.183

An essential reliance is placed in a lottery and a Society, (incorporated, of course,) under the authority of Congress. To the first, there will be serious objections of a moral nature with some, and of a constitutional nature with others. To the second, constitutional objections will be urged of a still more decided cast.

Writings of Madison, Volume 3: 1816-1828, p.183

Should none of these objections prevail, and the lottery be successful to an adequate extent, the conversion of the pecuniary fund into a large landed estate, as proposed, would involve others which could not but be allowed peculiar weight. A Society formed of scattered members, with a trust in which they would not be personally interested, and that trust at so great a distance, and consisting of farms and leases, would scarcely be exempt from mismanagements of a ruinous tendency. Whatever might be the purity and activity of the founders and their first agents, relaxations of zeal in their successors, with multiplying opportunities for collusions and other abuses, would speedily ensue. Nothing has been found more difficult in practice than to guard charitable institutions against mismanagements fatal to their original objects. In England, where they have abounded in every form, late investigations have brought to light a degree and a generality of the perverseness of their endowments into sinecures and corrupt jobs, which suggest every where the utmost precaution against such evils; a task which will always be more difficult in proportion to the complexity of the plans, and the number, the dispersion, and the distance of those who are to be concerned in the superintendence and conduct of them.

Writings of Madison, Volume 3: 1816-1828, p.184

Some provision for selecting and educating youths who possess genius and virtue, without the means of doing justice to the gifts of nature, seems equally due to individual merit and to the public welfare. The difficulty lies in devising the plans at once most practicable and most effectual. Perhaps a limitation of the efforts, in the first instance, at least, to the sphere and patronage of the local authorities, would promise most success. Constitutional difficulties would then be avoided; a greater simplicity in the plans and responsibility in the execution of them attainable. And an emulation in that, as is taking place in other instances, might produce, finally, the most eligible provision for the object in view: a provision for selecting boys of uncommon promise, and carrying them forward, as their merits might develope themselves, through the successive grades of education proposed for the State. But it has never received a legislative sanction.

Writings of Madison, Volume 3: 1816-1828, p.184

I have only to add to these remarks a request that they may be regarded as merely addressed to yourself, and a tender of my respect and good wishes.

To Tench Coxe.

MONTPELLIER, Nov. 4th, 1820.

Writings of Madison, Volume 3: 1816-1828, p.184

DEAR SIR,—I have received your letter of the 12th, and written one to the President, which will remind him of your successive services to your Country, and convey my sense of their merit and value. Being in no correspondence with any of the present members of the Senate, I feel myself less at liberty to do the same with them; especially as there may be some delicacy in anticipating a nomination from the Executive. I will, however, drop a few lines in confidence to one of the Senators from this State.

Writings of Madison, Volume 3: 1816-1828, p.184

I am glad to find that you have not relinquished your watch-fulhess over our public affairs, or your efforts to give fair and consistent views of important subjects evolved in the progress of them. This can best be done by those who know best, as well the general spirit and scope of our political institutions, as the history of the proceedings under them. I see every day errors afloat, which prove how much is unknown or forgotten of what is essential to a just and satisfactory comment on politics of the times. Facts even the most easily traced, when not remembered, seem, in many instances, to be entirely misunderstood or misapplied. Among these, none is more remarkable than the allegations issuing from so many sources against what is called the Southern ascendency. Certain it is, that there never has been a time (nor is there likely to be one) when there has not been a minority of Southern votes in both Houses of Congress. It is equally certain, that in the first period under the existing Constitution, when the most precious fruits of it were gathered, the ascendency was elsewhere, and not in that section. Nor is it less certain, that if during subsequent periods the Southern opinions and views have generally prevailed in the National Councils, it is to be ascribed to the coinciding opinions and views entertained by such a portion of other sections as produced, in the aggregate, a majority of the nation. The ascendency, therefore, was not a Southern, but a Republican one, as it was called and deemed by all, wherever residing, who contributed to it. But I am not only overstepping my intended limit, but repeating what is better understood by no one than yourself.

Writings of Madison, Volume 3: 1816-1828, p.185

In looking over my pamphlets and other printed papers, I perceive a chasm in the Debates of Congress between March 4, 1790, (being the close of N° III of Vol. IV, by T. Lloyd,) and the removal of Congress from Philadelphia to Washington. May I ask the favor of you, if it can be done without difficulty, to procure for me the means of filling the chasm. I should be glad, also, to procure a pamphlet, "Sketches of American policy, by Noah Webster," published in Philadelphia in 1784 or '5; and another, "Pelitiah Webster's dissertation on the political Union and Constitution of the thirteen United States," published in 1783 or '4. Both of them have disappeared from my collection of such things.

To President Monroe.

MONTPELLIER, Nov. 19, 1820.

Writings of Madison, Volume 3: 1816-1828, p.186

DEAR SIR,—Yesterday's mail brought me your favor of the 16th, with a copy of your message; the only one which reached me, no newspaper containing it having come to hand.

Writings of Madison, Volume 3: 1816-1828, p.186

The view you have taken of our public affairs cannot but be well received at home, and increase our importance abroad. The state of our finances is the more gratifying, as it so far exceeds the public hopes. I infer from the language of your letter that the contest for the chair terminated in favor of Mr. Taylor, and that it manifested a continuance of the spirit which connected itself with the Missouri question at the last session. This is much to be regretted, as is the clause in the Constitution of the new State, which furnishes a text for the angry and unfortunate discussion. There can be no doubt that the clause, if against the Constitution of the U.S., would be a nullity; it being impossible for Congress, with, more than without, a concurrence of new or old members of the Union, to vary the political equality of the States, or their constitutional relations to each other or to the whole. But it must, to say the least, be an awkward precedent to sanction the constitution of the new State containing a clause at variance with that of the U.S., even with a declaration that the clause was a nullity; and the awkwardness might become a very serious perplexity if the admission of the new State into the Union, and of its Senators and Representatives into Congress, and their participation in the acts of the latter, should be followed by a determination of Missouri to remain as it is, rather than accede to an annulment of the obnoxious clause. Would it not be a better course to suspend the admission until the people of Missouri could amend their constitution; provided their so doing would put an end to the controversy, and produce a quiet admission at the ensuing session? Or, if the objections to this course be insuperable, may it not deserve consideration whether the terms of the clause would not be satisfied by referring the authority it gives to the case of free people of color not citizens of other States?

Writings of Madison, Volume 3: 1816-1828, p.187

Not having the constitution of Missouri at hand, I can form no opinion on this point; but a right in the States to inhibit the entrance of that description of coloured people, it may be presumed, would be as little disrelished by the States having no slaves as by the States retaining them. There is room, also, for a more critical examination of the constitutional meaning of the term "citizens" than has yet taken place, and of the effect of the various civil disqualifications applied by the laws of the States to free people of color.

Writings of Madison, Volume 3: 1816-1828, p.187

I do not recollect that Mr. Correa had any direct or explicit conversation with me on the subject between him and the Government. It is possible that my view of it might have been inferred from incidental observations; but I have no recollections leading me to the supposition, unless an inference was made from a question touched on concerning the precise criterion between a civilized and uncivilized people, which had no connection, in my mind, with his diplomatic transactions. What may have passed with Mr. Jefferson, I know not.

Writings of Madison, Volume 3: 1816-1828, p.187

I find that Mr. Teach Coxe is desirous of some profitable mark of the confidence of the Government, for which he supposes some opportunities are approaching, and, with that view, that you should be reminded of his public career. I know not what precise object he has in his thoughts, nor how far he may be right in anticipating an opening for its attainment; and I am aware both of your own knowledge of his public services, and of your good dispositions towards him. I feel an obligation, nevertheless, to testify in his behalf that, from a very long acquaintance with him, and continued opportunities of remarking his political course, I have ever considered him among the most strenuous and faithful laborers for the good of his country. At a very early period, he was an able defender of its commercial rights and interests. He was one of the members of the convention at Annapolis. His pen was indefatigable in demonstrating the necessity of a new form of Government for the nation, and he has steadfastly adhered, in spite of many warping considerations, to the true principles and policy on which it ought to be administered. He has also much merit in the active and efficient part he had in giving impulse to the cotton cultivation and other internal interests, and I have reason to believe that his mind and his pen continue to be occupied with subjects closely connected with the public welfare. With these impressions of the services be has rendered, I cannot but own that any provision that could be proper in itself, and contribute to make his advanced age more comfortable than it otherwise might be, would afford me real pleasure. Of its practicability I do not presume to judge.

Writings of Madison, Volume 3: 1816-1828, p.188

In looking over the bundle of my letters to Mr. Jones, I find one dated in December, 1780, containing a statement of what passed in the old Congress relative to the proposed cession of the Mississippi to Spain, corresponding precisely with my recollection of it as explained to you. I was disappointed in finding it limited to that year. My correspondence ran through a much longer period, of which I have proofs on hand; and from the tenor of the above letters, and my intimacy with him, I have no doubt that my communications were often of an interesting character. Perhaps the remaining letters, or a part of them, may have escaped your search. Will you be so good as to renew it whenever and wherever the convenient opportunity may admit?

Writings of Madison, Volume 3: 1816-1828, p.188

What is become of the secret journals of the old Congress, and when will the press give them to the public?

Writings of Madison, Volume 3: 1816-1828, p.188

A fever of the typhus denomination, which has for some months been rambling in this district of country, has lately found its way to this spot. Out of fourteen patients within my precincts, five have died, two only have perfectly recovered, and among the rest the major number are very ill. New cases, also, are almost daily occurring. I have sustained a heavy loss in a young fellow who was educated in Washington, a cook, and was becoming, moreover, a competent gardener. I am suffering, also, much from the protracted illness of the man charged with my farming business, which exposes the several crops not yet secured to great neglect and waste.

Writings of Madison, Volume 3: 1816-1828, p.189

We have heard nothing particularly of Mrs. Monroe's health, which we hope has been fully restored. We have the same hope as to Mr. Gouverneur, who Mr. Hay informed me was dangerously ill.

Writings of Madison, Volume 3: 1816-1828, p.189

With our best wishes for you all, be assured of my affectionate respects.

To General La Fayette.

MONTPELLIER, NOVr 25, 1820.

Writings of Madison, Volume 3: 1816-1828, p.189

I have received, my dear friend, your kind letter of July 22, inclosing your printed opinion on the Election project. It was very slow in reaching me.

Writings of Madison, Volume 3: 1816-1828, p.189

I am very glad to find, by your letter, that you retain, undiminished, the warm feelings of friendship so long reciprocal between us; and, by your "opinion." that you are equally constant to the cause of liberty, so dear to us both. I hope your struggles in it will finally prevail, in the full extent required by the wishes and adapted to the exigencies of your Country.

Writings of Madison, Volume 3: 1816-1828, p.189

We feel here all the pleasure you express at the progress of reformation on your Continent. Despotism can only exist in darkness, and there are too many lights now in the political firmament to permit it to reign any where as it has heretofore done almost every where. To the events in Spain and Naples has succeeded already an auspicious epoch in Portugal. Free States seem, indeed, to be propagated in Europe as rapidly as new States are on this side of the Atlantic. Nor will it be easy for their births, or their growths, if safe from dangers within, to be strangled by external foes; who are not now sufficiently united among themselves, are controuled by the aspiring sentiments of their people, are without money of their own, and are no longer able to draw on the foreign fund which has hitherto supplied their belligerent necessities.

Writings of Madison, Volume 3: 1816-1828, p.190

Here, we are, on the whole, doing well, and giving an example of a free system, which, I trust, will be more of a pilot to a good port than a beacon-warning from a bad one. We have, it is true, occasional fevers, but they are of the transient kind, flying off through the surface, without preying on the vitals. A Government like ours has so many safety-valves, giving vent to overheated passions, that it carries within itself a relief against the infirmities from which the best of human Institutions cannot be exempt. The subject which ruffles the surface of public affairs most, at present, is furnished by the transmission of the "Territory" of Missouri from a state of nonage to a maturity for self-Government, and for a membership in the Union. Among the questions involved in it, the one most immediately interesting to humanity is the question whether a toleration or prohibition of slavery Westward of the Mississippi would most extend its evils. The humane part of the argument against the prohibition turns on the position, that whilst the importation of slaves from abroad is precluded, a diffusion of those in the Country tends at once to meliorate their actual condition, and to facilitate their eventual emancipation. Unfortunately, the subject, which was settled at the last session of Congress by a mutual concession of the parties, is reproduced on the arena by a clause in the Constitution of Missouri, distinguishing between free persons of colour and white persons, and providing that the Legislature of the new State shall exclude from it the former. What will be the issue of the revived discussion is yet to be seen. The case opens the wider field, as the Constitutions and laws of the different States are much at variance in the civic character given to free persons of colour; those of most of the States, not excepting such as have abolished slavery, imposing various disqualifications, which degrade them from the rank and rights of white persons. All these perplexities develope more and more the dreadful fruitfulness of the original sin of the African trade.

Writings of Madison, Volume 3: 1816-1828, p.191

I will not trouble you with a full picture of our economics. The cessation of neutral gains, the fiscal derangements incident to our late war, the inundation of foreign merchandizes since, and the spurious remedies attempted by the local authorities, give to it some disagreeable features. And they are made the more so by a remarkable downfall in the prices of two of our great staples, breadstuffs and tobacco, carrying privations to every man's door, and a severe pressure to such as labour under debts for the discharge of which they relied on crops and prices, which have failed. Time, however, will prove a sure physician for these maladies. Adopting the remark of a British Senator, applied with less justice to his Country, at the commencement of the Revolutionary contest, we may say that, "Although ours may have a sickly countenance, we trust she has a strong Constitution."

Writings of Madison, Volume 3: 1816-1828, p.191

I see that the bickerings between our Governments on the point of tonnage has not yet been terminated. The difficulty, I should flatter myself, cannot but yield to the spirit of amity and the principles of reciprocity entertained by the parties.

Writings of Madison, Volume 3: 1816-1828, p.191

You would not, believe me, be more happy to see me at Lagrange than I should be to see you at Montpelier, where you would find as zealous a farmer, though not so well cultivated a farm as Lagrange presents. As an interview can hardly be expected to take place at both, I may infer, from a comparison of our ages, a better chance of your crossing the Atlantic than of mine. You have also a greater inducement in the greater number of friends, whose gratifications would at least equal your own. But if we are not likely to see one another, we can do what is the next best, communicate by letter what we would most wish to express in person; and, particularly, can repeat those sentiments of affection and esteem which, whether expressed or not, will ever be most sincerely felt by your old and steadfast friend.

To James Barbour.

NovR 25, 1820.

Writings of Madison, Volume 3: 1816-1828, p.192

DEAR SIR,—Although I know not that any occasion will arise making it pertinent to bring the political career of Mr T. Coxe to your attention, I cannot, in justice to my recollections of it, refuse my testimony as to the credit to which it is entitled. I am not unaware that he may have political and perhaps personal enemies who do not speak as I think of him. But facts cannot be impaired by opinions.

Writings of Madison, Volume 3: 1816-1828, p.192

Mr. Coxe was one of the Convention at Annapolis [in] 1786, where he was regarded as a sound politician, as particularly enlightened on subjects of commerce, and as a man of literary accomplishments. His pen was ably and indefatigably employed in defending and recommending the Constitution proposed by the Convention of 1787. And he has steadfastly adhered, in spite of many considerations, some of a very trying sort, to the principles and policy in administering it which ultimately had the sanction of the nation. He has the merit, also, of an elaborate and distinguished work, vindicating, at an early day, our commerce against its foreign foes; and of an important impulse, through the press, to the cultivation of cotton, since become the primary staple of our exports; not to mention instructive efforts in favor of the cultivations, which by degrees may become valuable additions to our Agricultural prosperity. With this view of his pretensions, combined with a long and intimate acquaintance, I cannot but own that any provision for him that would be proper in itself, and contribute to make his advanced age more comfortable than it otherwise might be, would afford me real pleasure; and I take the liberty of saying so, not forgetting, at the same time, that it may be most delicate to do it in confidence, in order to avoid an apparent anticipation when I can have no warrant for it.

To F. Corbin.

NOVEMBER, 26, 1820.

Writings of Madison, Volume 3: 1816-1828, p.193

DR SIR,—I had the pleasure of receiving, a few days ago, your favor post-marked the 18th, in lieu of the greater pleasure with which I should have received you in proptia persona. I am sorry you so readily yielded to the consideration which deprived us of it in September. The addition of your company would have been felt no otherwise than as an ingredient highly acceptable to that you would have met here, as well as to Mrs. M. and myself. For a day or two, indeed, you might have been involved in the common distress occasioned by the hopeless and expiring condition of the little son of Mrs. Scott; but even that drawback might not have taken place within the period of your visit.

Writings of Madison, Volume 3: 1816-1828, p.193

You complain of the times, which are certainly very hard; but you have a great abatement of your comparative suffering in your paper funds, notwithstanding the suspension of their current productiveness. This is but a lucrum cessans. How many are feeling the damnum emergens also! Besides, in the event of a necessary sale of property, (certainly not your case,) the paper property is the only sort that can find a tolerable and certain market. Whilst I condole with you, therefore, on the hardships in which you participate, I must congratulate you on your escape from a portion which afflicts others. The general condition of these is truly lamentable. If debtors to the Banks, nothing can relieve them but a renewal of discounts, not to be looked for: if owing debts, for discharging which they have relied on crops or prices, which have failed, they have no resource but in the sale of property, which none are able to purchase. With respect to all these, the times are hard indeed; the more so, as an early change is so little within the reach of any fair calculation.

Writings of Madison, Volume 3: 1816-1828, p.193

I do not mean to discuss the question how far slavery and farming are incompatible. Our opinions agree as to the evil, moral, political, and economical, of the former. I still think, notwithstanding, that under all the disadvantages of slave cultivation, much improvement in it is practicable. Proofs are annually taking place within my own sphere of observation; particularly where slaves are held in small numbers, by good masters and managers. As to the very wealthy proprietors, much less is to be said. But after all, (protesting against any inference of a disposition to underrate the evil of slavery,) is it certain that in giving to your wealth a new investment, you would be altogether freed from the cares and vexations incident to the shape it now has? If converted into paper, you already feel some of the contingencies belonging to it; if into commercial stock, look at the wrecks every where giving warning of the danger. If into large landed property, where there are no slaves, will you cultivate it yourself? Then beware of the difficulty of procuring faithful or complying labourers. Will you dispose of it in leases? Ask those who have made the experiment what sort of tenants are to be found where an ownership of the soil is so attainable. It has been said that America is a country for the poor, not for the rich. There would be more correctness in saying it is the country for both, where the latter have a relish for free government; but, proportionally, more for the former than for the latter.

Writings of Madison, Volume 3: 1816-1828, p.194

Having no experience on the subject myself, I cannot judge of the numerical point at which congratulations on additional births cease to be appropriate. I hope that your 7th son will in due time prove that in his case, at least, they were amply called for; and that Mrs. C. and yourself may long enjoy the event as an addition to your happiness.

Writings of Madison, Volume 3: 1816-1828, p.194

Mrs. M. unites with me in this, and in every assurance of respect and good wishes to you both.

To Richard Rush.

DECEMBER, 4th, 1820.

Writings of Madison, Volume 3: 1816-1828, p.194

DEAR SIR,—Since my last, which was of August 12, I have been favoured with yours of August 30, with which was returned my letter to Mr. Keilsall, whose vanishment is not a little remarkable. Notwithstanding the trouble given you by that letter, I am not deterred from relying on your goodness to have the two now inclosed forwarded to the parties. To one of them the direction is so precise that it will readily find its own way. To the other, Miss Wright, the direction is as particular as her letter to me enabled me to make it. This lady is the author of a Tragedy, "Altorf," said to have been favorably received on the Theatres of Philadelphia and New York. I can add little, I believe, to what our public prints will give you concerning our country. A great pinch, through the greater part of it, is felt by the mass of the people, occasioned by the discontinuance or contraction of Bank discounts, and by the unexampled fall in the prices of produce. Flour, an article so extensively the main resource, is as low as four dollars per barrel, and in this State does not exceed 31/2. It has been even lower than that, and from the account of crops abroad, and the great ones at home, a further depreciation is apprehended. The general embarrassment produced by these causes is multiplying injurious or abortive experiments for relief.

Writings of Madison, Volume 3: 1816-1828, p.195

Congress have not yet engaged in any of the subjects most likely to bring on a fermentation. A very painful one is apprehended from a renewal of that relating to the Missouri case. The tariff is another not a little pregnant with animated discussion. But it divides the nation in so checkered a manner, that its issue cannot be very serious; especially as it involves no great constitutional question. The manufacturers, also, should they fail entirely in their hopes from Congress, will experience much encouragement from the cheapness of food, of materials, and of labour, resulting from the cessation of the foreign demands. It is unlucky that a greater degree of mutual concession on this subject is not likely to prevail in the National Councils and the public mind. Instead of increasing, it might then mitigate, the alienation threatened by the Missouri controversy.

To Thomas Jefferson.

MONTPELLIER, Decr 10, 1820.

Writings of Madison, Volume 3: 1816-1828, p.196

DEAR SIR,—Yours of November 29 came to hand a few days ago. The letter from T. Coxe is returned. I had one from him lately on the same subject, and, in consequence, reminded the President of his political career; dropping, at the same time, a few lines in his favour to our Senator, Mr. Barbour. I sincerely wish something proper in itself could be done for him. He needs it and deserves it.

Writings of Madison, Volume 3: 1816-1828, p.196

The law terminating appointments at periods of four years is pregnant with mischiefs such as you describe. It overlooks the important distinction between repealing or modifying the office and displacing the officer. The former is a legislative, the latter an Executive function; and even the former, if done with a view of re-establishing the office and letting in a new appointment, would be an indirect violation of the theory and policy of the Constitution. If the principle of the late statute be a sound one, nothing is necessary but to limit appointments held during pleasure to a single year, or the next meeting of Congress, in order to make the pleasure of the Senate a tenure of office, instead of that of the President alone. If the error be not soon corrected, the task will be very difficult; for it is of a nature to take a deep root.

Writings of Madison, Volume 3: 1816-1828, p.196

On application, through Mr. Stephenson, I have obtained from the legislative files at Richmond a copy of Col. Bland's letter to you, for which I gave you the trouble of a search last fall. The letter being a public, not a private one, was sent to the Legislature, according to the intention of the writer. It contains what I expected to find in it; a proof that I differed from him on the question of ceding the Mississippi to Spain in 1780.

To Mr. Featherstonhaugh.

DECR 23, 1820.

Writings of Madison, Volume 3: 1816-1828, p.197

SIR,—I received your letter of the 7 on the 20th instant. The agricultural paper to which it refers being already in print, is, of course, subject to any further publication without my consent, and I regard the asking it as a special mark of your politeness; the more so, as it was intended to give me an opportunity of rectifying the errors into which I might have fallen. That there may be more of these than have occurred to either of us, is probable; and that the passage you have pointed out may be particularly exposed to unfriendly criticism, your suggestions ought to make me aware. I have not, however, if there were time, the means of consulting the most recent works on chemistry, and adapting what was advanced to the most approved of them. I must leave it, therefore, as it is; with a wish, nevertheless, that if the paper be inserted in your Agricultural Memoirs, it may be accompanied with whatever notices may be necessary to shew that its errors are those of an individual only, and nowise chargeable on a defective state of chemical knowledge in our country.

Writings of Madison, Volume 3: 1816-1828, p.197

It was far from my purpose to enter into the depths of the question concerning the formation and food of plants. I had in view merely to infer, from the vast variety of dissimilar objects in the organized departments of nature, that they could not all be composed of a few ingredients precisely the same in all. I could not reconcile, either with a physical possibility or with the apparent economy of nature, a supposition that those few distinct ingredients, whether designated under the names of elements, atoms, molecules, or gases, could produce so great a profusion of heterogeneous existences; that they could be indiscriminately fitted for the composition and structure of each of them; and, consequently, that the entire mass of organizable matter might be converted into a single species of plants, the potatoe for example, and thence exclusively into the human species feeding on it.

Writings of Madison, Volume 3: 1816-1828, p.197

It seemed to be more reasonable to distrust the results of chymistry, or rather the adequacy of its decomposing and discriminating powers, and to suppose that the very few gaseous substances may themselves be further divisible, as a solar ray has been found to be by a prism; that other substances elude altogether the analysing processes, as the gases formerly did; or that there are other elementary substances, not only undiscovered, but undiscoverable, sufficient in number and variety to form, by their combinations with each other and with those already known, the system before us, with all its diversified organizations and appearances.\*

Writings of Madison, Volume 3: 1816-1828, p.198

In attempting to solve the problem relating to the composition, mechanism, and growth of vegetables, we must either suppose that 3, 4, or 5 elements, simple and immutable in their essence, are susceptible of combinations sufficiently multiplied to produce the vegetable system; or that other and more numerous elements remain to be added to them; or that the vegetable organs possess a transubstantiating power, by which one element can be changed into another. Among these alternatives, the first and the last seem to have least claim to our assent.

Writings of Madison, Volume 3: 1816-1828, p.198

I am very sensible, Sir, that I have glided into a train of ideas too hasty and too crude for even a private letter: and that they need an apology much more than was called for by the observations in your letter, which had sufficient interest to recommend them to attention; and the frankness of which could have no other effect than to enhance the respect and esteem of which I tender you assurances.

To President Monroe.

MONTPELLIER, December 28, 1820.

Writings of Madison, Volume 3: 1816-1828, p.199

DEAR SIR,—I have received your two favors of the 10th and 23d inst. The prospect of a favorable issue to the difficulties with Spain is very agreeable. I hope the ratification will arrive without clogs on it; and that the acquisition of Florida will give no new stimulus to the spirit excited by the case of Missouri. I am glad to learn that a termination of this case, also, is not despaired of. If the new State is to be admitted with a proviso, none better occurs than a declaration that its admission is not to imply an opinion in Congress that its Constitution will be less subject to be tested and controuled by the Constitution of the U. S. than if formed after its admission, or than the Constitutions of other States now members of the Union.

Writings of Madison, Volume 3: 1816-1828, p.199

It is a happy circumstance that the discussions renewed by the offensive clause introduced by Missouri are marked by such mitigated feelings in Congress. It argues well as to the ultimate effect which you anticipate. The spirit and manner of conducting the opposition to the new State, with the palpable efforts to kindle lasting animosity between geographical divisions of the nation, will have a natural tendency, when the feverish crisis shall have passed, to reunite those who never differed as to the essential principles and the true policy of the Government. This salutary reaction will be accelerated by candor and conciliation on one side, appealing to like dispositions on the other; and it would be still farther promoted by a liberality with regard to all depending measures on which local interests may seem to be somewhat at variance, and may perhaps be so for a time.

Writings of Madison, Volume 3: 1816-1828, p.199

Your dispositions towards Mr. T. Coxe are such as I had counted on. I shall regret, if it so happen, that nothing can properly be done for him. I feel a sincere interest in behalf of Dr. Eustis. The expedient at which you glance would, I suppose, be in itself an appropriate provision; but I am sensible of the delicacy of the considerations which I perceive weigh with you. I wish he could have been made the Governor of his State. It would have closed his public career with the most apt felicity.

Writings of Madison, Volume 3: 1816-1828, p.200

Is not the law vacating periodically the described offices an encroachment on the Constitutional attributes of the Executive? The creation of the office is a legislative act; the appointment of the officer, the joint act of the President and Senate; the tenure of the office, (the judiciary excepted,) is the pleasure of the President alone; so decided at the commencement of the Government, so acted on since, and so expressed in the commission. After the appointment has been made, neither the Senate nor House of Representatives have any power relating to it; unless in the event of an impeachment by the latter, and a judicial decision by the former; or unless in the exercise of a legislative power by both, abolishing the office itself, by which the officer indirectly loses his place; and even in this case, if the office were abolished merely to get rid of the tenant, and with a view, by its re-establishment, to let in a new one, on whom the Senate would have a negation, it would be a virtual infringement of the Constitutional distribution of the powers of Government. If a law can displace an officer at every period of four years, it can do so at the end of every year, or at every session of the Senate; and the tenure will then be the pleasure of the Senate as much as of the President, and not of the President alone. Other very interesting views might be taken of the subject. I never read, if I ever saw, the debates on the passage of the law. Nor have I looked for precedents which may have countenanced it. I suspect that these are confined to the Territories; that they had their origin in the ordinance of the old Congress, in whom all powers of Government were confounded; and that they were followed by the new Congress, who have exercised a very undefined and irregular authority within the Territorial limits; the Judges themselves being commissioned from time to time, and not during good behavior, or the continuance of their offices.

To George A. Otis.

MONTPELLIER, Decr 29, 1820.

Writings of Madison, Volume 3: 1816-1828, p.201

SIR,—Your letter of the 5th came safe to hand, with the 2d Volume of the translation of Botta's History, for which I am anew to offer my thanks.

Writings of Madison, Volume 3: 1816-1828, p.201

Without a more careful reading of the two volumes, and comparison of them with the original, than has been permitted by other demands on my time, I could not express any opinion as to the merits of the translation that would be worth your acceptance. Of the original work, the high character seems to be sufficiently established. And as far as a limited examination of your version will warrant, I cheerfully concur in the judgment that it is entitled to all the encouragement which I hope you are receiving. The style of a translation can rarely observe at once the exact fidelity due to the original, and all the elegance of which the translator's language is susceptible. This remark is made merely in reference to the difficulties you have to encounter, and not to imply that you have not adequately surmounted them.

Writings of Madison, Volume 3: 1816-1828, p.201

The remark you cite from my former letter was not prompted by any particular instances of a failure in Mr. Botta to do justice to our Country; but by the general probability of errors which he could not easily escape, and which might be ascertained among ourselves. the probability in this case is the greater, as new lights on important measures of the Revolution must from time to time be brought forth, from sources not opened at the date of his work, or not then known to him.

Writings of Madison, Volume 3: 1816-1828, p.201

My letter of July 5 was not written for publication, but there is nothing in it, I believe, which forbids any use of it you may think proper.

Writings of Madison, Volume 3: 1816-1828, p.201

I find my conjecture was but too true as to the little prospect of subscriptions to your work in this neighbourhood, at the present period. A gentleman, not of it, desires that he may be set down for copies of your volumes as they come out. You will address them to "Andrew Stevenson, Richmond, Virginia."

1821

To Thomas Jefferson.

MONTPELLIER, Jany 7, 1821.

Writings of Madison, Volume 3: 1816-1828, p.202

DEAR SIR,—In the inclosed you will see the ground on which I forward it for your perusal.

Writings of Madison, Volume 3: 1816-1828, p.202

In the late views taken by us of the act of Congress vacating periodically the Executive offices, it was not recollected, in justice to the President, that the measure was not without precedents. I suspect, however, that these are confined to the Territorial establishments, where they were introduced by the old Congress, in whom all powers of Government were confounded; and continued by the new Congress, who have exercised a like confusion of powers within the same limits. Whether the Congressional code contains any precedent of a like sort more particularly misleading the President, I have not fully examined. If it does, it must have blindly followed the territorial examples.

Writings of Madison, Volume 3: 1816-1828, p.202

We have had for several months a typhus fever in the family, which does not yield in the least to the progress of the season. Out of twenty odd cases there have been six deaths, and there are several depending cases threatening a like issue. The fever has not yet reached any part of our white family; but in the overseer's there have been five cases of it, including himself. None of them, however, has been mortal.

To William S. Cardell.

MONTPELLIER, January 19, 1821.

Writings of Madison, Volume 3: 1816-1828, p.202

SIR,—I have received your letter of the 12th, enclosing a copy of your circular one on the subject of the "American Academy of Language and Belles Lettres." It informs me, at the same time, that the Society has been pleased to put me on the list of its honorary members.

Writings of Madison, Volume 3: 1816-1828, p.202

I request, Sir, that they may be assured of the respectful impressions with which I receive this mark of distinction.

Writings of Madison, Volume 3: 1816-1828, p.202

Having heretofore made known my good wishes for the Institution now developed under the above title, I have only to renew my tender of them; and to express the confidence inspired by the names enlisted in the cause, that the Academy will be the means as well of illustrating the present advance, as of extending the future improvement, of useful and ornamental literature in our Country.

To George A. Otis.

MONTPELLIER, Jan., 1821.

Writings of Madison, Volume 3: 1816-1828, p.203

SIR,—I received, some days ago, your letter of the 4th instant. However favorable my general opinion may be to the History of Botta, I could not undertake to vouch for its entire exemption from flaws, such as are charged on it, without a more thorough examination of the work than I have made, or than other calls on my time will now permit me to make. It is, indeed, quite presumable that at the early date of his undertaking a defect of materials may have betrayed him into errors of fact, and that, as a foreigner, he has not always penetrated the character of a people fashioned as the American has been by so many peculiar circumstances; nor comprehended fully the mechanism and springs of their novel and compound system of Gov ernment. It is not the less true, however, that his History may have a value justly entitling it to the attention claimed for it from the American public. If it cannot be regarded as a popular manual, it may aspire to the merit of being nearly a cotemporary work by an industrious compiler, who was capable, at the same time, of viewing our revolutionary transactions and events with a philosophic eye, and describing them with a polished and eloquent pen.

Writings of Madison, Volume 3: 1816-1828, p.203

I know not any source from which Botta could have taken a tincture of partiality for one more than another portion of our country. He was probably led to put his fictitious and, doubtless, very erroneous speeches, exhibiting the arguments for and against Independence, into the mouths of Mr. Lee and Mr. Dickinson, by his discovering that the former was the organ of the proposition, and the latter the most distinguished of its opponents. It is to be regretted that the Historian had not been more particularly acquainted with what passed in Congress on that great occasion. He would, probably, very justly have assigned to your venerable correspondent\* a very conspicuous part on the Theatre. I well recollect that his fellow-labourers in the cause from Virginia filled every mouth in that State with the praises due to the comprehensiveness of his views, the force of his arguments, and the boldness of his patriotism. It is to be hoped that historical justice may be done by others better furnished with the means of doing it.

To Lynde Walter, John Mackay, P. P. T. De Grande, N. G. Carnes, Committee.

MONTPELLIER, Jany 24, 1821.

Writings of Madison, Volume 3: 1816-1828, p.204

GENTLEMEN,—I have just received your letter of the 15th in stant, and I cannot be insensible to the marks of respect and confidence contained in it. But, besides that it attaches a very undue weight to my opinion on the subject of a Bankrupt act, I am not sure that the interference you suggest would be received in the light you anticipate. Candour requires, also, an acknowledgment that, though sincerely anxious for the relief of the prevailing distresses every where, and not opposed altogether to the resource of a Bankrupt system, my reflections would call for modifications, which I have no reason to believe coincide with the views of the subject likely to be taken at Washington.

To R. Chapman.

JANy 25, 1821.

Writings of Madison, Volume 3: 1816-1828, p.204

DR SIR,—I received yours of the 16th some days ago. Particular engagements have prevented an earlier answer.

Writings of Madison, Volume 3: 1816-1828, p.205

Different plans for reading history have been recommended. What occurs as most simple and suitable, where the object is such as you point out, is to begin with some abridgment of General History; I am not sure that I am acquainted with the best, late ones having been published which I have not seen. Millot's history, ancient and modern, translated from the French, would answer well enough. The work is not large, and might be preceded or accompanied by Colvin's historical letters, now publishing at Georgetown, in a single volume. After this outline, Hume's History of England, and Robertson's History of Scotland, might follow. Then, Ramsay's History of the United States and of the American Revolution; and Burk's History of Virginia, continued by Jones and Girardin. This course being ended, particular histories of different countries, according to leisure and curiosity, might be taken up; such as Goldsmith's History of Greece; ditto of Rome; preceded or accompanied by Tooke's Pantheon. Robertson's History of America would also deserve attention. This fund of information, with a competent knowledge of Geography, would prepare the mind for reading with advantage the voyages round the world, and the most intelligent travels into the most interesting countries. Geography is a preliminary, in all cases, to a pleasing and instructive course of historical reading. That and chronology have been called the two eyes of History. Geography might be called the right one.

Writings of Madison, Volume 3: 1816-1828, p.205

No studies seem so well calculated to give a proper expansion to the mind as Geography and History; and when not absorbing an undue portion of time, are as beneficial and becoming to the one sex as to the other.

To P. S. Chazotte.

MONTPELLIER, Jany 30th, 1821.

Writings of Madison, Volume 3: 1816-1828, p.205

SIR,—I have received, and thank you for, your little tract on the culture of vines, olives, &c. Its practical views of the several articles, derived from long personal experience, with the apparent aptitude for them of soils and climates in a certain portion of the United States, justly claim the attention of those particularly living within its limits. Experiments for introducing these valuable productions are strongly recommended by the success which attended the culture of rice and cotton, the importance of which was, at one time, as little understood as that of the articles whose merits you discuss.

To George Featherstonhaugh.

MONTPELLIER, March —, 1821.

Writings of Madison, Volume 3: 1816-1828, p.206

SIR,—I offer you many thanks for the 1st Volume of Memoirs published by your Agricultural Board. It contains a very valuable mass of instruction, both theoretical and practical. If it had not the benefit of the materials expected from the subordinate societies, it must be of great use in stimulating and guiding their reports which may succeed it.

Writings of Madison, Volume 3: 1816-1828, p.206

I am very glad to find that it fell within the scope of your disquisitions to unfold the present chemical doctrine with regard to the elements of matter, particularly the organized parts of it. It will answer the purpose of counteracting any general imputations from unfriendly quarters, should a pretext for such be taken from the defective views of the subject in the paper, which I see has been honored with a place in your volume.

Writings of Madison, Volume 3: 1816-1828, p.206

On the supposition, as authorized by facts, that a combination of two elements may produce a third substance, differing from both; that a combination of a greater number may proportionally diversify such new results; and that a change even in the proportions of the same elements combined may have like effects; a field seems to be opened for possible multiplication from a few kinds of elements of the forms and qualities of matter such as the face of our Globe now presents. It does not necessarily follow, however, from this possibility, that all the varieties now beheld in the productions of nature could be converted into a single or few classes of them. It is more than probable that there are laws in the economy of nature which would not admit so entire a metamorphosis of her original system; that there may be certain relations between different classes of her productions, which require for their preservation and increase the existence and influence of each other. And it seems certain that such a revolution would have the consequence, not easily to be admitted, of rendering a portion of the elementary matter su pernumerary and useless for the laboratory of nature.

Writings of Madison, Volume 3: 1816-1828, p.207

Whatever be the number of distinct elements or gases, as these must be inconvertible one into another, the existing mass of each element must be of fixed amount; and bear, of course, a fixed proportion, each to the others, in the existing order of things. Taking, then, any particular class or classes of plants, (those, for example, of human use,) which happen not to comprise every distinct element, or though comprising every element, yet in proportions not corresponding with the proportions now existing in the whole vegetable creation, and a destruction of every other class of plants would necessarily leave unemployed all the elements not required for the new-modelled system.

Writings of Madison, Volume 3: 1816-1828, p.207

Perceiving how far I have wandered from my proper object, I hasten to return to it, by repeating my acknowledgments for your valuable Book, with assurances of my esteem and cordial respects.

Writings of Madison, Volume 3: 1816-1828, p.207

G. W. FEATHERSTONHAUGH.

MONTPELLIER, Apl 5, 1821.

Writings of Madison, Volume 3: 1816-1828, p.207

SIR,—I have received your favor of March 19, and am glad to find that you think of giving still more value to your agricultural work, by extending in a new edition your practical views of the subject. I retain, at the same time, my opinion in favour of the chemical instruction which your original plan combined with them.

Writings of Madison, Volume 3: 1816-1828, p.207

I know not well what to answer to your enquiry relative to the reception such a volume would meet with in the Southern States. As to the State in which I live, I dare not speak with confidence; so difficult is a diffusion of literary production through its dispersed readers, and so universal is the present dearth of means, even for the minuter articles of cost. I can scarcely doubt, however, that the attention which has been excited to the practice and the science of rural economy would produce a demand sufficient, at least, to give a right turn to the scale, if it should need such a weight, which I should not easily suppose would be the case. For myself, I sincerely wish that your calculations may justify the experiment; and that, without a pecuniary loss, which would be very unreasonable, it may reward you with the satisfaction of contributing more extensively to enlighten and animate a pursuit so deeply interesting to the public prosperity.

Writings of Madison, Volume 3: 1816-1828, p.208

I renew to you, Sir, assurances of esteem and good wishes.

To Francis Glass.

MONTPELLIER, April 8, 1821.

Writings of Madison, Volume 3: 1816-1828, p.208

SIR,—I have received your letter of March 3, on the subject of your "Life of Washington, written in Latin, for the use of Schools."

Writings of Madison, Volume 3: 1816-1828, p.208

If it were less foreign to my inclinations to be distinguished by a dedication, I should recommend, as more expedient, that you should bestow that mark of respect on some one who would find it more practicable to give value to his acceptance of it by a previous examination of the work, and whose known critical knowledge of the language would satisfy the public of the merit of its execution. This precaution is rendered particularly worthy of attention by the difficulty of giving to modern Latinity the classical purity requisite for a school book, and by the fewness of examples in which the undertaking has been regarded as successful.

Writings of Madison, Volume 3: 1816-1828, p.208

I regret the failure of your laudable efforts to make your acquirements a resource for the maintenance of your family, and wish that your future ones may be more fortunate.

To Mr. Rush.

MONTPELLIER, April 21, 1821.

Writings of Madison, Volume 3: 1816-1828, p.209

DEAR SIR,—Your favor of November 15th came duly to hand, with Mr. Ridgeley's farming pamphlet, for which I return my thanks.

Writings of Madison, Volume 3: 1816-1828, p.209

The inflexibility of Great Britain on the points in question with the United States is a bad omen for the future relations of the parties. The present commercial dispute, though productive of ill humor, will shed no blood. The same cannot be said of impressments and blockades.

Writings of Madison, Volume 3: 1816-1828, p.209

I have lately received, also, Mr. Godwin's attack on Malthus, which you were so good as to forward. The work derives some interest from the name of the author, and the singular views he has taken of the subject. But it excites a more serious attention by its tendency to disparage abroad the prospective importance of the United States, who must owe their rapid growth to the principle combated.

Writings of Madison, Volume 3: 1816-1828, p.209

In this Country, the fallacies of the author will be smiled at only, unless other emotions should be excited by the frequent disregard of the probable meaning of his opponent, and by the harshness of comments on the moral scope of his doctrine. Mr. Godwin charges him, also, with being dogmatical. Is he less so himself? and is not Mr. Godwin one of the last men who ought to throw stones at theorists? At the moment of doing it, too, he introduces one of the boldest speculations, in anticipating from the progress of chemistry an artificial conversion of the air, the water, and earth, into food for man, of the natural flavor and colour.

Writings of Madison, Volume 3: 1816-1828, p.209

My memory does not retain all the features of Mr. Malthus's system. He may have been unguarded in his expressions, and have pushed some of his notions too far. He is certainly vul nerable in assigning for the increase of human food an arithmetical ratio. In a country thoroughly cultivated, as China is said to be, there can be no increase. And in one as partially cultivated, and as fertile as the United States, the increase may exceed the geometrical ratio. A surplus beyond it, for which a foreign demand has failed, is a primary cause of the present embarrassments of this Country.

Writings of Madison, Volume 3: 1816-1828, p.210

The two cardinal points on which the two authers are at issue are: 1. The prolific principle in the human race. 2. Its actual operation, particularly in the United States. Mr. Godwin combats the extent of both.

Writings of Madison, Volume 3: 1816-1828, p.210

If the principle could not be proved by direct facts, its capacity is so analogous to what is seen throughout other parts of the animal, as well as vegetable domain, that it would be a fair inference. It is true, indeed, that in the case of vegetables on which animals feed, and of animals the food of other animals, a more extensive capacity of increase might be requisite than in the human race. But in this case, also, it is required, over and above the degree sufficient to repair the ordinary wastes of life, by two considerations peculiar to man: one, that his reason can add to the natural means of subsistence for an increased number, which the instinct of other animals cannot; the other, that he is the only animal that destroys his own species.

Writings of Madison, Volume 3: 1816-1828, p.210

Waiving, however, the sanction of analogy, let the principle be tested by facts either stated by Mr. Godwin, or which he cannot controvert.

Writings of Madison, Volume 3: 1816-1828, p.210

He admits that Sweden has doubled her numbers in the last hundred years, without the aid of emigrants. Here, then, there must have been a prolific capacity equal to an increase in ten centuries from two millions to one thousand millions. If Sweden were as populous ten centuries ago as now, or should not in ten centuries to come arrive at one thousand millions, must not 998 millions of births have been prevented? or that number of infants have perished? and from what causes?

Writings of Madison, Volume 3: 1816-1828, p.210

The two late enumerations in England, which shew a rate of increase there much greater than in Sweden, are rejected by Mr. Godwin as erroneous. They probably are so, though not in the degree necessary for his purpose. He denies that the population increases at all. He even appeals with confidence to a comparison of what it has been with what it is at present, as proving a decrease.

Writings of Madison, Volume 3: 1816-1828, p.211

There being no positive evidence of the former numbers, and none admitted by him of the present, resort must be had to circumstantial lights; and these will decide the question with sufficient certainty.

Writings of Madison, Volume 3: 1816-1828, p.211

As a general rule, it is obvious that the quantity of food produced in a Country determines the actual extent of its population. The number of people cannot exceed the quantity of food, and this will not be produced beyond the consumption. There are exceptions to the rule, as in the case of the United States, which export food, and of the West Indies, which import it. Both these exceptions, however, favor the supposition that there has been an increase of the English population: England adding latterly imported food to its domestic stock, which at one period it diminished by exportation. The question to be decided is, whether the quantity of food produced, the true measure of the population consuming it, be greater or less now than heretofore.

Writings of Madison, Volume 3: 1816-1828, p.211

In the savage state, where wild animals are the chief food, the population must be the thinnest. Where reared ones are the chief food, as among the Tartars, in a pastoral state, the number may be much increased. In proportion as grain is substituted for animal food, a far greater increase may take place. And as cultivated vegetables, and particularly roots, enter into consumption, the mass of subsistence being augmented, a greater number of consumers is necessarily implied.

Writings of Madison, Volume 3: 1816-1828, p.211

Now, it will not be pretended that there is at present in England more of forest and less of cultivated ground than in the feudal, or even much later periods. On the contrary, it seems to be well understood that the opened lands have been both enlarged and fertilized; that bread has been substituted for flesh; and that vegetables, particularly roots, have been more and more substituted for both. It follows that the aggregate food raised and consumed now being greater than formerly, the number who consume it is greater also.

Writings of Madison, Volume 3: 1816-1828, p.211

The Report to the Board of Agriculture, quoted by Mr. Godwin, coincides with this inference. The animal food of an individual, which is the smaller part of it, requires, according to this authority, two acres of ground; all the other articles, one and three-fourths of an acre only. The Report states that a horse requires four acres. It is probable that an ox requires more, being fed less on grain and more on grass.

Writings of Madison, Volume 3: 1816-1828, p.212

It may be said that horses, which are not eaten, are now used instead of oxen, which were. But the horse, as noted, is supported by fewer acres than the ox; and the oxen superseded by the horses form but a small part of the eatable stock to which they belong. The inference, therefore, can, at most, be but slightly qualified by this innovation.

Writings of Madison, Volume 3: 1816-1828, p.212

The single case of Ireland ought to have warned Mr. Godwin of the error he was maintaining. It seems to be agreed that the population there has greatly increased of late years, although it receives very few, if any, emigrants, and has sent out numbers, very great numbers, as Mr. Godwin must suppose, to the United States.

Writings of Madison, Volume 3: 1816-1828, p.212

In denying the increase of the American population from its own stock, he is driven to the most incredible suppositions, to a rejection of the best-established facts, and to the most preposterous estimates and calculations.

Writings of Madison, Volume 3: 1816-1828, p.212

He ascribes the rapid increase, attested by our periodical lists, wholly to emigrations from Europe; which obliged him to suppose that from 1790 to 1810 one hundred and fifty thousand persons were annually transported; an extravagance which is made worse by his mode of reducing the number necessary to one-half; and he catches at little notices of remarkable numbers landed at particular points, in particular seasons; as if these could be regarded as proofs of the average arrivals for a long series of years, many of them unfavorable for such transmigrations. In the year 1817, in which the emigrants were most numerous, according to Seybert, they did not, in the ten principal ports, where, with few if any exceptions, they are introduced, exceed 22,240; little more than one-seventh of the average annually assumed.

Writings of Madison, Volume 3: 1816-1828, p.212

Were it even admitted that our population is the result altogether of emigrations from Europe, what would Mr. Godwin gain by it?

Writings of Madison, Volume 3: 1816-1828, p.213

The census for 1820 is not yet completed. There is no reason, however, to doubt that it will swell our numbers to about ten millions. In 1790 the population was not quite four millions. Here, then, has been an increase of six millions. Of these six, five millions will have been drawn from the population of Great Britain and Ireland. Have the numbers there been reduced accordingly? Then they must have been thirty years ago greater by five millions than at this time. Has the loss been replaced? Then, as it has not been by emigrants, it must have been by an effect of the great principle in question. Mr. Godwin may take his choice of the alternatives.

Writings of Madison, Volume 3: 1816-1828, p.213

It is worth remarking that New England, which has sent out such continued swarms to other parts of the Union for a number of years, has continued, at the same time, as the Census shews, to increase in population; although it is well known that it has received comparatively very few emigrants from any quarter, these preferring places less inhabited for the same reason that determines the course of migrations from New England.

Writings of Madison, Volume 3: 1816-1828, p.213

The appeal to the case of the black population in the United States was particularly unfortunate for the reasoning of Mr. Godwin, to which it gives the most striking falsification.

Writings of Madison, Volume 3: 1816-1828, p.213

Between the years 1790 and 1810 the number of slaves increased from 694,280 to 1,165,441. This increase, at a rate nearly equal to that of the whites, surely was not produced by emigrants from Africa. Nor could any part of it have been imported, (except 30 or 40,000\* into South Carolina and Georgia,) the prohibition being every where strictly enforced throughout that period. Louisiana, indeed, brought an addition, amounting in 1810 to 37,671. This number, however, (to be reduced by the slaves carried thither from other States prior to 1810,) may be regarded as overbalanced by emancipated blacks and their subsequent offspring. The whole number of this description in the Census of 1810 amounts to 186,446.

Writings of Madison, Volume 3: 1816-1828, p.213

The evidence of a natural and rapid increase of the blacks in the State of Virginia is alone conclusive on the subject. Since the epoch of Independence the importation of slaves has been uniformly prohibited, and the spirit of the people concurring with the policy of the law, it has been carried fully into execution. Yet the number of slaves increased from 292,627 in 1790, to 392,518 in 1810; although it is notorious that very many have been carried from the State by external purchases and migrating masters. In the State of Maryland, to the North of Virginia, whence alone it could be surmised that any part of them could be replaced, there has been also an increase.

Writings of Madison, Volume 3: 1816-1828, p.214

Mr. Godwin exults not a little (p. 420-2) in the detection of an error in a paper read by Mr. W. Barton, in 1791, to the Philosophical Society at Philadelphia. I have not looked for the paper, but from the account of it given by Mr. Godwin, a strange error was committed by Mr. Barton; not, however, in the false arithmetic blazoned by Mr. Godwin, but by adding the number of deaths to that of births in deducing the productiveness of marriages in a certain parish in Massachusetts. But what is not less strange than the lapsus of Mr. Barton is, that his critic should overlook the fact on the face of the paper, as inserted in his own page, that the population of the parish had doubled in 54 years, in spite of the probable removals from an old parish to newer settlements; and what is strangest of all, that he should not have attended to the precise statement in the record, that the number of births within the period exceeded the number of deaths by the difference between 2,247 and 1,113. Here is the most demonstrable of all proofs of an increasing population, unless a theoretical zeal should suppose that the pregnant women in the neighbourhood made lying-in visits to Hingham, or that its sick inhabitants chose to have their dying eyes closed elsewhere.

Writings of Madison, Volume 3: 1816-1828, p.214

Mr. Godwin has not respected other evidence in his hands, which ought to have opened his eyes to the reality of an increasing population in the United States. In the population list of Sweden, in the authenticity of which he fully acquiesces, as well as in the Census of the United States, the authenticity of which he does not controvert, there is a particular column for those under ten years of age. In that of Sweden, the number is to the whole population as 2,484 to 10,000, which is less than one-fourth. In that of the United States, the number is as 2,016,704 to 5,862,096, which is more than one-third. Now, Mr. Godwin refers (p. 442) to the proportion of the ungrown to the whole population, as testing the question of its increase. He admits and specifies the rate at which the population of Sweden increases. And yet, with this evidence of a greater increase of the population of the United States, he contends that it does not increase at all. An attempt to extricate himself by a disproportion of children, or of more productive parents emigrating from Europe, would only plunge him the deeper into contradictions and absurdities.

Writings of Madison, Volume 3: 1816-1828, p.215

Mr. Godwin dwells on the Indian establishment at Paraguay by the Jesuits, which is said not to have increased, as a triumphant disproof of the prolific principle. He places more faith in the picture of the establishment given by Raynal than is due to the vivid imagination of that author, or than the author appears to have had in [it?] himself. For he rejects the inference of Mr. Godwin, and reconciles the failure to increase with the power to increase by assigning two causes for the failure; the smallpox, and the exclusion of individual property. And he might have found other causes; in the natural love of indolence till overcome by avarice and vanity, motives repressed by their religious discipline; in the pride of the men, retaining a disdain of agricultural labor; and in the female habit of prolonging for several years the period of keeping children to the breast. In no point of view can a ease marked by so many peculiar circumstances, and these so imperfectly known, be allowed the weight of a precedent.

Writings of Madison, Volume 3: 1816-1828, p.215

Mr. Godwin could not have given a stronger proof of the estrangement of his ideas from the Indian character and modes of life than by his referring to the Missouri tribes, which do not multiply, "although they cultivate corn." His fancy may have painted to him fields of wheat, cultivated by the plough, and gathered into barns, as a provision for the year. How would he be startled at the sight of little patches of maize and squashes, stirred by a piece of wood, and that by the squaws only; the hunters and warriors spurning such an occupation, and relying on the fruits of the chase for the support of their wigwams? "Corn Eaters" is a name of reproach given by some tribes to others beginning, under the influence of the whites, to enlarge their cultivated spots.

Writings of Madison, Volume 3: 1816-1828, p.216

In going over Mr. Godwin's volume, these are some of the remarks which occurred; and in thanking you for it, I have made them supply the want of more interesting materials for a letter. If the heretical work should attract conversations in which you may be involved, some of the facts, which you are saved the trouble of hunting up, may rebut misstatements from misinformed friends or illiberal opponents of our country.

Writings of Madison, Volume 3: 1816-1828, p.216

You have not mentioned the cost of Godwin's book, or the pamphlet of Mr. Rigby. I suspect that they overgo the remnant of the little fund in your hands. If so, let me provide for it. You will oblige me, also, by forwarding, with a memorandum of its cost, the Book entitled "The apocryphal New Testament, translated from the original tongues," "printed for Wm Hone, Ludgate Hill."

To Solomon Southwick.

APRIL 21, 1821.

Writings of Madison, Volume 3: 1816-1828, p.216

I have received your letter of the 12th instant, with the copy of your address at the opening of the Apprentice's Library.

Writings of Madison, Volume 3: 1816-1828, p.216

This class of our youths is a valuable one, and its proportional numbers must increase as our population thickens. It is a class, too, which particularly claims the guardianship of benevolence. Their age, their separation from their parents, and their residence for the most part in towns and villages, where groups are readily formed, in which the example of a few may taint many, create snares into which their relaxations from labour too often betray them. Among the provisions against the danger, the establishment of special Libraries was a happy thought; to the author of which your Eulogy is a just tribute. A proper assortment of Books always at hand will enable apprentices to put their morals and their understandings both to a good school for their own happiness, at the same time that they are acquiring the professional arts so useful to the community of which they are members. Your address is an eloquent and persuasive recommendation of the opportunity. I hope it may have all the success which your laudable zeal merits.

To Judge Roane.

MONTPELLIER, May 6, 1821.

Writings of Madison, Volume 3: 1816-1828, p.217

DEAR SIR,—I received, more than two weeks ago, your letter of April 17. A visit to a sick friend at a distance, with a series of unavoidable attentions, have prevented an earlier acknowledgment of it.

Writings of Madison, Volume 3: 1816-1828, p.217

Under any circumstances, I should be disposed rather to put such a subject as that to which it relates into your hands than to take it out of them. Apart from this consideration, a variety of demands on my time would restrain me from the task of unravelling the arguments applied by the Supreme Court of the United States to their late decision. I am particularly aware, moreover, that they are made to rest not a little on technical points of law, which are as foreign to my studies as they are familiar to yours.

Writings of Madison, Volume 3: 1816-1828, p.217

It is to be regretted that the court is so much in the practice of mingling with their judgments pronounced, comments and reasonings of a scope beyond them; and that there is often an apparent disposition to amplify the authorities of the Union at the expense of those of the States. It is of great importance, as well as of indispensable obligation, that the constitutional boundary between them should be impartially maintained. Every deviation from it in practice detracts from the superiority of a chartered over a traditional Government, and mars the experiment which is to determine the interesting problem, whether the organization of the political system of the United States establishes a just equilibrium, or tends to a preponderance of the national or the local powers, and, in the latter case, whether of the national or of the local.

Writings of Madison, Volume 3: 1816-1828, p.218

A candid review of the vicissitudes which have marked the progress of the General Government does not preclude doubts as to the ultimate and fixed character of a political establishment, distinguished by so novel and complex a mechanism. On some occasions, the advantage taken of favourable circumstances gave an impetus and direction to it, which seemed to threaten subversive encroachments on the rights and authorities of the States. At a certain period we witnessed a spirit of usurpation by some of these on the necessary and legitimate functions of the former. At the present date, theoretic innovations, at least, are putting new weights into the scale of Federal sovereignty, which make it highly proper to bring them to the bar of the Constitution.

Writings of Madison, Volume 3: 1816-1828, p.218

In looking to the probable course and eventual bearing of the compound government of our country, I cannot but think that much will depend not only on the moral changes incident to the progress of society, but on the increasing number of the members of the Union. Were the members very few, and each very powerful, a feeling of self-sufficiency would have a relaxing ef fect on the bands holding them together. Were they numerous and weak, the government over the whole would find less difficulty in maintaining and increasing subordination. It happens, that while the power of some is swelling to a great size, the entire number is swelling also. In this respect, a corresponding increase of centripetal and centrifugal forces may be equivalent to no increase of either.

Writings of Madison, Volume 3: 1816-1828, p.218

In the existing posture of things, my reflections lead me to infer, that whatever may be the latitude of jurisdiction assumed by the judicial power of the United States, it is less formidable to the reserved sovereignty of the States than the latitude of power which it has assigned to the national legislature; and that encroachments of the latter are more to be apprehended from impulses given to it by a majority of the States, seduced by expected advantages, than from the love of power in the body itself, controlled as it now is by its responsibility to the constituent body.

Writings of Madison, Volume 3: 1816-1828, p.219

Such is the plastic faculty of legislation, that, notwithstanding the firm tenure which judges have on their offices, they can, by various regulations, be kept or reduced within in the paths of duty; more especially with the aid of their amenability to the legislative tribunal in the form of impeachment. It is not probable that the Supreme Court would long be indulged in a career of usurpation opposed to the decided opinions and policy of the legislature.

Writings of Madison, Volume 3: 1816-1828, p.219

Nor do I think that Congress, even seconded by the judicial power, can, without some change in the character of the nation, succeed in durable violations of the rights and authorities of the States. The responsibility of one branch to the people, and of the other branch to the legislatures of the States, seem to be, in the present stage, at least, of our political history, an adequate barrier. In the case of the alien and sedition laws, which violated the general sense as well as the rights of the States, the usurping experiment was crushed at once, notwithstanding the co-operation of the federal judges with the federal laws.

Writings of Madison, Volume 3: 1816-1828, p.219

But what is to control Congress when backed, and even pushed on, by a majority of their constituents, as was the case in the late contest relative to Missouri, and as may again happen in the constructive power relating to roads and canals? Nothing within the pale of the Constitution, but sound arguments and conciliatory expostulations addressed both to Congress and to their constituents.

Writings of Madison, Volume 3: 1816-1828, p.219

On the questions brought before the public by the late doctrines of the Supreme Court of the United States, concerning the extent of their own powers, and that of the exclusive jurisdiction of Congress over the ten miles square and other specified places, there is as yet no evidence that they express either the opinions of Congress or those of their constituents. There is nothing, therefore, to discourage a development of whatever flaws the doctrines may contain or tendencies they may threaten. Congress, if convinced of these, may not only abstain from the exercise of powers claimed for them by the court, but find the means of controlling those claimed by the court for itself. And should Congress not be convinced, their constituents, if so, can certainly, under the forms of the Constitution, effectuate a compliance with their deliberate judgment and settled determination.

Writings of Madison, Volume 3: 1816-1828, p.220

In expounding the Constitution, the court seems not insensible that the intention of the parties to it ought to be kept in view, and that, as far as the language of the instrument will permit, this intention ought to be traced in the contemporaneous expositions. But is the court as prompt and as careful in citing and following this evidence when against the federal authority as when against that of the States? [See the partial reference of the court to the "Federalist."]

Writings of Madison, Volume 3: 1816-1828, p.220

The exclusive jurisdiction over the ten miles square is itself an anomaly in our representative system. And its object being manifest, and attested by the views taken of it at its date, there seems a peculiar impropriety in making it the fulcrum for a lever stretching into the most distant parts of the Union, and overruling the municipal policy of the States. The remark is still more striking when applied to the smaller places over which an exclusive jurisdiction was suggested by a regard to the defence and the property of the nation.

Writings of Madison, Volume 3: 1816-1828, p.220

Some difficulty, it must be admitted, may result in particular cases from the impossibility of executing some of these powers within the defined spaces, according to the principles and rules enjoined by the Constitution; and from the want of a constitutional provision for the surrender of malefactors, whose escape must be so easy, on the demand of the United States, as well as of the individual States. It is true, also, that these exclusive jurisdictions are in the class of enumerated powers, to which is subjoined the "power in Congress to pass all laws necessary and proper for their execution." All, however, that could be exacted by these considerations would be, that the means of execution should be of the most obvious and essential kind, and exerted in the ways as little intrusive as possible on the powers and police of the States. And, after all, the question would remain, whether the better course would not be to regard the case as an omitted one, to be provided for by an amendment of the Constitution. In resorting to legal precedents as sanctions to power, the distinctions should ever be strictly attended to between such as take place under transitory impressions, or without full examination and deliberation, and such as pass with solemnities and repetitions sufficient to imply a concurrence of the judgment and the will of those who, having granted the power, have the ultimate right to explain the grant. Although I cannot join in the protest of some against the validity of all precedents, however uniform and multiplied, in expound-ing the Constitution, yet I am persuaded that legislative precedents are frequently of a character entitled to little respect, and that those of Congress are sometimes liable to peculiar distrust. They not only follow the example of other legislative assemblies in first procrastinating, and then precipitating their acts; but, owing to the termination of their session every other year at a fixed day and hour, a mass of business is struck off, as it were, at short-hand, and in a moment. These midnight precedents of every sort ought to have little weight in any case.

Writings of Madison, Volume 3: 1816-1828, p.221

On the question relating to involuntary submissions of the States to the tribunal of the Supreme Court, the court seems not to have adverted at all to the expository language when the Constitution was adopted, nor to that of the eleventh amendment, which may as well import that it was declaratory as that it was restrictive of the meaning of the original text. It seems to be a strange reasoning, also, that would imply that a State, in controversies with its own citizens, might have less of sovereignty than in controversies with foreign individuals, by which the national relations might be affected. Nor is it less to be wondered at that it should have appeared to the court that the dignity of a State was not more compromitted by being made a party against a private person than against a co-ordinate party.

Writings of Madison, Volume 3: 1816-1828, p.221

The Judicial power of the United States over cases arising under the Constitution must be admitted to be a vital part of the system. But that there are limitations and exceptions to its efficient character, is among the admissions of the court itself. The eleventh amendment introduces exceptions, if there were none before. A liberal and steady course of practice can alone reconcile the several provisions of the Constitution literally at variance with each other, of which there is an example in the treaty power and the legislative power on subjects, to which both are extended by the words of the Constitution. It is particularly incumbent, in taking cognizance of cases arising under the Constitution, and in which the laws and rights of the States may be involved, to let the proceedings touch individuals only. Prudence enjoins this, if there were no other motive, in consideration of the impracticability of applying coercion to States.

Writings of Madison, Volume 3: 1816-1828, p.222

I am sensible, sir, that these ideas are too vague to be of value, and that they may not even hint for consideration anything not occurring to yourself. Be so good as to see in them at least an unwillingness to disregard altogether your request. Should any of the ideas be erroneous as well as vague, I have the satisfaction to know that they will be viewed by a friendly as well as a candid eye.

To Judge Roane.

MONTPELLIER, June 29, 1821.

Writings of Madison, Volume 3: 1816-1828, p.222

DEAR SIR,—I have received, and return my thanks for, your obliging communication of the 20th instant. The papers of "Algernon Sidney" have given their full lustre to the arguments against the suability of States by individuals, and against the projectile capacity of the power of Congress within the "ten miles square." The publication is well worthy of a pamphlet form, but must attract public attention in any form.

Writings of Madison, Volume 3: 1816-1828, p.222

The Gordian knot of the Constitution seems to lie in the problem of collision between the federal and State powers, especially as eventually exercised by their respective tribunals. If the knot cannot be untied by the text of the Constitution, it ought not, certainly, to be cut by any political Alexander.

Writings of Madison, Volume 3: 1816-1828, p.223

I have always thought that a construction of the instrument ought to be favoured as far as the text would warrant, which would obviate the dilemma of a judicial rencounter or a mutual paralysis; and that on the abstract question, whether the federal or the State decisions ought to prevail, the sounder policy would yield to the claims of the former.

Writings of Madison, Volume 3: 1816-1828, p.223

Our governmental system is established by a compact, not between the Government of the United States and the State governments, but between the States as sovereign communities, stipulating each with the other a surrender of certain portions of their respective authorities to be exercised by a common government, and a reservation, for their own exercise, of all their other authorities. The possibility of disagreements concerning the line of division between these portions could not escape attention; and the existence of some provision for terminating regularly and authoritatively such disagreements could not but be regarded as a material desideratum.

Writings of Madison, Volume 3: 1816-1828, p.223

Were this trust to be vested in the States in their individual characters, the Constitution of the United States might become different in every State, and would be pretty sure to do so in some; the State governments would not stand all in the same relation to the General Government, some retaining more, others less, of sovereignty, and the vital principle of equality, which cements their Union, thus gradually be deprived of its virtue. Such a trust vested in the government representing the whole, and exercised by its tribunals, would not be exposed to these consequences, while the trust itself would be controllable by the States, who directly or indirectly appoint the trustees: whereas, in the hands of the States, no federal control, direct or indirect, would exist, the functionaries holding their appointments by tenures altogether independent of the General Government.

Writings of Madison, Volume 3: 1816-1828, p.223

Is it not a reasonable calculation, also, that the room for jarring opinions between the national and State tribunals will be narrowed by successive decisions, sanctioned by the public concurrence; and that the weight of the State tribunals will be increased by improved organizations, by selections of abler judges, and, consequently, by more enlightened proceedings? Much of the distrust of these departments in the States, which prevailed when the National Constitution was formed, has al ready been removed. Were they filled everywhere as they are in some of the States, one of which I need not name, their decisions at once indicating and influencing the sense of their constituents, and rounded on united interpretations of constitutional points, could scarcely fail to frustrate an assumption of unconstitutional powers by the federal tribunals.

Writings of Madison, Volume 3: 1816-1828, p.224

Is it too much to anticipate, even, that the federal and State judges, as they become more and more co-ordinate in talents, with equal integrity, and feeling alike the impartiality enjoined by their oaths, will vary less and less, also, in their reasonings and opinions on all judicial subjects; and thereby mutually contribute to the clearer and firmer establishment of the true boundaries of power, on which must depend the success and permanency of the Federal Republic, the best guardian, as we believe, of the liberty, the safety, and the happiness of men? In these hypothetical views I may permit my wishes to sway too much my hopes. I submit the whole, nevertheless, to your perusal, well assured that you will approve the former, if you cannot join fully in the latter.

Writings of Madison, Volume 3: 1816-1828, p.224

Under all circumstances, I beg you to be assured of my distinguished esteem and sincere regard.

To F. Corbin.

MAY 21, 1821.

Writings of Madison, Volume 3: 1816-1828, p.224

DR SIR,—On the receipt of yours of the 18th, post-marked 14th, I dropped a few lines to the President, as you wished, reminding him of the views of your young friend, and the grounds on which his hopes rested. I just see that the office had been otherwise filled.

Writings of Madison, Volume 3: 1816-1828, p.224

On looking over the papers and letters which I had preserved through a long course of public life, during a memorable period, I found so much matter relating to current events, and transactions which, in many particulars, may not so fully, if [at] all, be found elsewhere, that I have thought it incumbent on me to digest the most material parts, at least, into a form that may not be without future use. The task is a very tedious one. I thank you for the kind offer of your memory in case of any reference to occurrences within the range of your participations. I do not, however, foresee, at present, that I shall have occasion to avail myself of it. If you have preserved a copy of the Journals of the General Assembly for 1785, you will oblige me by a loan of it.

Writings of Madison, Volume 3: 1816-1828, p.225

We have had, as you were informed, a severe visitation of a fever of the typhus character. The cases amounted to between 40 and 50; and the deaths to about one-fourth of the cases. We hope the disease has left us, or, at least, is doing so. The last cases have been so mild as to make their real character doubtful. A remarkable circumstance in this endemic is, that it seems to have preferred situations the most elevated and healthy. It attacked, I understand, the family living on the summit of Peter's mountain, the Chimborazo of our Lilliputian Andes.

Writings of Madison, Volume 3: 1816-1828, p.225

Your favor of March 3d came duly to hand. I hope you are freed from the gouty guest in your stomach. Come, and let the excursion and a bottle of the old Bachelor aid in driving or keeping him out. It may dispose us, at the same time, to cast an eye at the reverse of the medal which has presented you with such a group of gloomy features in our national affairs.

To S. W. Pomeroy.

MONTPELLIER, July 23d, 1821.

Writings of Madison, Volume 3: 1816-1828, p.225

DR SIR,—I return my thanks for the Agricultural Journal, for which, I observe, I am indebted to your politeness.

Writings of Madison, Volume 3: 1816-1828, p.225

Several of the articles have well rewarded the perusal. Those on the culture of flax are particularly interesting, being calculated both to gratify curiosity and to instruct the husbandman.

Writings of Madison, Volume 3: 1816-1828, p.225

I send herewith samples of flax in the several stages of its preparation, by a machine invented a few years ago in Ireland, adopted by the Trustees of the Linen Board, and protected by a special act of Parliament; they came to my hands whilst I was in public life at Washington, accompanied by a letter from a person who wished his name to be concealed; in which the machine is represented as cheap and simple, and capable of being worked by hand, by horse, or by steam. It is said to be adapted to a similar preparation of hemp, also; which must add much to its value, hemp being produced in much greater quantity than flax from equal ground, having a stronger fibre, and being much less an exhauster of the soil.

Writings of Madison, Volume 3: 1816-1828, p.226

It is not improbable that this information may not be new to you, it being understood that a person had arrived several years ago in the northern quarter with the knowledge of the machine and its uses; and that you may have even seen samples such as are not sent: in that case, the communication will answer no purpose but that of confirming the respect: of which I offer you assurances, with my good wishes.

To Mr. Gales.

MONTPELLIER, August 26, 1821.

Writings of Madison, Volume 3: 1816-1828, p.226

DEAR SIR,—I thank you for your friendly letter of the 20th, enclosing an extract, from notes by Judge Yates, of debates in the Convention of 1787, as published in a New York paper.\* The letter did not come to hand till yesterday.

Writings of Madison, Volume 3: 1816-1828, p.226

If the extract be a fair sample, the work about to be published will not have the value claimed for it. Who can believe that so palpable a misstatement was made on the floor of the Convention, as that the several States were political societies, varying from the lowest corporation to the highest sovereign; or that the States had vested all the essential rights of sovereignty in the old Congress? This intrinsic evidence alone ought to satisfy every candid reader of the extreme incorrectness of the passage in question. As to the remark that the States ought to be under the control of the General Government, at least as much as they formerly were under the King and British Parliament, it amounts, as it stands, when taken in its presumable meaning, to nothing more than what actually makes a part of the Constitution; the powers of Congress being much greater, especially on the great points of taxation and trade, than the British Legislature were ever permitted to exercise.

Writings of Madison, Volume 3: 1816-1828, p.227

Whatever may have been the personal worth of the two delegates from whom the materials in this case were derived, it cannot be unknown that they represented the strong prejudices in New York against the object of the Convention; which was, among other things, to take from that State the important power over its commerce, to which it was peculiarly attached; and that they manifested, until they withdrew from the Convention, the strongest feelings of dissatisfaction against the contemplated change in the federal system, and, as may be supposed, against those most active in promoting it. Besides misapprehensions of the ear, therefore, the attention of the note-taker would materially be warped, as far, at least, as an upright mind could be warped, to an unfavorable understanding of what was said in opposition to the prejudices felt.

Writings of Madison, Volume 3: 1816-1828, p.227

I have thought it due to the kind motives of your communication to say thus much; but I do it in the well-founded confidence that your delicacy will be a safeguard against my being introduced into the newspapers. Were there no other objection to it, there would be an insuperable one in the alternative of following up the task, or acquiescing in like errors as they may come before the public.

Writings of Madison, Volume 3: 1816-1828, p.227

With esteem and friendly respects,

To Thomas Ritchie.

MONTPELLIER, Sepr 15, 1821.

Writings of Madison, Volume 3: 1816-1828, p.228

DEAR SIR,—I have received yours of the 8th instant, on the subject of the proceedings of the Convention of 1787.

Writings of Madison, Volume 3: 1816-1828, p.228

It is true, as the public has been led to understand, that I possess materials for a pretty ample view of what passed in that Assembly. It is true, also, that it has not been my intention that they should forever remain under the veil of secrecy. Of the time when it might be not improper for them to see the light, I had formed no particular determination. In general, it had appeared to me that it might be best to let the work be a posthumous one, or, at least, that its publication should be de layed till the Constitution should be well settled by practice, and till a knowledge of the controversial part of the proceedings of its framers could be turned to no improper account. Delicacy, also, seemed to require some respect to the rule by which the Convention "prohibited a promulgation, without leave, of what was spoken in it," so long as the policy of that rule could be regarded as in any degree unexpired. As a guide in expounding and applying the provisions of the Constitution, the debates and incidental decisions of the Convention can have no authoritative character. However desirable it be that they should be preserved as a gratification to the laudable curiosity felt by every people to trace the origin and progress of their political Institutions, and as a source, perhaps, of some lights on the science of Government, the legitimate meaning of the In strument must be derived from the text itself; or if a key is to be sought elsewhere, it must be, not in the opinions or intentions of the body which planned and proposed the Constitution, but in the sense attached to it by the people in their respective State Conventions, where it received all the authority which it possesses.

Writings of Madison, Volume 3: 1816-1828, p.228

Such being the course of my reflections, I have suffered a concurrence and continuance of particular inconveniences for the time past to prevent me from giving to my notes the fair and full preparation due to the subject of them. Of late, being aware of the growing hazards of postponement, I have taken the incipient steps for executing the task; and the expediency of not risking an ultimate failure is suggested by the Albany publication, from the notes of a N. York member of the Convention. I have not seen more of the volume than has been extracted into the newspapers; but it may be inferred from these samples, that it is not only a very mutilated but a very erroneous edition of the matter to which it relates. There must be an entire omission, also, of the proceedings of the latter period of the session, from which Mr. Yates and Mr. Lansing withdrew in the temper manifested by their report to their constituents; the period during which the variant and variable opinions converged and centered in the modifications seen in the final act of the body.

Writings of Madison, Volume 3: 1816-1828, p.229

It is my purpose now to devote a portion of my time to an exact digest of the voluminous materials in my hands. How long a time it will require, under the interruptions and avocations which are probable, I cannot easily conjecture: not a little will be necessary for the mere labour of making fair transcripts. By the time I get the whole into a due form for preservation, I shall be better able to decide on the question of publication. As to the particular place or press, should this be the result, I have not, as must be presumed, turned a thought to either. Nor can I say more now than that your letter will be kept in recollection, and that should any other arrangement prevail over its object, it will not proceed from any want of confidence, esteem, or friendly dispositions; of all which I tender you sincere assurances.

To Thomas Jefferson.

MONTPELLIER, Septr 20, 1821.

Writings of Madison, Volume 3: 1816-1828, p.229

DEAR SIR,—I received yesterday yours of the 16th, inclosing the paper from Mr. Ticknor on the tax imposed on books imported. He has taken a very comprehensive and judicious view of the subject. The remark you add to it is a proper one also; that books, being a permanent property, ought not to be taxed whilst other permanent property is exempt, both in the acquisition and possession.

Writings of Madison, Volume 3: 1816-1828, p.230

I have always considered the tax in question as an impolitic and disreputable measure; as of little account in point of revenue; and as a sacrifice of intellectual improvement to mechanical profits. These two considerations, however, produced the tax, and will be the obstacles to its removal. Of the precise amount it yields to the revenue, I have no knowledge. It cannot, I presume, be such as to weigh, even in the present difficulties of the Treasury, against the arguments for its discontinuance. If the fiscal consideration is to prevail, a better course would be to substitute an equivalent advance on some other articles imported. As to the encouragement of the book printers, their interest might be saved in the mode suggested by Mr. Ticknor, by a continuance of the tax on books republished within a specified time. And perhaps the encouragement is recommended by the interests of literature, as well as by the advantage of conciliating an active and valuable profession; reprinted books being likely to obtain a greater number of purchasers and readers, especially when rounded on previous subscriptions, than would seek for or purchase imported originals. As I approve, therefore, the general object of the Northern literati, I should prefer, at the same time, a modification of it in favor of republishers. I see no adequate reason for distinguishing between English and other books, whether in modern or ancient languages. If it were possible to define such as would fall under the head of luxurious or demoralizing amusements, there might be a specious plea for their exception from the repeal; but besides the impracticability of the discrimination, it would invoke a principle of censorship which puts at once a veto on it.

Writings of Madison, Volume 3: 1816-1828, p.230

The proposed concert among the learned institutions in presenting the grievance to Congress, would seem to afford the best hope of success in drawing their favorable attention to it. A captious or fastidious adversary may, perhaps, insinuate that the proper petitioners for redress are those who feel the grievance, not those who are exempt from it; that the latter assume the office of counsellors, under the name of petitioners; and that from Corporate bodies, above all, a combination of them, the precedent ought to be regarded with a jealous eye. The motives of modesty which would doubtless be stamped on the face of the interposition in this case will be the best answer to such objections; or, if there should be any serious apprehension of danger from them, the auxiliary expedient you suggest, of addressing the respective representatives, instead of Congress, might be made a substitute, instead of an auxiliary. I should suppose that our University would not withhold their concurrence in either or both modes. In that of addressing the particular representatives in Congress, there could be no room for hesitation. Mr. Ticknor's wishes for information as to the other Institutions in Virginia, and to the South and West, proper to be invited into the plan, you can satisfy as well without as with my attempt [to] enumerate them. The members of Congress most proper to be engaged in the cause could be best selected on the spot, where, I presume, some well-chosen agent or agents, none better than Mr. Ticknor himself, will be provided in the quarter giving birth to the experiment.

Writings of Madison, Volume 3: 1816-1828, p.231

These are hasty thoughts, but I send them in compliance with your request of an immediate answer. Take them for what they are worth only.

To John Drayton.

MONTPELLIER, September 23d, 1821.

Writings of Madison, Volume 3: 1816-1828, p.231

DR SIR,—I have duly received the copy of your Memoirs, which you were so good as to send me. Be pleased to accept my thanks for it. I have looked sufficiently into the work to be sensible of its value, not only to those who take an immediate interest in local details, but as a contribution, also, to the fund of materials for a general history of the American Revolution. Every incident connected with this great and pregnant event is already an object of patriotic curiosity, and will be rendered by the lapse of time more and more so. It is much to be desired that the example you have given be followed in all the States, by individuals who unite with industry and opportunities the requisite judgment and impartiality. Besides the more general obligation to engage in the task, a special one will be found in the occasions for doing justice to individual merits, which might otherwise escape the historical tribute due to them.

To Albert Picket and Others.

SEPTEMBER —, 1821.

Writings of Madison, Volume 3: 1816-1828, p.232

GENTLEMEN,—I have received your letter of ——, asking my opinion as to the establishment of a female college, and a proper course of instruction in it.

Writings of Madison, Volume 3: 1816-1828, p.232

The importance of both these questions, and the novelty of the first, would require more consideration than is allowed by other demands on my time, if I were better qualified for the task, or than is permitted, indeed, by the tenor of your request, which has for its object an early answer.

Writings of Madison, Volume 3: 1816-1828, p.232

The capacity of the female mind for studies of the highest order cannot be doubted, having been sufficiently illustrated by its works of genius, of erudition, and of science. That it merits an improved system of education, comprising a due reference to the condition and duties of female life, as distinguished from those of the other sex, must be as readily admitted. How far a collection of female students into a public seminary would be the best of plans for educating them, is a point on which different opinions may be expected to arise. Yours, as the result of much observation on the youthful minds of females, and of long engagement in tutoring them, is entitled to great respect; and as experiment alone can fully decide the interesting problem, it is a justifiable wish that it may be made; and it could not, as would appear, be made under better auspices than such as yours.

To Littell & Henry.

OCTR 18, 1821.

Writings of Madison, Volume 3: 1816-1828, p.233

GENTLEMEN,—I duly received your letter of September 24. The answer it requests has been delayed by an indisposition, from which I am just recovered.

Writings of Madison, Volume 3: 1816-1828, p.233

I very cheerfully express my approbation of the proposed edition of Blackstone's Commentaries, accompanied by a comparative view of the laws of the United States and of the several States.

Writings of Madison, Volume 3: 1816-1828, p.233

Such a work, executed with the ability to be presumed in its authors, must be very useful in several respects. It will be so not only to the Bench and the Bar, but to the citizens generally, by facilitating to those of each State a knowledge of the laws of the others, in which the intercourses of business give them an interest. Nor will a comparison of the different Codes be without value to the legislator, also, who will be able to extract whatever improvements may be found in the examples before him. And it may well be supposed that there are few of the different codes which do not contain something worthy of adoption, as well as something requiring amendment. Finally, such a work will have a tendency to assimilate gradually the codes of all the States on subjects not merely local; to assimilate them, too, according to a model formed by a selection of the best parts and features of each.

Writings of Madison, Volume 3: 1816-1828, p.233

The people of the United States federal association have now the same Constitution, and the same code of laws. A uniformity among the State codes would extend the advantage, without violating the Constitutional separation, jurisdiction, and independence of the States themselves.

Writings of Madison, Volume 3: 1816-1828, p.233

Should it be an object with the compilers to include in their review of the State laws observations on the practical advantages and inconveniences of such as differ in different States, it will not a little enrich the instruction they are about to give to their Country; and, indeed, to all who make the science of legislation their study.

To Thomas Jefferson.

MONTPELLIER, Novr 10, 1821.

Writings of Madison, Volume 3: 1816-1828, p.234

DEAR SIR,—I return the several papers which accompanied yours of the 30th ult. I have interlined with a pencil, for your consideration, a very slight change in the petition to Congress, and another in the Report to the President and Directors of the Literary Fund. The first is intended to parry objections from the reprinters of foreign books, by a phraseology not precluding exceptions in their favour. The exceptions can be made without injury to the main object; and although not necessary for the protection of the American editions, the greater cheapness here being a sufficient one, will probably be called for by the patrons of domestic industry. I find that, besides the few classics for schools and popular works, others of solid value continue to be republished in the Northern cities. The other interlineation suggests the objects, other than the library, to be provided for in the pantheon. It will aid in accounting for the estimated cost, and may otherwise mitigate difficulties.

Writings of Madison, Volume 3: 1816-1828, p.234

The view you take of the question of commencing the library and trusting to the alternative with the Legislature, will claim for it a fair consideration with the visitors. I shall endeavour to be with you at the time you have fixed for their meeting.

To Richard Rush.

NOVR 20, 1821.

Writings of Madison, Volume 3: 1816-1828, p.234

DR SIR,—I have been for some time a debtor for your favor of June 21, which was accompanied by the "Apocryphal New Testament." Accept my thanks for both.

Writings of Madison, Volume 3: 1816-1828, p.234

I have not yet seen any notice in this Country of Godwin's last work, nor has it been reviewed by any of the English critics who have fallen under my eye. I think with you, however, that it can scarcely fail to attract public attention. It merits a solid answer, and Malthus himself, challenged as he is, will be expected to give one. Our census is now completed, though I have not seen the precise result. The number it adds to our population, that is, according to Mr. Godwin, the number of emigrants from Europe, of constitutions more than ordinarily robust, will put the ingenious author to new difficulties in finding transports and prolific pairs to account for the phenomenon. The increase of the blacks, also, where neither emigration nor importation can be pretended, is another hard nut for him to crack.

Writings of Madison, Volume 3: 1816-1828, p.235

I observe in the quarterly list of new publications in England for Decr, 1820, "Classical excursions from Rome to ———— , by Charles Keilsall," for whom I troubled you with a letter, returned with a non est inventurs. The absence which produced this volume accounts for his not being then discoverable. As I wish to make to him the acknowledgments contained in the letter, and presume he will have got back to England, I take the liberty of replacing it in your hands, in the hope that it may now reach him. I must ask the favor of you, also, to procure for me a copy of his recent publication.

Writings of Madison, Volume 3: 1816-1828, p.235

We have seen, not without some little disappointment, the latter developments of character in the Emperor Alexander. He is no longer the patron of the liberal ideas of the age, of the independence of nations, and of their relief from the burdens imposed by warlike establishments. What is the object of those gigantic armaments, which furnish motives or pretexts for imitation throughout Europe? Whether for conquest, or for interference against the people in their struggles for political reforms, they equally belye the professions which gave lustre to his name. What, too, must be thought of his having no scruples at stepping into the domestic quarrels of Naples against the people contending for their rights, and his scrupling to intermeddle in the domestic affairs of Turkey against the most atrocious of despotisms, wreaking its worst of cruelties on a people having peculiar claims to the sympathy of the Christian, as well as the civilized, world?

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Russia seems at present the great bug-bear of the European politicians on the land, as the British Leviathan is on the water. They are certainly both formidable powers at this time, and must always hold a high rank among the nations of Europe. I cannot but think, however, that the future growth of Russia and the stability of the British ascendency are not a little overrated. Without a civilization of the hordes nominally extending the Russian dominion over so many latitudes and longitudes, they will add little to her real force, if they do not detract from it; and in the event of their civilization, and consequent increase, the overgrown empire, as in so many preceding instances, must fall into separate and independent States. With respect to G. Britain, her overbearing power is derived from the vast extent of her manufactures and of her commerce, which furnish her naval resources. But as other nations infuse free principles into their Governments, and extend the policy they are adopting of doing for themselves what G. Britain has been allowed to do for them, she will, like the Dutch, who once enjoyed a like ascendency on the same element, be reduced within her natural sphere.

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If my partiality as an American does not misguide my judgment, the trident will ultimately belong, not to the Eastern, but to the Western Hemisphere. It is in the latter, not the former, that the greater and more lasting fund of materials are found for constructing ships, and for bulky cargoes; and consequently for the employment of marines. With dispositions, therefore, on this side of the Atlantic to take advantage of the gifts of nature, corresponding with those on the other to make the most of factitious resources, the inference drawn seems an obvious one. I pray and hope, at the same time, that the trident may never be the symbol of lawless power in the new, as it has been in the old, world.

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The year past has been distinguished by much sickness throughout a great portion of the United States, though the mortality has not been very considerable, except in particular spots. Virginia has had a large share of the calamity, and this part of the State more than an equal one. In my own family the fever has been very severe. We are at present happily freed from it. It was of the typhoid character, and seemed to select for its visitations the more elevated and healthy, rather than the situations most subject to annual complaints. Its type has been most malignant, also, in the cold season.

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The year has been unfavorable, also, to the productions of our soil. In the States north of Maryland the wheat crops are said to be below the average, and in Maryland and Virginia the failure has been beyond example, occasioned by a very wet spring and continued rains during the harvest. The crops of maize, on the other hand, though not universally, are generally, good, and in this particular quarter uncommonly abundant. The crops of tobacco are somewhat deficient, I believe, every where; though better in the result than they were in the promise. Complaints are made, I observe, from the cotton country of scanty crops there also; but I cannot speak with certainty on that point. There are probably both truth and exaggeration in the reports. Though you are not on the list of either planters or farmers, the interest you feel as a good citizen in whatever concerns so great a portion of them, will render such agricultural notices not obtrusive.

To General La Fayette.

1821.

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I did not receive, my dear friend, your favor of July 1 till a few weeks ago. It came through the post office from N. York. Of Dr. Barba I have not heard a word. I shall keep in mind the title your recommendation gives to any marks of my attention for which opportunities may be afforded.

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I have read, with great pleasure, your opinion occasioned by the Budget. Sentiments so noble, in language so piercing, cannot be without effect. The deafness to them within doors will not prevent their being heard and felt without, and the present atmosphere of Europe is favorable to an echo of them every where. The toleration of such bold and severe truths is a proof that, although the time may not be arrived for their compleat triumph, it is approaching, and will be accelerated by such appeals to honest hearts and reflecting minds. Go on, my friend, in your consistent and magnanimous career; and may you live to witness and enjoy the success of a cause the most truly glorious that can animate the breast of man; that of elevating and meliorating the condition of his race. Representative and responsible Governments are so congenial with the rights and the feelings of all nations, that their progress cannot be arrested. Sooner or later they must expel despotism from the civilized world. Their forms will improve as experiments shall be multiplied. The experiment here cannot fail to add new lights on the science of constitutions.

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We have seen with regret, and not without some disappointment, the Emperor Alexander throwing himself into the breach in defence of arbitrary power against national reforms. His language at Laybach, his conduct towards Naples, and his unparalleled armaments, furnishing to some the motives, to others the pretexts, to follow the opposite example, forfeit his pretensions to be regarded as a patron of the liberal ideas of the age; as a guardian of the independence of Nations; and as a friend to the relief which peace ought to give the people from military burdens. How account, too, for his having no scruples to interfere in the domestic struggles of Naples in favor of a vitiated monarchy, and his pleading them against an interference in behalf of the Christian Greeks, struggling against the compound and horrible despotism at Constantinople? His apostasy, if he was ever sincere, is a conspicuous proof of the necessity of Constitutional barriers against the corrupting influence of unbridled power.

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I have lately been looking over De Pradt's Europe in 1819. He has taken many instructive views of its nations, with their mutual relations and prospects. His prophetic conjectures seem, however, to ascribe too much permanency to the gigantic growth of Russia on the land, and to the ascendency of G. Britain on the ocean. Without a civilization of the numerous hordes, spread over so many latitudes and longitudes, at present nominal rather than real subjects, the Russian power cannot be measured by the extent of her territory; and in the event of a civilization and consequent multiplicatibn of these barriers, her Empire, like that of all overgrown ones, must fall to pieces. Those of Alexander, of Rome, of Charlemagne, of Charles V, all experienced this fate, after the personal talents or temporary causes which held the parts together had ceased. Napoleon would have furnished another example if his fortune had equalled his ambition. His successor would have found a physical and moral impossibility of wielding either a sceptre or sword of more than a given length. The vast power of G. Britain rests on a basis too artificial to be permanent. She owes it not to the extent of her natural resources, but to the prosperity of her manufactures, her commerce, and her navigation. As other nations infuse salutary principles into their forms of Government, and extend the policy they are adopting, of doing for themselves what G. Britain has been permitted to do for them, her power, like that of the Dutch, who once enjoyed an artificial ascendency on the same element, will be reduced to the limits prescribed by nature. These are, undoubtedly, consistent with the rank of a great and important member of the society of nations. Nor will Russia fail to continue a great Power; though without the overwhelming accumulation of means assigned [ascribed?] to her destiny.

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Will you indulge my partiality as an American in remarking, that, in looking forward to the comparative resources for naval ascendency, the trident will ultimately belong not to the Eastern but to the Western Hemisphere? Naval power depends on ships and seamen; and these on the materials for constructing the former, and the bulky and coveted products for loading them. On which side will there be the greatest and most durable abundance for both purposes? And can it be supposed that there will be less disposition on this than there has been on the other side of the Atlantic to take, at least, a fair advantage of the fortunate lot? I hope and pray that the trans-At-lantic example may not be followed beyond that limit.

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The negro slavery is, as you justly complain, a sad blot on our free country, though a very ungracious subject of reproaches from the quarter which has been most lavish of them. No satisfactory plan has yet been devised for taking out the stain. If an asylum could be found in Africa, that would be the appropriate destination for the unhappy race among us. Some are sanguine that the efforts of an existing Colonization Society will accomplish such a provision; but a very partial success seems the most that can be expected. Some other region must, therefore, be found for them as they become free and willing to emigrate. The repugnance of the whites to their continuance among them is founded on prejudices, themselves founded on physical distinctions, which are not likely soon, if ever, to be eradicated. Even in States, Massachusetts for example, which displayed most sympathy with the people of colour on the Missouri question, prohibitions are taking place against their becoming residents. They are every where regarded as a nuisance, and must really be such as long as they are under the degradation which public sentiment inflicts on them. They are at the same time rapidly increasing from manumissions and from off-springs, and of course lessening the general disproportion between the slaves and the whites. This tendency is favorable to the cause of a universal emancipation.

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The state of our Country is, in other respects, highly flattering. There have been pecuniary difficulties in the Government, and still more among the people; but they are curing themselves. Little eddies also occasionally arise, which, for a moment, ruffle the political surface, but they gradually sink into the general calm. Every thing, as yet, favors the principle of self-Government on which our destinies are staked.

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I am glad to find you retain so feelingly all your American recollections, even the little itinerant scenes in which we were associated; and that you cherish the idea of giving your friends here an opportunity of once more embracing you. God forbid that your visit should result from one of the causes you glance at! Happen it how it may, you will find that they have forgotten nothing of what always endeared you to their best feelings; and that this is more true of no one than of your cordial and steadfast friend.

To George Joy.

MONTPELLIER, NOVR 21, 1821.

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DEAR SIR,—I have not forgotten your favor of Feby last, though I am so tardy in acknowledging it. The truth is, I find, as generally happens, that age is daily increasing my disinclination to use the pen, as it possibly may, though I am less sensible of it, an inclination for the other mode of communicating our thoughts. I might find an apology, also, in a very afflicting fever of the typhoid character, which has been constantly in my family for a year past, and from which I did not escape myself. I should, nevertheless, have not failed to answer that part of your letter which called for my aid in procuring (for I did not possess) a newspaper copy of your "Conciliator," if I could have procured one. I give you the answer of Mr. Gales to my application on the subject in his own words: "I much regret that it is wholly out of my power to oblige Mr. Joy. Admiral Cockburn, when he paid his respects to us, took care to leave us no spare copies of the National Intelligencer, having burnt them, with the few books I had at that time collected." In writing to Mr. Gales, I took occasion to hand over to him the newspapers you were so good as to send me. Whether he republished any thing from them, I cannot say. If he did not, it was probably owing to the crowd of matter which his paper experiences, and to the decreasing interest taken by his readers in what occurs abroad, as the importance increases in their eyes of what occurs at home. Heretofore, every incident in the great nations of Europe, especially in G. Britain, awakened a lively curiosity in the public here; and this tendency still exists in a considerable degree. It is, however, becoming less and less; as, on the other hand, what passes here is understood to be more and more an object of attention abroad. This is a natural consequence of the change going on in the relative growth of this Country. If it should continue to prosper till it reaches a population, which self-love predicts, of 60 or 70 millions, the scene will be reversed; and the eyes of England will be as much turned toward the United States as the eyes of the latter have been towards her, and their eyes as little towards her as hers have been towards them. This is a light in which the people of G. Britain are too proud to view the future, and the people of this country too vain, if that be the epithet, not to regard it.

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I did not send Mr. Gales the newspapers without looking over the speech of your nephew in one of them. I will not say that your criticisms might not have improved it; but it is a specimen of talents which promise to do well without your or any other aid. I can say nothing of the work of Mr. Tudor, not having had an opportunity of looking into it. From the general commendations bestowed on it, and the literary reputation of the author, I cannot doubt that it merits all you say of it.

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We had a very wet harvest throughout a greater portion of our wheat country, as appears to have been the case in G. Britain. There is a surplus here, however, which would gladly supply the deficiency there; and the supply would be as welcome there, I presume, as here, if the question were to be decided by the manufacturers instead of agriculturists. Whilst the prohibitory laws continue, the effect must be an increase of ploughs on that side, and of looms on this.

To F. L. Schaeffer.

MONTPELLIER, Decr 3d, 1821.

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REVD SIR,—I have received, with your letter of November 19th, the copy of your address at the ceremonial of laying the corner-stone of St Matthew's Church in New York.

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It is a pleasing and persuasive example of pious zeal, united with pure benevolence, and of cordial attachment to a particular creed, untinctured with sectarian illiberality. It illustrates the excellence of a system which, by a due distinction, to which the genius and courage of Luther led the way, between what is due to Caesar and what is due to God, best promotes the discharge of both obligations. The experience of the United States is a happy disproof of the error so long rooted in the unenlightened minds of well-meaning Christians, as well as in the corrupt hearts of persecuting usurpers, that without a legal incorporation of religious and civil polity, neither could be supported. A mutual independence is found most friendly to practical Religion, to social harmony, and to political prosperity.

Writings of Madison, Volume 3: 1816-1828, p.243

In return for your kind sentiments, I tender assurances of my esteem and my best wishes.

To John G. Jackson.

MONTPELLIER, Decr 27, 1821.

Writings of Madison, Volume 3: 1816-1828, p.243

DEAR SIR,—Your favor of the 9th came safe to hand a few days ago only; and the usages of the season, with some additional incidents, have not allowed me time for more promptly acknowledging its friendly contents.

Writings of Madison, Volume 3: 1816-1828, p.243

You were right in supposing that some arrangement of the mass of papers accumulated through a long course of public life, would require a tedious attention after my final return to a private station. I regret to say, that concurring circumstances have essentially interfered with the execution of the task. Becoming every day more and more aware of the danger of a failure from delay, I have at length set about it in earnest; and shall continue the application as far as health and indispensable avocations will permit.

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With respect to that portion of the mass which contains the voluminous proceedings of the Convention, it has always been my intention that they should, some day or other, see the light. But I have always felt, at the same time, the delicacy attending such a use of them; especially at an early season. In general, I have leaned to the expediency of letting the publication be a posthumous one. The result of my latest reflections on the subject I cannot more conveniently explain than by the inclosed extract from a letter,\* confidentially written since the appearance of the proceedings of the Convention, as taken from the notes of Chief Justice Yates.

Writings of Madison, Volume 3: 1816-1828, p.244

Of this work I have not yet seen a copy. From the scraps thrown into the newspapers, I cannot doubt that the prejudices of the author guided his pen, and that he has committed egregious errors, at least, in relation to others as well as myself.

Writings of Madison, Volume 3: 1816-1828, p.244

That most of us carried into the Convention a profound impression, produced by the experienced inadequacy of the old Confederation, and by the monitory examples of all similar ones, ancient and modern, as to the necessity of binding the States together by a strong Constitution, is certain. The necessity of such a Constitution was enforced by the gross and disreputable inequalities which had been prominent in the internal administrations of most of the States. Nor was the recent and alarming insurrection, headed by Shays, in Massachusetts, without a very sensible effect on the public mind. Such, indeed, was the aspect of things, that, in the eyes of all the best friends of liberty, a crisis had arrived which was to decide whether the American experiment was to be a blessing to the world, or to blast forever the hopes which the republican cause had inspired; and what is not to be overlooked, the disposition to give to a new system all the vigour consistent with Republican principles was not a little stimulated by a backwardness in some quarters towards a Convention for the purpose, which was ascribed to a secret dislike to popular Government, and a hope that delay would bring it more into disgrace, and pave the way for a form of Government more congenial with monarchical or aristocrat-ical predilections.

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This view of the crisis made it natural for many in the Convention to lean more than was, perhaps, in strictness, warranted by a proper distinction between causes temporary, as some of them doubtless were, and causes permanently inherent in popular frames of Government. It is true, also, as has been sometimes suggested, that in the course of discussions in the Convention, where so much depended on compromise, the patrons of different opinions often set out on negotiating grounds more remote from each other than the real opinions of either were from the point at which they finally met.

Writings of Madison, Volume 3: 1816-1828, p.245

For myself, having, from the first moment of maturing a political opinion down to the present one, never ceased to be a votary of the principle of self-government, I was among those most anxious to rescue it from the danger which seemed to threaten it; and with that view, was willing to give to a Government resting on that foundation as much energy as would insure the requisite stability and efficacy. It is possible, that in some instances this consideration may have been allowed a weight greater than subsequent reflection within the Convention, or the actual operation of the Government, would sanction. It may be remarked, also, that it sometimes happened, that opinions as to a particular modification or a particular power of the Government had a conditional reference to others, which, combined therewith, would vary the character of the whole.

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But whatever might have been the opinions entertained in forming the Constitution, it was the duty of all to support it in its true meaning, as understood by the nation at the time of its ratification. No one felt this obligation more than I have done; and there are few, perhaps, whose ultimate and deliberate opinions on the merits of the Constitution accord in a greater degree with that obligation.

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The departures from the true and fair construction of the instrument have always given me pain, and always experienced my opposition when called for. The attempts in the outset of the Government to defeat those safe, if not necessary, and those politic, if not obligatory, amendments introduced in conformity to the known desires of the body of the people, and to the pledges of many, particularly myself, when vindicating and recommending the Constitution, was an occurrence not a little ominous. And it was soon followed by indications of political tenets, and by rules, or rather the abandonment of all rules, of expounding it, which were capable of transforming it into something very different from its legitimate character as the offspring of the national will. I wish I could say that constructive innovations had altogether ceased.

Writings of Madison, Volume 3: 1816-1828, p.246

Whether the Constitution, as it has divided the powers of Government between the States in their separate and in their united capacities, tends to an oppressive aggrandizement of the General Government, or to an anarchical independence of the State Governments, is a problem which time alone can absolutely determine. It is much to be wished that the division as it exists, or may be made with the regular sanction of the people, may effectually guard against both extremes; for it cannot be doubted that an accumulation of all power in the General Government would as naturally lead to a dangerous accumulation in the Executive hands, as that the resumption of all power by the several States would end in the calamities incident to contiguous and rival Sovereigns; to say nothing of its effect in lessening the security for sound principles of administration within each of them.

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There have been epochs when the General Government was evidently drawing a disproportion of power into its vortex. There have been others, when States threatened to do the same. At the present moment, it would seem that both are aiming at encroachments, each on the other. One thing, however, is certain: that in the present condition and temper of the community, the General Government cannot long succeed in encroachments contravening the will of a majority of the States and of the people. Its responsibility to these would, as was proved on a conspicuous occasion, quickly arrest its career. If, at the same time, the powers of the General Government be carried to unconstitutional lengths, it will be the result of a majority of the States and of the people, actuated by some impetuous feeling, or some real or supposed interest, overruling the minority, and not of successful attempts by the General Government to overpower both.

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In estimating the greater tendency in the political system of the Union to a subversion, or to a separation of the States composing it, there are some considerations to be taken into the account which have been little adverted to by the most oracular authors on the science of Government, and which are but imperfectly developed, as yet, by our own experience. Such are the size of the States, the number of them, the territorial extent of the whole, and the degree of external danger. Each of these, I am persuaded, will be found to contribute its impulse to the practical direction which our great political machine is to take.

Writings of Madison, Volume 3: 1816-1828, p.247

We learn, for the first time, the second loss sustained by your parental affection. You will not doubt the sincerity with which we partake the grief produced by both. I wish we could offer better consolations than the condoling expressions of it. These must be derived from other sources. Afflictions of every kind are the onerous conditions charged on the tenure of life; and it is a silencing, if not a satisfactory, vindication of the ways of Heaven to man, that there are but few who do not prefer an acquiescence in them to a surrender of the tenure itself.

Jonathan Bull and Mary Bull.

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JONATHAN BULL and Mary Bull, who were descendants of old John Bull, the head of the family, had inherited contiguous estates in large tracts of land. As they grew up and became well acquainted, a partiality was mutually felt, and advances on several occasions made towards a matrimonial connexion. This was particularly recommended by the advantage of putting their two estates under a common superintendence. Old Bull, however, as guardian of both, and having long been allowed certain valuable privileges within the estates, with which he was not long content, had always found the means of breaking off the match, which he regarded as a fatal obstacle to his secret design of getting the whole property into his own hands.

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At a moment favorable, as he thought, for the attempt, he brought suit against both, but with a view of carrying it on in a way that would make the process bear on the parties in such different modes, times, and degrees, as might create a jealousy and discord between them. Jonathan and Mary had too much sagacity to be duped. They understood well old Bull's character and situation. They knew that he was deeply versed in all the subtleties of the law; that he was of a stubborn and persevering temper; and that he had, moreover, a very long purse. They were sensible, therefore, that the more he endeavored to divide their interests and their defence of the suit, the more they ought to make a common cause and proceed in a concert of measures. As this could best be done by giving effect to the feelings long entertained for each other, an intermarriage was determined on and solemnized, with a deed of settlement, as usual in such opulent matches, duly executed; and no event certainly of the sort was ever celebrated by a greater fervor or variety of rejoicings among the respective tenants of the parties. They had a great horror of falling into the hands of old Bull, and regarded the marriage of their proprietors, under whom they held their freeholds, as the surest mode of warding off the danger. They were not disappointed. United purses and good advocates compelled old Bull, after a hard struggle, to withdraw the suit, and relinquish forever, not only the new pretensions he had set up, but the old privileges he had been allowed.

Writings of Madison, Volume 3: 1816-1828, p.250

The marriage of Jonathan and Mary was not a barren one. On the contrary, every year or two added a new member to the family; and on such occasions the practice was to set off a portion of land sufficient for a good farm, to be put under the authority of the child on its attaining the age of manhood. And these lands were settled very rapidly by tenants going, as the case might be, from the estates, sometimes of Jonathan, sometimes of Mary, and sometimes partly from one and partly from the other.

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It happened that at the expiration of the nonage of the tenth or eleventh fruit of the marriage some difficulties were started concerning the rules and conditions of declaring the young party of age, and of giving him, as a member of the family, the management of his patrimony. Jonathan became possessed with a notion that an arrangement ought to be made that would prevent the new farm from being settled and cultivated, as in all the latter instances, indiscriminately by persons removing from his and Mary's estate, and confine this privilege to those going from his own; and in the perverse humor which had seized him, he listened, moreover, to suggestions that Mary had some undue advantage from the selections of the head stewards, which happened to have been made much oftener out of her tenants than his.

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Now the prejudice suddenly taken up by Jonathan against the equal right of Mary's tenants to remove with their property to new farms, was connected with a peculiarity in Mary's person not as yet noticed. Strange as it may appear, the circumstance is not the less true, that Mary, when a child, had unfortunately received from a certain African dye a stain on her left arm, which had made it perfectly black, and withal somewhat weaker than the other arm. The misfortune arose from a ship from Africa, loaded with the article, which had been permitted to enter a river running through her estate, and dispose of a part of the noxious cargo. The fact was well known to Jonathan at the time of their marriage, and if felt as an objection, it was, in a manner, reduced to nothing, by the comely form and pleasing features of Mary in every other respect, by her good sense and amiable manners, and in part, perhaps, by the large and valuable estate she brought with her.

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In the unlucky fit, however, which was upon him, he looked at the black arm, and forgot all the rest. To such a pitch of feeling was he wrought up, that he broke out into the grossest taunts on Mary for her misfortune, not omitting, at the same time, to remind her of his long forbearance to exert his superior voice in the appointment of the head steward. He had now, he said, got his eyes fully opened; he saw every thing in a new light, and was resolved to act accordingly. As to the head steward, he would let her see that the appointment was virtually in his power, and she might take her leave of all chance of ever having another of her tenants advanced to that station; and as to the black arm, she should, if the color could not be taken out, either tear off the skin from the flesh, or cut off the limb; for it was his fixed determination that one or other should be done, or he would sue out a divorce, and there should be an end of all connexion between them and their estates. I have, he said, examined well the marriage settlement, and flaws have been pointed out to me, that never occurred before, by which I shall be able to set the whole aside. White as I am all over, I can no longer consort with one marked with such a deformity as the blot on your person.

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Mary was so stunned with the language she heard, that it was some time before she could speak at all; and as the surprise abated, she was almost choked with the anger and indignation swelling in her bosom. Generous and placable as her temper was, she had a proud sensibility to what she thought an unjust and degrading treatment, which did not permit her to suppress the violence of her first emotions. Her language accordingly for a moment was such as these emotions prompted. But her good sense, and her regard for Jonathan, whose qualities as a good husband she had long experienced, soon gained an ascendency, and changed her tone to that of sober reasoning and affectionate expostulation.

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"Well, my dear husband, you see what a passion you have put me into. But it is now over, and I will endeavor to express my thoughts with the calmness and good feelings which become the relation of wife and husband.

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"As to the case of providing for our child just coming of age, I shall say but little. We both have such a tender regard for him, and such a desire to see him on a level with his brethren as to the chance of making his fortune in the world, that I am sure the difficulties which have occurred will in some way or other be got over.

Writings of Madison, Volume 3: 1816-1828, p.252

"But I cannot pass so lightly over the reproaches you cast on the color of my left arm, and on the more frequent appointment of my tenants than of yours to the head stewardship of our joint estates.

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"Now, as to the first point, you seem to have forgotten, my worthy partner, that this infirmity was fully known to you before our marriage, and is proved to be so by the deed of settlement itself. At that time you made it no objection whatever to our union; and, indeed, how could you urge such an objection, when you were conscious that you yourself were not entirely free from a like stain on your own person? The fatal African dye, as you well know, had found its way into your abode as well as mine; and at the time of our marriage, you had spots and specks scattered over your body as black as the skin on my arm. And although you have, by certain abrasions and other applications, taken them in some measure out, there are visible remains which ought to soften at least your language when reflecting on my situation. You ought surely, when you have so slowly and imperceptibly relieved yourself from the mortifying stain, although the task was comparatively so easy, to have some forbearance and sympathy with me, who have a task so much more difficult to perform. Instead of that, you abuse me as if I had brought the misfortune on myself, and could remove it at will; or as if you had pointed out a ready way to do it, and I had slighted your advice. Yet, so far is this from being the case, that you know as well as I do that I am not to be blamed for the origin of the sad mishap; that I am as anxious as you can be to get rid of it; that you are as unable as I am to find out a safe and feasible plan for the purpose; and, moreover, that I have done every tiring I could, in the mean time, to mitigate an evil that cannot as yet be removed. When you talk of tearing off the skin, or cutting off the unfortunate limb, must I remind you, of what you cannot be ignorant, that the most skilful surgeons have given their opinions that if so cruel an operation were to be tried, it could hardly fail to be followed by a mortification, or a bleeding to death? Let me ask, too, whether, should neither of the fatal effects ensue, you would like me better in my mangled or mutilated condition than you do now? And when you threaten a divorce and an annulment of the marriage settlement, may I not ask whether your estate would not suffer as much as mine by dissolving the partnership between them? I am far from denying that I feel the advantage of having the pledge of your arm, your stronger arm, if you please, for the protection of me and mine; and that my interests, in general, have been, and must continue to be, the better for your aid and counsel in the management of them. But, on the other hand, you must be equally sensible that the aid of my purse will have its value, in case old Bull, or any other such litigious fellow, should put us to the expense of another tedious lawsuit. And now that we are on the subject of loss and gain, you will not be offended if I take notice of a report that you sometimes insinuate that my estate, according to the rates of assessment, does not pay its due share into the common purse. I think, my dear Jonathan, that if you ever entertained this opinion, you must have been led into it by a very wrong view of the subject. As to the direct income from rents, there can be no deficiency on my part there; the rule of apportionment being clear, and founded on a calculation by numbers. And as to what is raised from the articles bought and used by my tenants, it is difficult to conceive that my tenants buy or use less than yours, considering that they carry a greater amount of crops to market, the whole of which, it is well known, they lay out in articles from the use of which the bailiff regularly collects the sum due. It would seem, then, that my tenants, selling more, buy more; buying more, use more; and using more, pay more. Meaning, however, not to put you in the wrong, but myself in the right, I do not push the argument to that length; because I readily agree that in paying for articles bought and used, you have, beyond the fruits of the soil, on which I depend, ways and means which I have not. You draw chiefly the interest we jointly pay for the funds we were obliged to borrow for the fees and costs the suit of old Bull put us to. Your tenants also turn their hands so ingeniously to a variety of handicraft and other mechanical productions, that they make not a little money from that source. Besides all this, you gain much by the fish you catch and carry to market; by the use of your teams and boats, in transporting and trading on the crops of my tenants; and, indeed, in doing that sort of business for strangers also. This is a fair statement on your side of the account, with the drawback, however, that as your tenants are supplied with a greater proportion of articles, made by themselves, than is the case with mine, the use of which articles does not contribute to the common purse, they avoid, in the same proportion, the payments collected from my tenants. If I were to look still further into this matter, and refer you to every advantage you draw from the union of our persons and property, I might remark that the profits you make from your teams and boats, and which enable you to pay your quota, are in great part drawn from the preference they have in conveying and disposing of the products of my soil—a business that might fall into other hands in the event of our separation. I mention this, as I have already said, not by way of complaint, for I am well satisfied that your gain is not altogether my loss in this, more than in many other instances; and that what profits you immediately, may profit me also in the long run. But I will not dwell on these calculations and comparisons of interest, which you ought to weigh as well as myself, as reasons against the measure to which you threaten a resort. For when I consult my own heart, and call to mind all the endearing proofs you have given of yours being in sympathy with it, I must needs hope that there are other tics than mere interest to prevent us from ever suffering a transient resentment on either side, with or without cause, to bring on both all the consequences of a divorce—consequences, too, which would be a sad inheritance, indeed, for our numerous and beloved offspring.

Writings of Madison, Volume 3: 1816-1828, p.255

"As to the other point, relative to the head stewards, I must own, my worthy husband, that I am altogether at a loss for any cause of dissatisfaction on your part, or blame on mine. It is true, as you say, that they have been oftener taken from among my tenants than yours; but, under other circumstances, the reverse might as well have happened. If the individuals appointed had made their way to the important trust by corrupt or fallacious means; if they had been preferred merely because they dwelt on my estate, or had succeeded by any interposition of mine contrary to your inclination; or, finally, if they had administered the trust unfaithfully, sacrificing your interests to mine, or the interests of both to selfish or to unworthy purposes; in any of these cases you would have ground for your complaints. But I know, Jonathan, that you are too just and too candid not to admit that no such ground exists. The head stewards in question could not have been appointed without your own participation as well as mine. They were recommended to our joint choice by the reputed fairness of their characters; by their tried fidelity and competency in previous trusts; and by their exemption from all charges of impure and grasping designs. And so far were they from being partial to my interest at the expense of yours, that they were rather considered by my tenants as leaning to a management more favorable to yours than to mine. I need not say that I allude to the bounties, direct or indirect, to your teams and boats, to the hands employed in your fisheries, and the looms and other machineries, which, without such encouragements, would not be able to meet the threatened rivalships of interfering neighbors. I say, only, that these ideas were in the heads of some of my tenants. For myself, I should not have mentioned them, but as a defence against what I must regard as so unfounded a charge, that it ought not to be permitted to make a lasting impression.

Writings of Madison, Volume 3: 1816-1828, p.256

"But, laying aside all these considerations, I repeat, my dear Jonathan, that the appointment of the head steward lies as much, if not more, with you than with me. Let the choice fall where it may, you will find me faithfully abiding by it, whether it be thought the best possible one or not; and sincerely wishing that he may equally improve better opportunities of serving us both than was the lot of any of those who have gone before him."

Writings of Madison, Volume 3: 1816-1828, p.256

Jonathan, who had a good heart as well as a sound head and steady temper, was touched with this tender and considerate language of Mary, and the bickering which had sprung up ended, as the quarrels of lovers always, and of married folks sometimes do, in an increased affection and confidence between the parties.

Writings of Madison, Volume 3: 1816-1828, p.256

LETTERS, ETC.

1822

To Henry R. Schoolcraft.

MONTPELLIER, Jany 22d, 1822.

Writings of Madison, Volume 3: 1816-1828, p.256

SIR,—I have received the copy of your Memoir on the fossil Tree, which you politely forwarded. Of the decisive bearing of this phenomenon on important questions in geology, I rely more on your judgment than my own.

Writings of Madison, Volume 3: 1816-1828, p.256

The present is a very inquisitive age, and its researches of late have been ardently directed to the primitive composition and structure of our Globe, as far as it has been penetrated, and to the processes by which succeeding changes have been produced. The discoveries already made are encouraging; but vast room is left for the industry and sagacity of geologists. This is sufficiently shewn by the opposite theories which have been espoused; one of them regarding water, another fire, as the great agent employed by nature in her work.

Writings of Madison, Volume 3: 1816-1828, p.256

It may well be expected that this hemisphere, which has been least explored, will yield its full proportion of materials towards a satisfactory system. Your zealous efforts to share in the contributions do credit to your love of truth and devotion to the cause of science. And I wish they may be rewarded with the success they promise, and with all the personal gratification to which they entitle you.

To Benjamin Romaine.

MONTPELLIER, Jany 26, 1822.

Writings of Madison, Volume 3: 1816-1828, p.256

DR SIR,—I have duly received the two pamphlets which followed your favor of the 11th instant. Not having critically examined, as you have done, the Constitution on foot, with an eye to a comparison with the existing one, or to its connexion with the Constitution of the United States, I cannot presume to speak of its merits or defects in either respect. I have indulged the reflection only, that it is propitious to the cause of self-government that the trying task of revising an established Constitution should have been so deliberately conducted, and so tranquilly concluded, by a body elected and acting in conformity to the freedom and forms of the popular system.

To Dr. Jesse Terry, Junr.

MONTPELLIER, Jany 30, 1822.

Writings of Madison, Volume 3: 1816-1828, p.258

SIR,—I have received your letter of the 15th, with a copy of "The Moral Instructor." Neither Mrs. M. nor myself have recollections which called for your apology. If there had been occasion for one, that offered would be more than sufficient.

Writings of Madison, Volume 3: 1816-1828, p.258

I have looked enough into your little volume to be satisfied that both the original and selected parts contain information and instruction which may be useful not only to juvenile, but most other readers. I must suggest for your consideration, however, whether, contrarily to what you suppose, the labor of part of the community, especially with the aids of machinery, may not be sufficient to provide the necessaries and plainest comforts of life for the whole, and, consequently, that the remaining part must either be supported in idleness or employed in producing superfluities, from the sale of which they may derive their own necessaries and comforts. It may deserve consideration, also, whether, by classing among noxious luxuries some articles of general, and, it would seem, innocent use, prejudices may not be excited [un] favorable to the reception and circulation of the book itself.

Writings of Madison, Volume 3: 1816-1828, p.258

Your plan of free libraries to be spread through the community does credit to your benevolent zeal. The trial of them in behalf of apprentices seems to have been justly approved, and to have had an encouraging success. As apprentices are generally found more together in particular spots than youths of other descriptions, such a provision can the more easily and effectually be made for them. For the same reason, these establishments may, without difficulty, be made accessible to others dwelling in towns who need them. In the country, the difficulties will be greater or less as the population is more or less sparse. Where it is the most so, the best efforts may fail. It is not to be forgotten, however, that every day is multiplying situations in which the obstacles will not be insuperable, and which consequently invite the philanthropic attention of which you have given examples. A tree of useful knowledge planted in every neighbourhood would help to make a paradise, as that of forbidden use occasioned the loss of one. And I wish you success in propagating the fruitful blessing.

To the Revd J. Morse.

FEBY 16, 1822.

Writings of Madison, Volume 3: 1816-1828, p.259

SIR,—I have received your letter of the, with the printed Constitution of a Society for the benefit of the Indians. Esteeming, as I do, the objects of the institution, I cannot decline the honorary relation to it which has been conferred on me, although good wishes be the only returns I shall be able to make.

Writings of Madison, Volume 3: 1816-1828, p.259

Beside the general motive of benevolence, the remnants of the tribes within our limits have special claims on our endeavours to save them from the extinction to which they are hastening, and from the vices which have been doubled by our intercourse with them. This cannot be done without substituting for the torpid indolence of wigwams and the precarious supplies of the chase the comforts and habits of civilized life. With the progress of these may be sown the elements of moral and intellectual improvement, which will either not be received into the savage mind, or be soon stifled by savage manners. The constitution of the society very properly embraces the object of gathering whatever information may relate to the opinions, the government, the social condition, &c., of this untutored race. Materials may thus be obtained for a just picture of the human character, as fashioned by circumstances which are yielding to others which must efface all the peculiar features of the original.

To Thomas Jefferson.

MONTPELLIER, March 5, 1822.

Writings of Madison, Volume 3: 1816-1828, p.260

DEAR SIR,—This is the first mail since I received yours of the 25 ult., which did not come to hand in time for an earlier answer, having lain a day or two at Orange Court House.

Writings of Madison, Volume 3: 1816-1828, p.260

Regarding the new society for the benefit of the Indians as limited to their civilization, an object laudable in itself, and taking for granted, perhaps too hastily, that the plan had not been formed and published without the sanction of the most respectable names on the spot; finding, moreover, that no act of incorporation from the Government was contemplated, I thought it not amiss to give the inclosed answer to Mr. Morse. In its principle, the association, though a great amplification, is analogous to that of the Academy of Languages and Belles-lettres.

Writings of Madison, Volume 3: 1816-1828, p.260

The project appears to me to be rather ostentations than dangerous. Those embraced by it are too numerous, too heterogeneous, and too much dispersed, to concentrate their views in any covert or illicit object; nor is the immediate object a sufficient cement to hold them long together for active purposes. The clergy, who may prove a great majority of the whole, and might be most naturally distrusted, are themselves made up of such repulsive sects that they are not likely to form a noxious confederacy, especially with ecclesiastical views.

Writings of Madison, Volume 3: 1816-1828, p.260

On a closer attention than I had given to the matter before I received your letter, I perceive that the organization of the Board of Directors is a just subject of animadversion. The powers vested in it may devolve on too few to be charged with the collection and application of the funds. As the proceedings, however, will be at the seat of Government, and under the eye of so many of every description of observers, there will be no little controul against abuses. It is pretty remarkable that Doctor Morse and one of his own name may be two-thirds of a majority of a Board. This person has, I believe, lately returned from some agency under the Government, along with Governor CasE, among the Northern tribes of Indians; which makes it the more probable that his present plans are in accord with the ideas of the War Department at least.

Writings of Madison, Volume 3: 1816-1828, p.261

Had I not written my answer, I should be led by my present view of the subject to suspend it till more should be known of this project, and particularly how far the high characters named, on the spot or elsewhere, had embarked in it. I find by a Gazette just received that a member of the Senate has denounced the project in very harsh terms. He is from a State, however, not distant from the Indians, and may have opinions and feelings on topics relating to them not common to the members of the Body.

To Edward Everett.

MONTPELLIER, March 9th, 1822.

Writings of Madison, Volume 3: 1816-1828, p.261

DEAR SIR—I have received, with your letter of February 14th, the volume on "Europe," for which I am indebted to the politeness of your brother and yourself. I have run through it with pleasure, and return my thanks to you both.

Writings of Madison, Volume 3: 1816-1828, p.261

The interior view which the writer takes of the institutions and situations of the several nations of Europe, furnishes more information of the valuable sort than I have any where found. Looking at every thing with an American eye, he has selected the facts and features most acceptable to American curiosity: and which are, in truth, most worthy of reflection there also. Some of his political speculations will not obtain the concurrence of all. Others cannot fail to do so. And no one can reject the evidence given of a capacity and spirit of observation on an enlarged scale. If there be not in some of the pages that condensation of ideas which often renders them the more lucid, as it always gives them more force, there is in others, to claim the apology offered by Pascal for the length of one of his Provencal letters, that he had not time to make it shorter.

To Joshua Gilpin.

MARCH 11, 1822.

Writings of Madison, Volume 3: 1816-1828, p.262

DR SIR,—Your favor of Feby 8, with the little volume on the Delaware and Chesapeake Canal, were so long on the way that they did not come to hand till a few days ago.

Writings of Madison, Volume 3: 1816-1828, p.262

I have not done more than look over the introductory memoir, which has been drawn up with great judgement, and in a manner well suited to its object.

Writings of Madison, Volume 3: 1816-1828, p.262

I am a great friend to canals, as a leading branch of those internal improvements which are a measure of the wisdom and source of the prosperity of every Country. Whenever the authority to make them is possessed, I wish it to be exercised; and to be given where it is not possessed and can be usefully exercised.

Writings of Madison, Volume 3: 1816-1828, p.262

The great canals which are going forward and contemplated in the United States will do them great credit, and I hope will have a salutary effect, by shewing the practicability, as well as value, of works of discouraging magnitude; and particularly by demonstrating how much good can be done at an expense so inconsiderable when compared with the sums wasted for unprofitable, or perverted to injurious, purposes. This reflection will express the praise which I regard as due to yourself and your associates for your persevering efforts in the undertaking so well explained and enforced in your memoir.

Writings of Madison, Volume 3: 1816-1828, p.262

Mrs. M. and myself are very sensible of your and Mrs. G.'s kindness in the invitation to your present residence. Whether we shall have the pleasure of expressing it on the spot or not, we shall not forget the mark of regard, and shall be happy in returning it by a cordial welcome at our farm, if your excursions should ever afford the opportunity.

To John Adlum.

APRIL 12, 1822.

Writings of Madison, Volume 3: 1816-1828, p.263

SIR,—I received some days ago the two copies of your memoir on the cultivation of the vine, with a bottle of your To-kay; and I have since received your letter enforcing the importance of making the vineyard an appertenance to American farms.

Writings of Madison, Volume 3: 1816-1828, p.263

The Memoir appears to merit well the public attention to which it is offered. It is so long since I tasted the celebrated wine whose name you have adopted, that my memory cannot compare its flavour with that of your specimen from an American grape. I am safe, I believe, in saying that the latter has an affinity to the general character of the good Hungarian wines, and that it can scarcely fail to recommend itself to discriminating palates.

Writings of Madison, Volume 3: 1816-1828, p.263

The practicability and national economy of substituting, to a great extent at least, for the foreign wines, on which so large a sum is expended, those which can be produced at home, without withdrawing labour from objects not better rewarding it, is strongly illustrated by your experiments and statements. The introduction of a native wine is not a little recommended, moreover, by its tendency to substitute a beverage favorable to temperate habits for the ardent liquors, so destructive to the morals, the health, and the social happiness of the American people; and, it may be added, which is so expensive to them also; for, besides the actual cost of the intoxicating draughts, the value of the time and strength consumed by them is of not less amount.

Writings of Madison, Volume 3: 1816-1828, p.263

I shall forward one of the copies of the Memoir, as you desire, to the Agricultural Society of Albemarle, to which your letter will also be communicated, that the members may have the benefit of the suggestions and remarks which it contains. Nothing seems to be wanting to an addition of a desirable article to our productions but decisive efforts; to which the patronage of the Agricultural Societies may contribute a seasonable stimulus.

To Richard Rush.

MONTPELLIER, May 1, 1822.

Writings of Madison, Volume 3: 1816-1828, p.264

DR SIR,—I have duly received your letter of March 6th, accompanied by the English pamphlet on "The state of the Nation." Keilsall's "Classical Excursion" had arrived some time before. For these several favors I give you many thanks.

Writings of Madison, Volume 3: 1816-1828, p.264

Having not received, at the date of my last, your favor of September 26, I take this occasion to thank you for that also, and for the accompanying Edinburgh Review. I owe particular attention to the paragraph which mentions the intended name for your new-born son. The friendly feelings from which alone the intention could spring correspond too much with my own not to give to such a mark of them its full value. The best wish I can form for the new-comer is, that he may inherit the virtues of his parents; and that if there has been anything desirable in the lot of his namesake, he may enjoy it without its drawbacks.

Writings of Madison, Volume 3: 1816-1828, p.264

I think, with you, that the Reviewer has handled too slightly the hollow theory of Mr. Godwin, and that the late census here must give the coup de grace to his Book, if it should not have previously died a natural death.

Writings of Madison, Volume 3: 1816-1828, p.264

Mr. Keilsall's Book, like his "Phantasm of a University," shews learned research, some originality of thought, and a pregnant fancy. His details relating to Cicero, and his Phantasm, as it may be called, of a monument to the fame of that orator and sage, will have an interest for his particular admirers, and be amusing to all who indulge a relish for Roman antiquities.

Writings of Madison, Volume 3: 1816-1828, p.264

I have run over the English pamphlet. There is in the workmanship of it a political sleight which sufficiently discloses an official band, or a hand furnished with official materials, and familiar with such a use of them. There is certainly in the publication much of the suppressio veri; I will not say how much of the suggestio falsi. The notice taken of the U. States is a proof that, if the British Government has not begun to love us, it feels the necessity of ceasing to disrespect us. It calls "cousin" as lavishly as we used to be stigmatized as the spawn of convicts and vagabonds. We can easily forgive them, however, because we never injured them, and shall meet them in every friendly sentiment, as well as in all the beneficial intercourse which may be authorized by the principle of reciprocity.

Writings of Madison, Volume 3: 1816-1828, p.265

I have not overlooked what you intimate in regard to Mr. Jefferson, who approaches his octogenary climacteric with a mens sana in corpore sano. The vigor of both is, indeed, very remarkable at his age. He bears the lamented failure of our Legislature to enable the University to go into immediate action with a philosophic patience, supported by a patriotic hope that a succeeding Representation of the people will better consult their interest and character. The University, (the germ of which was the Central College,) or the Academic Village, as it might be called, is prepared to receive ten Professors and 200 students; but the funds having been exhausted in the site and the buildings, no Professors even can be engaged without further aid from the public.

Writings of Madison, Volume 3: 1816-1828, p.265

I take for granted you receive, in official transmissions and in private correspondence, what is most interesting in the occurrences at Washington. The length and sterility of the session have attracted not a few animadversions on Congress. The remaining period, however, limited as it is, may bring forth something in answer to the latter charge. Whether it will be of a nature to mitigate or invigorate the former, is for the result to shew.

Writings of Madison, Volume 3: 1816-1828, p.265

Our Country, the Western parts of it particularly, is still labouring under fruits of pecuniary follies. The unfavorable exchange, which carries off the coin, is becoming, also, a fresh clog on the restorative policy. It has been made a question whether this evil be not the mere effect of a difference of value in the metals here and in G. Britain; but I suspect, notwithstanding the custom-house returns, that there is an excess of our imports over our exported products; and, I fear, this is a course of things not easily to be got entirely right. Much reliance is put by some on the substitution of domestic for foreign manufactures, as a radical and permanent remedy. But, however this might alleviate the malady of an unfavorable balance of trade, there would remain articles of luxury, not provided at home, for a consumption beyond the means of paying for it. And such are the habits of a great portion of our people, that they will not restrict their wants to their incomes, as long as they can borrow from banks or obtain credit with the vendors of merchandise. This indiscretion has, no doubt, a check within itself, and time may put an end to it; but, whilst it continues, it tends to keep the country behind hand in its foreign dealings; and, of course, to produce the embarrassments incident to drains of the precious metals. Although a nation exchanging necessary and useful articles for the luxuries of another has a manifest advantage in a contest of prohibitions and restrictions, the advantage may be reversed in a trade entirely free; inasmuch as the first articles supply wants that are limited; whilst luxuries are of more indefinite consumption, and the want of some of them as boundless as the fancy itself.

Writings of Madison, Volume 3: 1816-1828, p.266

The difficulties of the country have had another cause in a scanty harvest and low prices. The cotton planters have little ground for complaint. Nor have the tobacco planters much on the score of prices; which have made up, in a good degree, for the defect in the quantity and quality of the crop. But throughout the wheat country, southward of Pennsylvania, at least, the harvest, both in point of quantity and quality, was never known to be so deficient; nor has the market in anywise furnished a compensation. At this moment there is a reanimation of the demand for flour, occasioned by the expected renewal of the direct trade to the British West Indies, but there is so small a part unsold that the farming class will scarcely feel the benefit. It is too soon to speak positively of the prospects of the current year. In this quarter they are at present discouraging. The winter was a bad one for the wheat fields; and the fly has commenced its ravages with an activity that will be very fatal, if the weather should continue dry for 8 or 10 days. In Maryland, I learn that the wheat fields wear a dismal aspect, in consequence of the unfavorable season. Whether, and in what extent, the ruin is augmented by the insect, I have no information. Of the States farther North I can say nothing.

To President Monroe.

MONTPELLIER, May 6, 1822.

Writings of Madison, Volume 3: 1816-1828, p.267

DEAR SIR,—This will probably arrive at the moment for congratulating you on the close of the scene in which your labours are blended with those of Congress. When will your recess from those which succeed commence, and when and how much of it will be passed in Albemarle? We hope for the pleasure of halts with us, and that Mrs. M. and others of your family will be with us.

Writings of Madison, Volume 3: 1816-1828, p.267

Mr. Anduaga, I observe, casts in our teeth the postponement of the recognition of Spanish America till the cession of Florida was secured, and taking that step immediately after. This insinuation will be so readily embraced by suspicious minds, and particularly by the wily Cabinets of Europe, that I cannot but think it might be well to take away that pretext against us by an expose, brought before the public in some due form, in which our conduct would be seen in its true light. An historical view of the early sentiments expressed here in favor of our neigh-hours; the successive steps openly taken, manifesting our sympathy with their cause, and our anticipation of its success; more especially our declarations of neutrality towards the contending parties, as engaged in a civil, not an insurrectionary war, would show to the world that we never concealed the principles that governed us, nor the policy which terminated in the decisive step last taken. And the time at which this was taken is surely well explained, without reference to the Florida treaty, by the greater maturity of the Independence of some of the new States, and particularly by the recent revolution in Mexico, which is able, not only to maintain its own Independence, but to turn the scale, if it were doubtful, in favor of the others. Although there may be no danger of hostile consequences from the Recognising act, it is desirable that our Republic should stand fair in the eyes of the world, not only for its own sake, but for that of Republicanism itself. Nor would, perhaps, a conciliatory appeal to the candour and liberality of the better part of Europe be a superfluous precaution, with a view to the possible collisions with Spain on the ocean, and the backing she may receive from some of the great powers, friendly to her or unfriendly to us. Russia has, if I mistake not, heretofore gone far in committing herself against a separation of the Colonies from Spain. And her enterprising policy against revolutionary events every where make it the more probable that she may resent the contrast to it in that of the U.S. I am aware that these ideas cannot be new to you, and that you can appreciate them much better than I can. But having the pen in my hand, I have permitted them to flow from it.

Writings of Madison, Volume 3: 1816-1828, p.268

It appears that the Senate have been discussing the precedents relating to the appointment of public Ministers. One question is, whether a public Minister be an officer in the strict constitutional sense. If he is, the appointment of him must be authorized by law, not by the President and Senate. If, on the other hand, the appointment creates the office, the office must expire with the appointment, as an office created by law expires with the law; and there can be no difference between Courts to which a public minister had been sent, and those to which one was sent for the first time. According to my recollection, this subject was on some occasion carefully searched into; and it was found that the practice of the Government had, from the beginning, been regulated by the idea that the places or offices of public Ministers and Consuls existed under the law and usages of Nations, and were always open to receive appointments as they might be made by competent authorities.

Writings of Madison, Volume 3: 1816-1828, p.268

Other questions may be started as to Commissions for making Treaties; which, when given to a public Minister, employ him in a distinct capacity; but this is not the place, nor am I the person, to pursue the subject.

Writings of Madison, Volume 3: 1816-1828, p.268

We had a hard winter, and our wheat fields exhibit the proof of it. To make the matter worse, the fly has commenced its ravages in a very threatening manner; a dry, cold spell will render them very fatal. I know not the extent of the evil. There has been of late a reanimation of prices for the last crop, occasioned by the expected opening of the West India trade; but there is so little remaining in the hands of the farmers, that the benefit will be scarcely felt by them.

To President Monroe.

MONTPELLIER, May 16, 1822.

Writings of Madison, Volume 3: 1816-1828, p.269

DEAR SIR,—I am just favored with yours of the 12th, in which you ask whether I recollect any case of a "nomination of an officer of the army to a particular office, to take rank from a certain date, on which the Senate have interposed to give rank from another date?" and, again, whether I recollect any instances of filling original vacancies in civil or military offices in the recess of the Senate, where authority was not given by law?

Writings of Madison, Volume 3: 1816-1828, p.269

On the first point, I have no particular recollection, but it is possible that there may have been cases such as you mention. The journals of the Senate will of course present them, if they ever existed. Be the fact as it may, it would seem that such an interposition of the Senate would be a departure from the naked authority to decide on nominations of the Executive. The tenure of the officer in the interval between the two dates, where that of the Senate was the prior one, would be altogether of the Senate's creation; or, if understood to be made valid by the commission of the President, would make the appointment originate with the Senate, not with the President; nor would a posteri-ority of the date of the Senate possibly be without some indirect operation beyond the competency of that Body.

Writings of Madison, Volume 3: 1816-1828, p.269

On the second point, although my memory cannot refer to any particular appointments to original vacancies in the recess of the Senate, I am confident that such have taken place under a pressure of circumstances, where no legal provision had authorized them. There have been cases where offices were created by Congress, and appointments to them made with the sanction of the Senate, which were, notwithstanding, found to be vacant in consequence of refusals to accept them, or of unknown death of the party at the time of the appointment, and thence filled by the President alone. I have a faint impression instances of one or both occurred within the Mississippi Territory. These, however, were cases of necessity. Whether others not having that basis have occurred, my present recollections do not enable me to say.

Writings of Madison, Volume 3: 1816-1828, p.270

In the enclosed English newspaper is sketched a debate in the House of Commons, throwing light on the practice there with respect to filling military vacancies in certain cases. If I understand the sketch, from a very slight perusal, the rule of promotion is not viewed as applicable to original vacancies. In the abstract, it has always appeared to me desirable that the door to special merit should be widened as far as could possibly be reconciled with the general rules of promotion. The inconveniency of a rigid adherence to this rule gave birth to Brevets; and favors every permitted mode of relaxing it, in order to do justice to superior capacity for public service.

Writings of Madison, Volume 3: 1816-1828, p.270

The aspect of things at Washington, to which you allude, could escape the notice of no one who ever looks into the newspapers. The only effect of a political rivalship among the members of the Cabinet which I particularly anticipated, and which, I believe, I mentioned once in conversation with you, was an increased disposition in each to cultivate the good will of the President. The object of such rivalship, on and through the proceedings of Congress, is to be ascribed, I hope, to a peculiarity and combination of circumstances not likely often to recur in our annals.

Writings of Madison, Volume 3: 1816-1828, p.270

I am afraid you are too sanguine in your inferences, from the absence here of causes which have most engendered and embittered the spirit of party in former times and in other Countries. There seems to be a propensity in free Governments which will always find or make subjects on which human opinions and passions may be thrown into conflict. The most, perhaps, that can be counted on, and that will be sufficient, is, that the occasions for party contests in such a country and government as ours will be either so slight or so transient as not to threaten any permanent or dangerous consequences to the character and prosperity of the Republic. But I must not forget that I took up my pen merely to answer your two inquiries, and to remind you that you omitted to answer mine, as to your intended movements after the release from your confinement at Washington.

To Doctor Waterhouse.

MONTPELLIER, June 22, 1822.

Writings of Madison, Volume 3: 1816-1828, p.271

DEAR SIR,—I have received your favor of the 9th, with a copy of your Lecture on tobacco and ardent spirits. It is a powerful dissuasive from the pernicious use of such stimulants. I had read formerly the first edition of the Lecture; but have read this last, also, for the sake of the additions and the notes. Its foreign translations and its reaching a fifth edition are encouraging evidences of its usefulness; however much it be feared that the listlessness of non-labourers, and the fatigues of hard labourers, will continue to plead for the relief of intoxicating liquors or exhilarating plants; one or other of which seems to have been in use in every age and Country. As far as the use of tobacco is a mere fashion or habit, commencing not only without, but against a natural relish, and continued without the need of such a resort, your reasonings and warnings might reasonably be expected to be an overmatch for the pernicious indulgence. In every view, your remedial efforts are highly meritorious, since they may check, if they cannot cure, the evil, and since a partial success may excite co-operating efforts which will gradually make it compleat; and I join heartily in every wish that such may be the result.

Writings of Madison, Volume 3: 1816-1828, p.271

At present, Virginia is not much threatened with the loss of her staple, whatever be the character really belonging or ridiculously ascribed to it. Its culture is rather on the increase than decline; owing to the disposition in Europe, particularly G. Britain, to chew our tobacco rather than eat our wheat. This is not the best state of things either for them or us.

To Thomas Ritchie.

MONTPELLIER, July 2d, 1822.

Writings of Madison, Volume 3: 1816-1828, p.272

DR SIR,—I received, some time ago, a letter from Mr. H.G. Spafford, at Ballston Spa, N. York, in which he says, "I wish your Booksellers would encourage me to write a Gazetteer of Virginia. I could travel all over the State, collect materials, and prepare the work for the press, in about two years, on a salary of $1,000 a year, and a few copies of the work."

Writings of Madison, Volume 3: 1816-1828, p.272

I answered that I could not undertake to judge how far a Gazetteer for the State, on the plan and terms suggested, would be espoused by our Printers and Booksellers; intimating, at the same time, that a survey was on foot, the details and progress of which I could not tell him; and I took the liberty of referring him to you, as the best source he could consult on the whole subject.

Writings of Madison, Volume 3: 1816-1828, p.272

In his reply, just received, he says, "As to a Geography and Gazetteer of Virginia, may I ask of thee the favor to suggest the idea to Mr. Ritchie, of Richmond. As soon as I shall have compleated the one of this State, say by next winter, I should like well to engage in such a work."

Writings of Madison, Volume 3: 1816-1828, p.272

Will you be so obliging as to drop me a line, enabling me to say what may be proper to Mr. Spafford? He is, I believe, a worthy man, is very laborious in what he undertakes, and has executed works in N. York analogous to the one for which he offers himself here. He has been the author, also, of one if not more periodical publications. All these together would be a test of his qualifications.

Writings of Madison, Volume 3: 1816-1828, p.272

I am sorry to be the occasion of any encroachment on your time, especially as it may be a useless one; but, apart from the introduction already made of your name, I should be at a loss for another resort equally capable of furnishing the desired information.

To Edward Livingston.

MONTPELLIER, July 10th, 1822.

Writings of Madison, Volume 3: 1816-1828, p.273

DR SIR,—I was favored some days ago with your letter of May 19, accompanied by a copy of your Report to the Legislature of the State on the subject of a penal Code.

Writings of Madison, Volume 3: 1816-1828, p.273

I should commit a tacit injustice if I did not say that the Report does great honor to the talents and sentiments of the author. It abounds with ideas of conspicuous value, and presents them in a manner not less elegant than persuasive.

Writings of Madison, Volume 3: 1816-1828, p.273

The reduction of an entire code of criminal jurisprudence into statutory provisions, excluding a recurrence to foreign or traditional codes, and substituting for technical terms more familiar ones, with or without explanatory notes, cannot but be viewed as a very arduous task. I sincerely wish your execution of it may fulfil every expectation.

Writings of Madison, Volume 3: 1816-1828, p.273

I cannot deny, at the same time, that I have been accustomed to doubt the practicability of giving all the desired simplicity to so complex a subject without involving a discretion, inadmissible in free Government, to those who are to expound and apply the law. The rules and usages which make a part of the law, though to be found only in elementary treatises, in respectable commentaries, and in adjudged cases, seem to be too numerous and too various to be brought within the requisite compass; even if there were less risk of creating uncertainties by defective abridgments, or by the change of phraseology.

Writings of Madison, Volume 3: 1816-1828, p.273

This risk would seem to be particularly incident to a substitution of new words and definitions for a technical language, the meaning of which had been settled by long use and authoritative expositions. When a technical term may express a very simple idea, there might be no inconveniency, or rather an advantage, in exchanging it for a more familiar synonyme, if a precise one could be found. But where the technical terms and phrases have a complex import, not otherwise to be reduced to clearness and certainty than by practical applications of them, it might be unsafe to introduce new terms and phrases, though aided by brief explanations. The whole law expressed by single terms, such as "trial by jury, evidence, &c., &c.," fill volumes, when unfolded into the details which enter into their meaning.

Writings of Madison, Volume 3: 1816-1828, p.274

I hope it will not be thought by this intimation of my doubts I wish to damp the enterprise from which you have not shrunk. On the contrary, I not only wish that you may overcome all the difficulties which occur to me, but am persuaded that if complete success should not reward your labors, there is ample room for improvements in the criminal jurisprudence of Louisiana, as elsewhere, which are well worthy the exertion of your best powers, and will furnish useful examples to other members of the Union. Among the advantages distinguishing our compound Government, it is not the least that it affords so many opportunities and chances in the local Legislatures for salutary innovations by some, which may be adopted by others; or for important experiments, which, if unsuccessful, will be of limited injury, and may even prove salutary as beacons to others. Our political system is found, also, to have the happy merit of exciting a laudable emulation among the States composing it, instead of the enmity marking competitions among powers wholly alien to each other.

Writings of Madison, Volume 3: 1816-1828, p.274

I observe with particular pleasure the view you have taken of the immunity of Religion from civil jurisdiction, in every case where it does not trespass on private rights or the public peace. This has always been a favorite principle with me; and it was not with my approbation that the deviation from it took place in Congress, when they appointed chaplains, to be paid from the National Treasury. It would have been a much better proof to their constituents of their pious feeling if the members had contributed for the purpose a pittance from their own pockets. As the precedent is not likely to be rescinded, the best that can now be done may be to apply to the Constitution the maxim of the law, de minimis non curat.

Writings of Madison, Volume 3: 1816-1828, p.274-p.275

There has been another deviation from the strict principle in the Executive proclamations of fasts and festivals, so far, at least, as they have spoken the language of injuction, or have lost sight of the equality of all religious sects in the eye of the Constitution. Whilst I was honored with the Executive trust, I found it necessary on more than one occasion to follow the example of predecessors. But I was always careful to make the Proclamations absolutely indiscriminate, and merely recom-mendatory; or, rather, mere designations of a day on which all who thought proper might unite in consecrating it to religious purposes, according to their own faith and forms. In this sense, I presume, you reserve to the Government a right to appoint particular days for religious worship. I know not what may be the way of thinking on this subject in Louisiana. I should suppose the Catholic portion of the people, at least, as a small and even unpopular sect in the U. States, would rally, as they did in Virginia when religious liberty was a Legislative topic, to its broadest principle. Notwithstanding the general progress made within the two last centuries in favour of this branch of liberty, and the full establishment of it in some parts of our Country, there remains in others a strong bias towards the old error, that without some sort of alliance or coalition between Government and Religion neither can be duly supported. Such, indeed, is the tendency to such a coalition, and such its corrupting influence on both the parties, that the danger cannot be too carefully guarded against. And in a Government of opinion like ours, the only effectual guard must be found in the soundness and stability of the general opinion on the subject. Every new and successful example, therefore, of a perfect separation between ecclesiastical and civil matters, is of importance; and I have no doubt that every new example will succeed, as every past one has done, in shewing that religion and Government will both exist in greater purity the less they are mixed together. It was the belief of all sects at one time that the establishment of Religion by law was right and necessary; that the true religion ought to be established in exclusion of every other; and that the only question to be decided was, which was the true religion. The example of Holland proved that a toleration of sects dissenting from the established sect was safe, and even useful. The example of the Colonies, now States, which rejected religious establishments altogether, proved that all sects might be safely and advantageously put on a footing of equal and entire freedom; and a continuance of their example since the Declaration of Independence has shown that its success in Colonies was not to be ascribed to their connection with the parent Country. If a further confirmation of the truth could be wanted, it is to be found in the examples furnished by the States which have abolished their religious establishments. I cannot speak particularly of any of the cases excepting that of Virginia, where it is impossible to deny that religion prevails with more zeal and a more exemplary priesthood than it ever did when established and patronised by public authority. We are teaching the world the great truth, that Governments do better without kings and nobles than with them. The merit will be doubled by the other lesson: that Religion flourishes in greater purity without, than with the aid of Government.

Writings of Madison, Volume 3: 1816-1828, p.276

My pen, I perceive, has rambled into reflections for which it was not taken up. I recall it to the proper object, of thanking you for your very interesting pamphlet, and of tendering you my respects and good wishes.

To W. T. Barry.

AUGUST 4, 1822.

Writings of Madison, Volume 3: 1816-1828, p.276

DR SIR,—I received some days ago your letter of June 30, and the printed circular to which it refers.

Writings of Madison, Volume 3: 1816-1828, p.276

The liberal appropriations made by the Legislature of Kentucky for a general system of Education cannot be too much applauded. A popular Government, without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or, perhaps, both. Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives.

Writings of Madison, Volume 3: 1816-1828, p.276

I have always felt a more than ordinary interest in the destinies of Kentucky. Among her earliest settlers were some of my particular friends and neighbors. And I was myself among the foremost advocates for submitting to the will of the "District" the question and the time of its becoming a separate member of the American family. Its rapid growth and signal prosperity in this character have afforded mc much pleasure; which is not a little enhanced by the enlightened patriotism which is now providing for the State a plan of education embracing every class of citizens, and every grade and department of knowledge. No error is more certain than the one proceeding from a hasty and superficial view of the subject: that the people at large have no interest in the establishment of academics, colleges, and universities, where a few only, and those not of the poorer classes, can obtain for their sons the advantages of superior education. It is thought to be unjust that all should be taxed for the benefit of a part, and that, too, the part least needing it.

Writings of Madison, Volume 3: 1816-1828, p.277

If provision were not made at the same time for every part, the objection would be a natural one. But, besides the consideration, when the higher seminaries belong to a plan of general education, that it is better for the poorer classes to have the aid of the richer, by a general tax on property, than that every parent should provide at his own expense for the education of his children, it is certain that every class is interested in establishments which [give] to the human mind its highest improvements, and to every country its truest and most durable celebrity.

Writings of Madison, Volume 3: 1816-1828, p.277

Learned institutions ought to be favorite objects with every free people. They throw that light over the public mind which is the best security against crafty and dangerous encroachments on the public liberty. They are the nurseries of skilful teachers for the schools distributed throughout the community. They are themselves schools for the particular talents required for some of the public trusts, on the able execution of which the welfare of the people depends. They multiply the educated individuals, from among whom the people may elect a due portion of their public agents of every description; more especially of those who are to frame the laws; by the perspicuity, the consistency, and the stability, as well as by the just and equal spirit of which the great social purposes are to be answered.

Writings of Madison, Volume 3: 1816-1828, p.278

Without such institutions, the more costly of which can scarcely be provided by individual means, none but the few whose wealth enables them to support their sons abroad can give them the fullest education; and in proportion as this is done, the influence is monopolized which superior information every where possesses. At cheaper and nearer seats of learning, parents with slender incomes may place their sons in a course of education, putting them on a level with the sons of the richest. Whilst those who are without property, or with but little, must be peculiarly interested in a system which unites with the more learned institutions a provision for diffusing through the entire society the education needed for the common purposes of life. A system comprising the learned institutions may be still further recommended to the more indigent class of citizens by such an arrangement as was reported to the General Assembly of Virginia, in the year 1779, by a committee\* appointed to revise laws in order to adapt them to the genius of Republican Government. It made part of a "Bill for the more general diffusion of knowledge," that wherever a youth was ascertained to possess talents meriting an education which his parents could not afford, he should be carried forward at the public expense, from seminary to seminary, to the completion of his studies at the highest.

Writings of Madison, Volume 3: 1816-1828, p.278

But why should it be necessary in this case to distinguish the society into classes, according to their property? When it is considered that the establishment and endowment of academies, colleges, and universities, are a provision, not merely for the existing generation, but for succeeding ones also; that in Governments like ours, a constant rotation of property results from the free scope to industry, and from the laws of inheritance; and when it is considered, moreover, how much of the exertions and privations of all are meant, not for themselves, but for their posterity, there can be little ground for objections from any class to plans of which every class must have its turn of benefits. The rich man, when contributing to a permanent plan for the education of the poor, ought to reflect that he is providing for that of his own descendants; and the poor man, who concurs in a provision for those who are not poor, that at no distant day it may be enjoyed by descendants from himself. It does not require a long life to witness these vicissitudes of fortune.

Writings of Madison, Volume 3: 1816-1828, p.279

It is among the happy peculiarities of our Union, that the States composing it derive from their relation to each other and to the whole a salutary emulation, without the enmity involved in competitions among States alien to each other. This emulation, we may perceive, is not without its influence in several important respects; and in none ought it to be more felt than in the merit of diffusing the light and the advantages of public instruction. In the example, therefore, which Kentucky is presenting, she not only consults her own welfare, but is giving an impulse to any of her sisters who may be behind her in the noble career.

Writings of Madison, Volume 3: 1816-1828, p.279

Throughout the civilized world nations are courting the praise of fostering science and the useful arts, and are opening their eyes to the principles and the blessings of Representative Government. The American people owe it to themselves, and to rite cause of Free Government, to prove, by their establishments for the advancement and diffusion of knowledge, that their political institutions, which are attracting observation from every quarter, and are respected as models by the new-born States in our own Hemisphere, are as favorable to the intellectual and moral improvement of man as they are conformable to his individual and social rights. What spectacle can be more edifying or more seasonable than that of liberty and learning, each leaning on the other for their mutual and surest support?

Writings of Madison, Volume 3: 1816-1828, p.279

The committee, of which your name is the first, have taken a very judicious course in endeavoring to avail Kentucky of the experience of elder States in modifying her schools. I inclose extracts from the laws of Virginia on that subject, though I presume they will give little aid; the less, as they have as yet been imperfectly carried into execution. The States where such systems [have] been long in operation, will furnish much better answers to many of the enquiries stated in your circular. But after all, such is the diversity of local circumstances, more particularly as the population varies in density and sparseness, that the details suited to some may be little so to others. As the population, however, is becoming less and less sparse, and it will be well, in laying the foundation of a good system, to have a view to this progressive change, much attention seems due to examples in the Eastern States, where the people are most compact, and where there has been the longest experience in plans of popular education.

Writings of Madison, Volume 3: 1816-1828, p.280

I know not that I can offer on the occasion any suggestions not likely to occur to the committee. Were I to hazard one, it would be in favor of adding to reading, writing, and arithmetic, to which the instruction of the poor is commonly limited, some knowledge of geography; such as can easily be conveyed by a globe and maps, and a concise geographical grammar. And how easily and quickly might a general idea, even, be conveyed of the solar system, by the aid of a planatarium of the cheapest construction. No information seems better calculated to expand the mind and gratify curiosity than what would thus be imparted. This is especially the case with what relates to the Globe we inhabit, the nations among which it is divided, and the characters and customs which distinguish them. An acquaintance with foreign countries in this mode has a kindred effect with that of seeing them as travellers, which never fails, in uncorrupted minds, to weaken local prejudices and enlarge the sphere of benevolent feelings. A knowledge of the Globe and its various inhabitants, however slight, might, moreover, create a taste for books of travels and voyages; out of which might grow a general taste for history—an inexhaustible fund of entertainment and instruction. Any reading not of a vitious species must be a good substitute for the amusements too apt to fill up the leisure of the labouring classes.

Writings of Madison, Volume 3: 1816-1828, p.280

I feel myself much obliged, Sir, by your expressions of personal kindness, and pray you to accept a return of my good wishes, with assurances of my great esteem and respect.

Writings of Madison, Volume 3: 1816-1828, p.280

P.S. On reflection, I omit the extracts from the laws of Virginia, which it is probable may be within your reach at home. Should it be otherwise, and you think them worth the transmission by the mail, the omission shall be supplied.

To George Joy.

AUGUST 10, 1822.

Writings of Madison, Volume 3: 1816-1828, p.281

DR SIR,—On the receipt of your letters of January 2 and 9 last, I searched for, and found, that of April 16, 1804, and gave information thereof to your brother B. I sent him, at the same time, your copy of that letter, with an intimation that the original would be disposed of as might best answer your purpose. Owing to his absence, it was some time before I heard from him. Our correspondence resulted in his informing me that Mr. Webster, your agent, considered the copy as sufficient. The original, therefore, is still on my files, subject to your order. This will answer the last favor from you of May 29. I was in no hurry to give you the information of what had taken place in consequence of your letters of January, because I took for granted that you would have received it from your brother or your agent.

Writings of Madison, Volume 3: 1816-1828, p.281

It may be proper to note that the book you mention in yours of Feby 2, if sent, has miscarried.

Writings of Madison, Volume 3: 1816-1828, p.281

I am glad to find that G. Britain has at length taken juster views of her monopolizing attempts with regard to the navigation between her Colonies and the U. States. This Country will not be behind her in a friendly policy of every sort. But it is too proud to acquiesce in inequalities; and sufficiently alive to its interests not to sacrifice them.

To Thomas Ritchie.

AUGUST 13, 1822.

Writings of Madison, Volume 3: 1816-1828, p.281

DR SIR,—Your favor of Aug. 7 is so full and satisfactory an answer to my request of July 2, that I ought not to withhold my thanks for it. The delay was immaterial. But I lament, most sincerely, the afflicting causes of it.

Writings of Madison, Volume 3: 1816-1828, p.282

The Enquirer of the 6th very properly animadverts on the attempts to pervert the historical circumstances relating to the draught of the Declaration of Independence. The fact that Mr. Jefferson was the author, and the nature of the alterations made in the original, are too well known, and the proofs are too well preserved, to admit of successful misrepresentation.

Writings of Madison, Volume 3: 1816-1828, p.282

In one important particular, the truth, though on record, seems to have escaped attention; and justice to be left, so far, undone to Virginia. It was in obedience to her positive instruction, passed unanimously in her Convention on the 5th of May, 1776,\* and the mover was, of course, the mouth only of the Delegation, as the Delegation was of the Convention. Had P. Randolph, the first named, not been cut off by death, the motion would have been made by him. The duty, in consequence of that event, devolved on the next in order, R. H. Lee, who had political merits of a sort very different from that circumstantial distinction.

To President Monroe.

MONTPELLIER, September 24, 1822.

Writings of Madison, Volume 3: 1816-1828, p.282

DEAR SIR,—The mail of Saturday brought me your favor of the 16th. The letters enclosed in it are returned. Accept my thanks for the odd volume of Congressional documents.

Writings of Madison, Volume 3: 1816-1828, p.282

As I understand the case presented in the other paper enclosed, it turns on the simple question, whether the Senate have a right, in their advice and consent, to vary the date at which, according to the nomination of the President, an appointment to office is to take effect.

Writings of Madison, Volume 3: 1816-1828, p.282

The subject continues to appear to mc in the light which I believe I formerly intimated. The power of appointment, when not otherwise provided by the Constitution, is vested in the President and the Senate. Both must concur in the act; but the act must originate with the President. He is to nominate, and their advice and consent are to make the nomination an appointment. They cannot give their advice and consent without his nomination, nor, of course, differently from it. In so doing they would originate or nominate, so far as the difference extended, and it would be his, not their, advice and consent which consummated the appointment. If the President should nominate A to be an officer from the 1st day of January preceding, it is evident, that for the period not embraced by the nomination of the President, the nomination would originate with the Senate, and would require his subsequent sanction to make it a joint act. During that period, therefore, it would be an appointment made by the nomination of the Senate with the advice and consent of the President, not of the President with the advice and consent of the Senate.

Writings of Madison, Volume 3: 1816-1828, p.283

The case is not essentially changed by supposing the President to nominate A to an office from the 1st day of Jany, and the Senate to confirm it from the 1st day of May following. Here, also, the nomination of the President would not be pursued, and the Constitutional order of appointment would be transposed. Its intention would be violated, and he would not be bound by his nomination to give effect to the advice and consent of the Senate. The proceeding would be a nullity. Nor would this result from pure informality. The President might have as [?] just objections to a postponement. The change in the date might have an essential bearing on the public service, and a collateral or consequential one on the rights or pretensions of others in the public service. In fact, if the Senate, in disregard of the nomination of the President, would postpone the commencement of an appointment for a single day, it could do it for any period, however remote; and whatever might be the intermediate change of things, the date may be as material a part of the nomination as the person named in it.

Writings of Madison, Volume 3: 1816-1828, p.283

We are still suffering under the intense drought of which you witnessed its increasing effects. Ten weeks have now passed since we had any rain of sensible value. On some of our farms it may be said there has been none at all. Our crops of corn, nothwithstanding they were forward, were so favored by the early part of the season as to promise support until the next summer harvest. The tobacco crop is in a sad plight, and no weather now can repair it. Your neighborhood, in Albemarle, I understand, has fared much better.

To J. Maury.

SEPR 28, 1822.

Writings of Madison, Volume 3: 1816-1828, p.284

DR SIR,—I have lately received yours of July 20. That of June 24, inclosing the act of Parliament relating to the West India trade, was also duly received.

Writings of Madison, Volume 3: 1816-1828, p.284

I am glad to find that the British Government has at length made this change in its Colonial policy. It argues well for greater harmony in the intercourse between the two nations. The .United States will, I believe, be always ready to meet G. Britain, as well as other nations, in a liberal and reciprocal system; and it may be hoped, notwithstanding the enveloped motives which preface the act of repeal, that the late restrictive contest has sufficiently shewn, not only that this Country will be satisfied with nothing short of reciprocity, but that in relation to the British Colonies, at least, such a contest has a ruinous influence on their prosperity, and their value to the parent Country.

Writings of Madison, Volume 3: 1816-1828, p.284

[ Circular.]

To the President of the Agricultural Society of Virginia.

OCTOBER 21st, 1822.

Writings of Madison, Volume 3: 1816-1828, p.284

SIR,—The enclosed Resolutions of the Agricultural Society of Albemarle explain the wish of the society to provide for agriculture the advantage of a professorship, to be incorporated into the University of Virginia; the means proposed for making the provision; and the hope entertained of a general co-operation in the scheme.

Writings of Madison, Volume 3: 1816-1828, p.285

The present seems to be an important crisis in the agriculture of Virginia. The portions of her soil first brought into cultivation have, for the most part, been exhausted of its natural fertility, without being repaired by meliorating system of husbandry; and much of what remains in forest, and can be spared from the demands of fuel and other rural wants, will need improvement on the first introduction of the plough.

Writings of Madison, Volume 3: 1816-1828, p.285

These truths are now sufficiently impressed on the public attention, and have led to the establishment of the Agricultural Societies among us, which are so laudably promoting the work of reform.

Writings of Madison, Volume 3: 1816-1828, p.285

As a further means of advancing the great object, it has occurred to the Albemarle Society that a distinct Professorship in the University of the State, if sanctioned by the proper authority, might be advantageously appropriated to the instruction of such as might attend in the theory and practice of rural economy in its several branches.

Writings of Madison, Volume 3: 1816-1828, p.285

To the due success of agriculture, as of other arts, theory and practice are both requisite. They always reflect light on each other. If the former, without the test of the latter, be a vain science, the latter, without the enlightening precepts of the former, is generally enslaved to ancient modes, however erroneous, or is at best but too tardy and partial in adopting salutary changes. In no instance, perhaps, is habit more unyielding, or irrational practice more prevalent, than among those who cultivate the earth. And this is the more to be lamented, as agriculture is still so far below the attainments to which it may fairly aspire.

Writings of Madison, Volume 3: 1816-1828, p.285

A professorship of agriculture may derive special advantage from the lights thrown out from the chair of Chemistry in that Institution. This science is every day penetrating some of the hidden laws of nature, and tracing the useful purposes to which they may be made subservient. Agriculture is a field on which it has already begun to shed its rays, and on which it promises to do much towards unveiling the processes of nature, to which the principles of agriculture are related. The professional leclures on chemistry, which are to embrace those principles, could not fail to be auxiliary to a professorship having lessons on agriculture for its essential charge.

Writings of Madison, Volume 3: 1816-1828, p.286

The fund contemplated for the support of such a professorship is to consist of a sum drawn from unexpended subscriptions, from special donations, and from a diffusive contribution, not exceeding a dollar from an individual. It is hoped that, for a purpose of such general utility, the number of contributors will more than make up for the smallness of the respective sums; and that, with the other resources, means may be gathered not only adequate to the immediate views entertained, but justifying an enlargement of them.

Writings of Madison, Volume 3: 1816-1828, p.286

Should this prove to be the case, it will be an enlargement of the plan of agricultural instruction to provide and place under the superintendence of the Professor a small farm in the vicinage, to be cultivated partly as a pattern farm, illustrating practically a system at once profitable and improving; partly as an experimental farm, not only bringing to the test new modes of culture and management, but introducing new plants and animals deemed worthy of experiment. In obtaining these, aid might be found in the patriotic attention of the public and private Naval Commanders, in their visits to foreign countries; and it might well happen that occasional success in rearing new species or varieties, of peculiar value, would yield in seeds and stocks a profit defraying the expenses incurred on this head.

Writings of Madison, Volume 3: 1816-1828, p.286

A farm exhibiting an instructive model, observed, as it would be, by occasional visiters, and understood, as it would be, in its principles and plants by students returning to their dispersed homes, would tend to spread sound information on the subject of agriculture, and to cherish that spirit of imitation and emulation which is the source of improvement in every art and enterprise.

Writings of Madison, Volume 3: 1816-1828, p.286

You will oblige, Sir, the Society of Albemarle by laying this communication before that over which you preside, and by transmitting its sentiments thereon; which will afford particular pleasure if they should accord with the views of this Society, and promise so valuable a co-operation in carrying them into effect.

Writings of Madison, Volume 3: 1816-1828, p.287

By order of the Society.

Writings of Madison, Volume 3: 1816-1828, p.287

JAMES MADISON, President.

Agricultural Society of Albemarle, October 7th, 1822.

Writings of Madison, Volume 3: 1816-1828, p.287

On motion of Gen. John H. Cocke, the following preamble and resolutions were adopted:

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Whereas the establishment of a Professorship of Agriculture in one of the principal seminaries of learning in this State is a measure eminently calculated to hasten and perpetuate the march of agricultural improvement, already so happily commenced: and whereas there are grounds to believe that such an institution may be incorporated into the University of Virginia, a position at once the most advantageous and convenient to every part of the State: and whereas this society could not make an appropriation of its funds more conducive to the permanent attainment of the primary objects of its institution; and as it is reasonable to expect that all the Agricultural Societies, the farmers, and planters generally, will cheerfully contribute to an establishment of such universal interest: therefore—

Resolved, That one thousand dollars of the sum now in the hands of the Treasurer of this Society be appropriated to the establishment of a fund, the profits of which shall go to the support of a Professorship of Agriculture at the University of Virginia.

Resolved, For the furtherance of this design, that the President be requested to prepare an address to the other Agricultural Societies of this State, requesting their co-operation in this scheme; and further to promote the same object, and increase the said fired, that a committee be appointed to solicit donations, not to exceed one dollar, from individuals in every part of this Commonwealth.

Resolved, That the aforesaid appropriation, together with all that may accrue under the foregoing resolutions, be loaned [lent] to individuals on good security, or to corporate bodies; and that when the sum loaned [lent] to any one individual shall amount to one thousand dollars or upwards, landed security shall be required; that the interest shall be payable semi-annually. and shall be reinvested until the yearly profits of the fund shall be sufficient to afford an income equal, at least, to a Professorship in the University.

Resolved, That the funds above referred to, together with donations of books, and property of any other description, be, with the permission of the Legislature, transferred to the Rector and Visitors of the University in their corporate capacity.

(Extract from the minutes.)

Writings of Madison, Volume 3: 1816-1828, p.287

P. MINOR, Secretary.

To J. Q. Adams.

MONTPELLIER, October 24. 1822.

Writings of Madison, Volume 3: 1816-1828, p.288

DEAR SIR,—I have received, with your favor of the 11th, a copy of the Collection of Documents which you recently published.

Writings of Madison, Volume 3: 1816-1828, p.288

The treaty of Ghent forms a prominent epoch in our national history, and will be a lasting monument of the ability and patriotism with which it was negotiated. Incidents elucidating the transaction cannot, therefore, but be interesting; and they are made the more so by the eloquent strain in which they are presented. Accept my thanks for the little volume containing them, with assurances of my continued esteem and cordial respects.

To H. G. Spafford.

DECR 5th, 1822.

Writings of Madison, Volume 3: 1816-1828, p.288

DR SIR,—I have received your letter of the 25th ult., in which you state your discovery of a process which gives a greater purity and cheapness to steel and iron than any yet known.

Writings of Madison, Volume 3: 1816-1828, p.288

Iron is the metal, and even the article, which has been justly considered as causing, more than any other, the civilization and increase of the human race. Every improvement, therefore, in the preparation and uses of it has been deemed a benefaction to the world. If the discovery you have made be found, on extensive and thorough trials, to justify your expectations from those already made, it will be well entitled to the merit claimed for it, and the author to the pecuniary as well as honorary recompense due to public benefactors. In what mode it may be most advisable to seek the former, I know not that I can say any thing that would be of service to you. On the general question on which you ask my opinion, whether Congress would grant a special law securing your patent right, I can only give a general answer, that it is a fair presumption that Congress will be disposed to give all Constitutional encouragements to useful inventions. I have no doubt there may be cases in which a purchase on behalf of the public might be preferable to the grant of a monopoly; but on a recurrence to the enumerated powers of Congress, it is observable that the one relating to the encouragement of useful arts is confined to the mode of granting to inventors exclusive rights for limited times. If there be cases in which any other mode be authorized, the authority must be found, if at all, to be an incident to some other powers, and necessary and proper to the exercise of it. Such a peculiarity is not suggested in your case. From this view of the subject, you will be sensible that, instead of advice, I can only offer the good wishes, which I beg you to accept, that you may be gratified with all the success on which you count in making your discoveries beneficial to your Country, and a source, at the same time, of liberal compensation for the labour and merit of introducing them.

To Doctor Cutting.

DECEMBER 7th, 1822.

Writings of Madison, Volume 3: 1816-1828, p.289

DR SIR,—I have received with your note of the 30 ultimo the little tract of Mr. Law, forwarded by you at his request; and I take the liberty of conveying, through the same channel, my respects and thanks to him. If my sympathies with his domestic affliction could be of any avail, I should add the expression of them with great sincerity.

Writings of Madison, Volume 3: 1816-1828, p.289

I have always regarded Mr. Law as a man of genius, as well as of singular philanthropy, and as uniting with other intellectual acquirements a particular familiarity with questions of finance. In his occasional publications relating to them, I have observed many sound principles and valuable suggestions. I must own, at the same time, that I have never had the confidence he has felt in his favorite plan for putting an end to the evils of an unfavorable balance of trade, and the fluctuations of an ex-portable currency. There would seem to be much danger, at least, that the disposition to borrow the paper issuable by a public Board would bring an excess into circulation; and that this, instead of reducing the rate of interest, would have the effect of depreciating the principal.

To Doctor Waterhouse.

MONTPELLIER, Decr 27, 1822.

Writings of Madison, Volume 3: 1816-1828, p.290

DEAR SIR,—I have received your favor of the 12th instant, and with it the "Botanist," and the sheets containing "Heads of a course of Lectures."

Writings of Madison, Volume 3: 1816-1828, p.290

A glance over them has satisfied me that the volume on Botany very happily opens the door to the subject, and gives enough of an inside view to attract curiosity and guide investigation. From the heads selected for the Lectures, they must have embraced a larger field, which I doubt not, in your hands, became a fruitful one.

Writings of Madison, Volume 3: 1816-1828, p.290

It is among the proofs of Mr. Adams' comprehensive patriotism that he called the attention of his Country at so early a day, and in so impressive a mode, to the subject of Natural History, then so little an object of American science; and you have done an act of justice only in the conspicuous notice you have taken of the fact.

Writings of Madison, Volume 3: 1816-1828, p.290

I perceive, by the newspaper paragraph you cite, that more than justice is done to me, in the notice taken of the proposed professorship of Agriculture in the University of Virginia. The printed sheet inclosed shews that the Resolution of the Agricultural Society originated with General Cocke, a highly respectable member; and that I but executed an order of the Society in preparing an address on the subject to the other Societies in Virginia; taking the liberty only of bringing into view a small, cultivated farm, as a sort of apparatus to the professor-ship.

Writings of Madison, Volume 3: 1816-1828, p.290

The principles of Agriculture have been sometimes embraced in other professorships, and are to be so in that of Chemistry, in the University of Virginia. The object of the Society of Al-bemarle was to give to agriculture the importance as well as the advantage of a distinct professorship, exclusively charged with it, which was not known to have been done in any other instance.

1823

To Thomas Cooper.

MONTPELLIER, January 5th, 1823.

Writings of Madison, Volume 3: 1816-1828, p.291

DR SIR,—I have received the "Report" on the state of the South Carolina College, covered by your favor of December 21. I have read it with very sincere pleasure as the harbinger of days happy for yourself, as well as prosperous for the Institution. You are not, I perceive, without an adversary of the same family which raised its cries against you elsewhere. The triumphs of education under your auspices may prove an antidote to the ambition which would monopolize the fountains of knowledge, which is another name for power.

Writings of Madison, Volume 3: 1816-1828, p.291

Our University is still at a halt. Whether the present Representatives of the people are as blind as their predecessors, is yet to be learnt. I have as many fears as hopes.

Writings of Madison, Volume 3: 1816-1828, p.291

I enclose a little tract, of which I have just received a couple of copies from the author. It will be at least a harmless duplicate, if you should be otherwise possessed of one. If it has any good pretensions, you will be more able to do them justice than I am.

Writings of Madison, Volume 3: 1816-1828, p.291

I take this occasion, though aware of its lateness, to thank you for your Introductory Lecture on Chemistry; of which the merits certainly never had a more persuasive illustration.

Writings of Madison, Volume 3: 1816-1828, p.291

With great esteem and cordial regards.

To Thomas Jefferson.

MONTPELLIER, Jany 15, 1823.

Writings of Madison, Volume 3: 1816-1828, p.291

DEAR SIR,—I have duly received yours of the 6th, with the letters of Mr. Cabell, Mr. Gerry, and Judge Johnson. The letter from Mr. Cabell, proposing an extra meeting of the Visitors, and referred to in yours, was not sent, and of course is not among those returned.

Writings of Madison, Volume 3: 1816-1828, p.292

The friends of the University in the Assembly seem to have a delicate task on their hands. They have the best means of knowing what is best to be done, and I have entire confidence in their judgment as well as their good intentions. The idea of Mr. Cabell, if successful, will close the business handsomely. One of the most popular objections to the Institution, I find, is the expense added by what is called the ornamental style of the architecture. Were this additional expense as great as is supposed, the objection ought the less to be regarded, as it is short of the sum saved to the public by the private subscribers who approve of such an application of their subscriptions. I shall not fail to join you on receiving the expected notice from Mr. Cabell, if the weather and my health will permit; but I am persuaded it will be a supernumerary attendance, if the money be obtained, and the sole question be on its application to the new edifice.

Writings of Madison, Volume 3: 1816-1828, p.292

The two letters from Mr. Gerry are valuable documents on a subject that will fill some interesting pages in our history. The disposition of a party among us to find a cause of rupture with France, and to kindle a popular flame for the occasion, will go to posterity with too many proofs to leave a doubt with them. I have not looked over Mr. Gerry's letters to me, which are very numerous, but may be of dates not connected with the period in question. No resort has been had to them for materials for his biography; perhaps from the idea that his correspondence with me may contain nothing of importance.

Writings of Madison, Volume 3: 1816-1828, p.292

Judge Johnson's letter was well entitled to the perusal you recommended. I am glad you have put him in possession of such just views of the course that ought to be pursued by the court in delivering its opinions. I have taken frequent occasions to impress the necessity of the seriatim mode; but the contrary practice is too deeply rooted to be changed without the injunction of a law, or some very cogent manifestation of the public discontent. I have long thought, with the Judge, also, that the Supreme Court ought to be relieved from its circuit duties, by some such organization as he suggests. The necessity of it is now rendered obvious by the impossibility, in the same individual, of being a Circuit Judge in Missouri, &c., and a Judge of the Supreme Court at the seat of Government. He is under a mistake in charging on the Executive, at least, an inattention to this point. Before I left Washington I recommended to Congress the importance of establishing the Supreme Court at the seat of Government, which would at once enable the Judges to go through the business, and to qualify themselves by the necessary studies for doing so, with justice to themselves and credit to the Nation. The reduction of the number of Judges would also be an improvement, and might be conveniently effected in the way pointed out. It cannot be denied that there are advantages in uniting the local and general functions in the same persons, if permitted by the extent of the country. But if this were ever the case, our expanding settlements put an end to it. The organization of the Judiciary Department over the extent which a Federal system can reach, involves peculiar difficulties. There is scarcely a limit to the distance which turnpikes and steamboats may, at the public expense, convey the members of the Government and distribute the laws. But the delays and expense of suits brought from the extremities of the Empire, must be a severe burden on individuals. And in proportion as this is diminished, by giving to local tribunals a final jurisdiction, the evil is incurred of destroying the uniformity of the law.

Writings of Madison, Volume 3: 1816-1828, p.293

I hope you will find an occasion for correcting the error of the Judge, in supposing that I am at work on the same ground as will be occupied by his historical view of parties, and for animating him to the completion of what he has begun on that subject. Nothing less than full-length likenesses of the two great parties which have figured in the national politics will sufficiently expose the deceptive colours under which they have been painted. It appears that he has already collected materials, and I infer, from your account of his biography of Greene, which I have not yet seen, that he is capable of making the proper use of them. A good work on the side of truth from his pen, will be an apt and effective antidote to that of his colleague, which has been poisoning the public mind and gaining a passport to posterity.

Writings of Madison, Volume 3: 1816-1828, p.294

I was afraid the Doctor was too sanguine in promising so early a cure of the fracture in your arm. The milder weather, soon to be looked for, will doubtless favor the vis medicatrix which nature employs in repairing the injuries done her.

To Littleton Dennis Teackle.

FEBY 12, 1823.

Writings of Madison, Volume 3: 1816-1828, p.294

SIR,—I received a few days ago your letter of the 4th inst., inclosing the copy of a bill to provide for the public instruction of youth, and to promote the interest of agriculture, and requesting observations thereon. I wish I were less incompetent to a satisfactory compliance with the request.

Writings of Madison, Volume 3: 1816-1828, p.294

The wisdom of providing a system of diffusive education must at once be universally approved. Of the proper organization and details of it, which must be accommodated to local circumstances, to popular opinions and habits, and perhaps to co-existing institutions and arrangements, those only can judge who can apply these tests. And, after all, such is the difficulty of the task, that experience alone can give the system its desired improvements. It will be well, therefore, in such cases, instead of requiring too much perfection in the outset, to trust to the lights which must quickly be furnished from that source.

Writings of Madison, Volume 3: 1816-1828, p.294

It is easy to observe, generally, that such a system ought to be made as little complicated and expensive as possible; that its structure should render its execution regular and certain; and that it should guard particularly against the abuses incident to monies held in trust, or passing through different hands. But it is not so easy to foresee or judge of the precise regulations necessary to obtain these advantages; especially where the population is thin, and local changes of various sorts are constantly going on, and where the difficulty is much greater than in a more compact and settled population, where the duties to be performed lie within a narrow space, and within the reach of every eye.

Writings of Madison, Volume 3: 1816-1828, p.295

The plan proposed by the bill appears, in its outline, to have been well conceived. A single superintendent, held in adequate responsibility, may be preferable to a Board. The inconveniences of the latter justifies the experiment, at least. The Courts are entitled, doubtless, to the confidence placed in them. Whether the chain of agencies might not be shortened by dropping that link, and making the commissioners appoint-able by the people at county elections for other purposes, is a question I do not venture to decide. Unless the extent of the counties forbid, it might be a question, also, whether the commissioners might not suffice, without the inspectors associated with them. The trustees, whose agency is connected with the arrangement of the taxes, and the immediate application of the funds, are very properly to be elected by the people of their districts, whose interests are at stake, and who will, of course, have an eye to the due expenditure of their money. In contracting with the teachers, they are to have, I presume, a discretion to make the amount of their wages depend in part on the number of pupils. This may be influenced more or less by the conduct of the teachers, as this again will be by making the amount of his income depend on it.

Writings of Madison, Volume 3: 1816-1828, p.295

I observe that the commissioners and trustees are made corporate bodies for receiving and holding property granted for the schools, without limitation, and without any authority over it reserved to the Government. It may be thought very nugatory to guard at this time against excessive accumulations in such hands, and abuses growing out of them. But if the schools are to be permanent, and charitable donations be unattainable, time must produce here what it has produced elsewhere. The abuses which have been brought to light in old countries in the management of , and literary endowments accumulated by a lapse of time, are a sufficient warning to a young one to keep the door shut against them.

Writings of Madison, Volume 3: 1816-1828, p.295

The provision made by the bill in behalf of agriculture is an example highly creditable. But why restrict the professorship to the chemical source of instruction? Ought it not to be at large on a subject abounding in others, many of them still more appropriate to it?

Writings of Madison, Volume 3: 1816-1828, p.296

You will readily believe that I have sketched these remarks because some were expected, and not because they present ideas not obvious, or not likely to occur in the discussion of the bill; and, viewed in that light, you will as readily pardon my request that they may be received as a private, and not a public communication.

To Mr. Monroe.

MONTPELLIER, February 13, 1823.

Writings of Madison, Volume 3: 1816-1828, p.296

DEAR SIR,—I have received your favor of the 3rd. I am much obliged by the kind manner in which you speak of my nephew. I hope you will always consider expressions of my good will in such eases as perfectly subordinate to public considerations and superior pretensions. In the present ease, I am not sure that the appointment of my nephew to the place in question ought to be desired, even by himself. Unless Col. Barbour, who knows him well, and who has a nearer view of the duties to be performed, thinks him adequate to them, and sufficiently balancing the clerk on the other side, it might ultimately be more of an obstacle than an advance in his career.

Writings of Madison, Volume 3: 1816-1828, p.296

Nothing was further from my purpose than to draw a word from you on the constitutional question regarding consuls, &c. I have as little doubt of your sincerity in the views taken of it as of the ability with which it was maintained. I have always regretted that the court did not give more power on the subject than your construction of it claims.

Writings of Madison, Volume 3: 1816-1828, p.296

I had noticed the call of the House of Representatives, which, among other eases, would touch that of Mr. Cutts. He is very fortunate in having friendly dispositions where his fate must be finally decided, because they ensure him every thing consistent with justice and propriety. I can say nothing but that I shall feel much pleasure, on many and obvious accounts, if the loss of his fortune should not be followed by that of his character and station.

To Edward Everett.

MONTPELLIER, Feby 18th, 1823.

Writings of Madison, Volume 3: 1816-1828, p.297

DR SIR,—I have received your favor of the 9th, and with it the little pamphlet forwarded at the request of your brother, for which you will please to accept and to make my acknowledgments.

Writings of Madison, Volume 3: 1816-1828, p.297

The pamphlet appears to have very ably and successfully vindicated the construction in the book on "Europe" to [?] the provisional article in Mr. Jay's Treaty. History, if it should notice the subject, will assuredly view it in the light in which the "notes" have placed it; and as affording to England a ground for intercepting American supplies of provisions to her enemy, and to her enemy a ground for charging on America a collusion with England for the purpose. That the British Government meant to surrender gratuitously a maritime right of confiscation, and to encourage a neutral in illegal supplies of provisions to an enemy, by adding to their chance of gain an insurance against loss, will never be believed. The necessary comment will be, that Mr. Jay, though a man of great ability and perfect rectitude, was diverted, by a zeal for the object of his mission, from a critical attention to the terms on which it was accomplished. The Treaty was fortunate in the sanction it obtained, and in the turn which circumstances gave to its fate.

Writings of Madison, Volume 3: 1816-1828, p.297

Nor was this the only instance of its good fortune. In two others it was saved from mortifying results: in one, by the integrity of the British Courts of Justice; in the other, by a cast of the die.

Writings of Madison, Volume 3: 1816-1828, p.297

The value of the article opening our trade with India depended much on the question whether it authorized an indirect trade thither. The question was carried into the Court of King's Bench, where it was decided in our favour; the Judges stating, at the same time, that the decision was forced upon them by the particular structure of the article, against their private conviction as to what was intended. And this decision of that court was confirmed by the 12 Judges.

Writings of Madison, Volume 3: 1816-1828, p.298

In the other instance, the question was, whether the Board of Commissioners for deciding on spoliations could take cognizance of American claims which had been rejected by the British tribunal in the last resort. The two British Commissioners contended that Great Britain could never be understood to submit to any extraneous tribunal a revision of cases decided by the highest of her own. The American Commissioners, Mr. Pinckney and Mr. Gore, argued with great and just force against a construction which, as the Treaty confined the jurisdiction of the Board to cases where redress was unattainable in the ordinary course of judicial proceedings, would have been fatal not only to the claims which had been rejected by the Tribunal in the last resort, but to the residue, which it would be necessary to carry thither through the ordinary course of justice. The four Commissioners being equally divided, the lot for the fifth, provided by the Treaty for such a contingency, fell on Mr. Trumbull, whose casting vote obtained for the American sufferers the large indemnity at stake.

Writings of Madison, Volume 3: 1816-1828, p.298

I speak on these points from memory alone. There may be, therefore, if no substantial error, inaccuracies which a sight of the archives at Washington, or the reports of adjudged cases in England, would have prevented.

Writings of Madison, Volume 3: 1816-1828, p.298

The remarks on the principle, "free ships, free goods," I take to be fair and well considered. The extravagance of Genet drove our Secretary of State to the ground of the British doctrine. And the Government, finding it could not depart from that ground without a collision, or rather war with Great Britain, and doubting, at least, whether the old law of Nations on that subject did not remain in force, never contested the practice under it. The United States, however, in their treaties, have sufficiently thrown their weight into the opposite scale. And such is the number and character of like weights now in it from other powers, that it must preponderate; unless it be admitted that no authority of that kind, though coinciding with the dictates of reason, the feelings of humanity, and the interest of the civilized world, can make or expound a law of Nations.

Writings of Madison, Volume 3: 1816-1828, p.299

With regard to the rule of 1756, it is to be recollected that its original import was very different from the subsequent extensions and adaptations given to it by the belligerent policy of its parent. The rule commenced with confiscating neutral vessels trading between another belligerent nation and its colonies, on the inference that they were hostile vessels in neutral disguise; and it ended in spoliations on neutrals trading to any ports or in any productions of belligerents who had not permitted such a trade in time of peace. The author of the "Notes" is not wrong in stating that the United States did, in some sort, acquiesce in the exercise of the rule against them; that they did not make it a cause of war; and that they were willing, on considerations of expediency, to accede to a compromise on the subject. To judge correctly of the course taken by the Government, a historical view of the whole of it would be necessary. In a glancing search over the State papers for the document from which tho extract in the pamphlet was made, [it is referred to in a wrong volume and page, being found in Vol. VI, p. 240, the extract itself not being one free from typographical change of phrase,] my eye caught a short letter of instructions to Mr. Monroe, [Vol. VI, p. 180-1,] in which the stand taken by the Government is distinctly marked out. The illegality of the British principle is there asserted; nothing declaratory in its favor, as applied even against a neutral trade direct between a belligerent country and its colonies, is permitted; and a stipulated concession on the basis of compromise is limited, by a reference to a former instruction of January, 1804, to that of the Russian Treaty of 1781, which protects all colonial produce converted into neutral property. This was, in practice, all that was essential; the American capital being then adequate and actually applied to the purchase of the colonial produce transported in American vessels.

Writings of Madison, Volume 3: 1816-1828, p.299

"The Examination of the subject," &c., referred to in the letter of instruction as being forwarded to Mr. Monroe, was a stout pamphlet drawn up by the Secretary of State. It was undertaken in consequence of the heavy losses and complaints of merchants in all our large sea ports under the predatory operation of the extended rule of 1756. The pamphlet went into a pretty ample and minute investigation of the subject, which terminated in a confirmed conviction, both of the heresy of the doctrine, and of the enormity of the practice growing out of it. I must add that it detracted much, also, from the admiration I had been led to bestow on the distinguished Judge of the High Court of Admiralty; not from any discovery of defect in his intellectual powers or judicial eloquence, but on account of his shifting decisions and abandonment of his independent principles. After setting out with the lofty profession of abiding by the same rules of public law when sitting in London as if a Judge at Stockholm, he was not ashamed to acknowledge that, in expounding that law, he should regard the Orders in Council of his own Government as his authoritative guide. These are not his words, but do him, I believe, no injustice. The acknowledgment ought to banish him as "authority" from every prize Court in the world.

Writings of Madison, Volume 3: 1816-1828, p.300

I ought to have premised to any remarks on the controversy into which your brother has been drawn, that I have never seen either the Review in which his book is criticised, or the pamphlet in which it is combated. Having just directed the British Quarterly Review, now sent me, to be discontinued, and the North American Review substituted, with the back numbers for the last year, I may soon be able to do a fuller justice to his reply.

Writings of Madison, Volume 3: 1816-1828, p.300

On adverting to the length of this letter, I fear that my pen has received an impulse from awakened recollections which I ought more to have controuled. The best now to be done is to add not a word more than an assurance of my cordial respect and esteem.

To Tench Coxe.

FEBRUARY 21, 1823.

Writings of Madison, Volume 3: 1816-1828, p.301

DEAR SIR,—Since I received your two letters of instant, I have hitherto been prevented from acknowledging them, first by some very urgent calls on my time, and afterwards by an indisposition which has but just left me.

Writings of Madison, Volume 3: 1816-1828, p.301

I have forwarded the letters, with the printed papers, to Mr. Jefferson. I know well the respect which he, as well as myself, attaches to your communications. But I have grounds to believe, that with me, also, he has yielded to the considerations and counsels which dissuade us from taking part in measures relating to the ensuing Presidential election. And certainly, if we are to judge of the ability with which the comparative pretensions of the candidates will be discussed, by the samples sent us, the public will be sufficiently enabled to decide under-standingly on the subject. I know you too well to doubt that you will take this explanation in its just import, and will remain assured that it proceeds from no diminution of confidence or regard towards you.

To Richard Peters.

FEBr 22d, 1823.

Writings of Madison, Volume 3: 1816-1828, p.301

DR SIR,—I have received the copy of your Agricultural address in January last, which I have read with much pleasure, and, as always, not without finding instructive ideas. You have done very right in taking occasion to record the fact which shews that your Society is the mother of the American family, and to present a fair view of its public services, with respect to which you might say, though you will not say, quorum pars maxima fui.

Writings of Madison, Volume 3: 1816-1828, p.301

You will pardon me for noting an error in the reference to the Resolution of the Albemarle Society as requesting the cooperation of the Societies in other States. The request was addressed to the other Societies of this State. I must take the blame, in part, at least, to myself. I ought to have let it appear, when I forwarded you a copy, that it was a friendly only, not an official communication.

To Nicholas Biddle.

MONTPELLIER, February 23, 1823.

Writings of Madison, Volume 3: 1816-1828, p.302

DEAR SIR,—I duly received your favor of the 9th instant, accompanied by a copy of your agricultural address, which I have read with much pleasure, and, I can add, with instruction also. It is made particularly interesting by the views taken of the ancient and modern husbandry, where, unless a part of China be an exception, the earth has made the greatest returns to human labour. The advantage of contracting and fertilizing the area on which our farmers exert their faculties, seems every where to be more and more understood; but the reform does not keep pace with the change of circumstances requiring it. The error, as a radical one, cannot, therefore, be too clearly exposed, or the remedy too strongly inculcated.

Writings of Madison, Volume 3: 1816-1828, p.302

You have very properly, under that impression, noticed the minuteness of the farms allotted to proprietors by the early laws of Rome; and it seems certain that they were not a little remarkable in that respect. I must own, however, that the limitation of them to about one and one-fourth of our acres, from which must be deducted the site of the houses, or even their extension to a little more than four of our acres, has always appeared to me so extraordinary as to be scarcely credible. The fact, nevertheless, as far as I have seen, has been neither disproved nor denied. Dickson, in his elaborate work on ancient husbandry, cites the usual authorities, without calling them in question. And Wallace, another author distinguished for his learned researches, in his treatise on the numbers of mankind, makes these subdivisions of the Roman soil one of his arguments for the superiority of the ancient populousness of the earth over the modern. Nor do I recollect that the sagacious and sceptical Hume, who maintains an opposite opinion, has criticised the alleged size of the Roman farms. Still, however, it is difficult, more perhaps for Americans than for a more compact people, to conceive in what manner a family, averaged at six only, (and the number was probably greater in the early rate of increase,) could be fed and otherwise provided for by the product of such specks of ground. The puzzle is the greater if it be understood that half of the farm only was annually in cultivation, the other half being fallow. And the fact would be altogether incredible if, according to Columella, the increase of the seed was not more than four-fold. This, however, must refer to a later period of the Republic, or rather to his own time, when the soil had been deprived of its primitive fertility, or its productiveness impaired by a degenerated husbandry. For so small a space as even four acres could not possibly, at that rate of increase, suffice for a family, without supposing the quantity of seed given to the earth to have been beyond all measure, when it was more probably reduced in its proportion by peculiar care in sewing and harvesting the crop. In the dibbling mode sometimes practised in England, which produces the greatest of crops, the quantity of seed, if I rightly remember, is somewhere about a peck to the acre.

Writings of Madison, Volume 3: 1816-1828, p.303

If we are not at liberty to contest the fact as to the diminutive size of the early Roman farms, the attempt to account for the phenomenon must take for granted, and make the most of the circumstance, that none of the usual quadrupeds were kept on the farms; that the ground was tilled by the hand alone of the farmer himself, and with more than a garden attention to every inch; and that all the clothing was wrought within the family. Even on this last supposition, the question arises, whence the materials for the fabrics? The wool and the lint, if produced on the farm, must have subtracted so much from the crop of food; if purchased, they must have been paid for out of the crop; and purchased from whom? It could not be by such farmers from one another. Questions of a like cast are presented by the materials necessary for household utensils, for farming implements, &c., which the farm itself could not supply. Do we know of any population where less than an acre supports —— individuals? The agrarian regulations of earliest date among the Romans must have reduced the quantity to one-fifth of an acre.

Writings of Madison, Volume 3: 1816-1828, p.304

We seem to be driven to the necessity of some subsidiary resources for the support of a family confined to such scanty portions of soil. The military policy may have been a partial one. As the nation was almost constantly at war at small distances from Rome, and the farmers were all soldiers, they may have drawn their subsistence whilst in the fields from the farms of their neighbours; and have carried home, among the spoils of successful expeditions, an additional stock of provisions for the use of their families.

Writings of Madison, Volume 3: 1816-1828, p.304

The entire subject is curious. It involves three questions: 1. Whether the fact be rightly stated, that the Roman farms were of no greater size? 2. If rightly stated, and there were no resources beyond the farms, in what way did the families subsist on them? 3. If there were extraneous resources, what were they?

Writings of Madison, Volume 3: 1816-1828, p.304

I hope you will not understand that in raising these questions I wish to impose on you the task of searching for answers, and that you will be assured of my sincere esteem and friendly respects.

To Tench Coxe.

MARCH 1, 1823.

Writings of Madison, Volume 3: 1816-1828, p.304

DR SIR,—Mr. Jefferson has just returned your two letters and papers. Supposing that I had yet to acknowledge them, he annexes a line requesting me to do it for him also; observing that it would hurt him much to leave unnoticed an old friend, and that the difficulty of using his pen with his crippled hand had compelled him to abandon writing but from the most urgent necessities. I find he thinks it best to abstain strictly from the Presidential election, not even expressing a sentiment on the subject of the Candidates. Having thus made the communication desired, I have only to repeat assurances of my continued esteem and friendly wishes.

To Revd Dr. Morse.

Writings of Madison, Volume 3: 1816-1828, p.305

J. Madison presents his respects to the Revd Dr. Morse, and to his son, with acknowledgments for the copies of "the new system of Modern Geography," and "The new system of Geography, Ancient and Modern," with which he has been favored.

Writings of Madison, Volume 3: 1816-1828, p.305

He has not been able to give them a particular examination. A very cursory one has left no doubt that each will bear a very advantageous comparison with any similar compilations, whether its merits be tested by the materials and plan of the work, or by its literary execution. "The General Views," particularly of the United States, and as amplified in the larger work, must make it extensively interesting; and the sketch of "Ancient Geography" forms a useful supplement to the smaller one. The several maps in the Atlas have the appearance of more than ordinary neatness.

Writings of Madison, Volume 3: 1816-1828, p.305

He has only to add that, since the arrival of the two books, he has received the letter of Doctor Morse of Feby 20, to whom he offers a return of his friendly respects.

MONTPELLIER, March 8, 1823.

To Edward Everett.

MONTPELLIER, March 19th, 1823.

Writings of Madison, Volume 3: 1816-1828, p.305

DEAR SIR,—I received, on the 15th, your favour of the 2d instant, with the little pamphlet of remarks on your brother's "Europe."

Writings of Madison, Volume 3: 1816-1828, p.305

The pamphlet would have been much improved by softer words and harder arguments. To support its construction of Art. 18, of the Treaty of 1794, the writer ought to have shewn that there are cases in which provisions become contraband according to the law of Nations; and that the cases are of such recurrence and importance as to make them a probable object of such an article. He does not point at a single one.

Writings of Madison, Volume 3: 1816-1828, p.306

If he be not right in contending that the United States always resisted the rule of 1756, he is still more astray in saying that Great Britain relinquished it. The indemnities for violations of the rule allowed by the joint Commissioners can be no evidence of the fact. This award might be the result of the casting vote on the American side; or the concurrence of the British side, the result of the individual opinions of honest umpires. That the British Government made no such relinquishment is demonstrated by the reasonings and adjudications of Sir Wm Scott, whether he be regarded as the organ or as the oracle of his Government. There is no question of public law on which he exerts his talents with more pertinacity than he does in giving effect to the rule of '56, in all its ductile applications to emerging cases. His testimony on this point admits no reply. The payment of the awards of the Board of Commissioners by the British Government is an evidence merely of its good faith; the more to its credit, the more they disappointed its calculations and wishes.

Writings of Madison, Volume 3: 1816-1828, p.306

Our University has lately received a further loan from the Legislature, which will prepare the buildings for ten professors and about 200 students. Should all the loans be converted into donations at the next session, as is generally expected, but for which no pledge has been given, the visitors, with an annuity of $15,000 settled on the Institution, will turn their thoughts towards opening it, and to the preliminary engagement of professors.

Writings of Madison, Volume 3: 1816-1828, p.306

I am not surprised at the dilemma produced at your University by making theological professorships an integral part of the system. The anticipation of such an one led to the omission in ours; the visitors being merely authorized to open a public hall for religious occasions, under impartial regulations; with the opportunity to the different sects to establish theological schools so near that the students of the University may respectively attend the religious exercises in them. The village of Charlottesville, also, where different religious worships will be held, is also so near, that resort may conveniently be had to them.

Writings of Madison, Volume 3: 1816-1828, p.307

A University with sectarian professorships becomes, of course, a sectarian monopoly: with professorships of rival sects, it would be an arena of Theological Gladiators. Without any such professorships, it may incur, for a time at least, the imputation of irreligious tendencies, if not designs. The last difficulty was thought more manageable than either of the others.

Writings of Madison, Volume 3: 1816-1828, p.307

On this view of the subject, there seems to be no alternative but between a public University without a theological profes-sorship, and sectarian seminaries without a University.

Writings of Madison, Volume 3: 1816-1828, p.307

I recollect to have seen, many years ago, a project of a prayer, by Gov. Livingston, father of the present Judge, intended to comprehend and conciliate college students of every Christian denomination, by a form composed wholly of texts and phrases of Scripture. If a trial of the expedient was ever made, it must have failed, notwithstanding its winning aspect, from the single cause that many sects reject all set forms of worship.

Writings of Madison, Volume 3: 1816-1828, p.307

The difficulty of reconciling the Christian mind to the absence of a religious tuition from a University established by law, and at the common expense, is probably less with us than with you. The settled opinion here is, that religion is essentially distinct from civil Government, and exempt from its cognizance; that a connexion between them is injurious to both; that there are causes in the human breast which ensure the perpetuity of religion without the aid of the law; that rival sects, with equal rights, exercise mutual censorships in favor of good morals; that if new sects arise with absurd opinions or over-heated imaginations, the proper remedies lie in time, forbearance, and example; that a legal establishment of religion without a toleration could not be thought of, and with a toleration, is no security for public quiet and harmony, but rather a source itself of discord and animosity; and, finally, that these opinions are supported by experience, which has shewn that every relaxation of the alliance between law and religion, from the partial example of Holland to its consummation in Pennsylvania, Delaware, New Jersey, &c., has been found as safe in practice as it is sound in theory. Prior to the Revolution, the Episcopal Church was established by law in this State. On the Declaration of Independence it was left, with all other sects, to a self-support. And no doubt exists that there is much more of religion among us now than there ever was before the change, and particularly in the sect which enjoyed the legal patronage. This proves rather more than that the law is not necessary to the support of religion.

Writings of Madison, Volume 3: 1816-1828, p.308

With such a public opinion, it may be expected that a University, with the feature peculiar to ours, will succeed here if any where. Some of the clergy did not fail to arraign the peculiarity; but it is not improbable that they had an eye to the chance of introducing their own creed into the professor's chair. A late resolution for establishing an Episcopal school within the College of William and Mary, though in a very guarded manner, drew immediate animadversions from the press, which, if they have not put an end to the project, are a proof of what would follow such an experiment in the University of the State, endowed and supported, as this will be, altogether by the public authority and at the common expense.

Writings of Madison, Volume 3: 1816-1828, p.308

I know not whence the rumour sprang of my being engaged in a political History of our Country. Such a task, could I presume on a capacity for it, belongs to those who have more time before them than the remnant to which mine is limited.

Writings of Madison, Volume 3: 1816-1828, p.308

On reviewing my political papers and correspondence, I find much that may deserve to be put into a proper state for preservation; and some things that may not, in equal amplitude, be found elsewhere. The ease is doubtless the same with other individuals, whose public lives have extended through the same long and pregnant period. It has been the misfortune of history, that a personal knowledge and an impartial judgment of things rarely meet in the historian. The best history of our Country, therefore, must be the fruit of contributions bequeathed by co-temporary actors and witnesses to successors who will make an unbiassed use of them. And if the abundance and authenticity of the materials which stir exist in the private as well as public repositories among us should descend to hands capable of doing justice to them, the American History may be expected to contain more truth, and lessons certainly not less valuable, than those of any Country or age.

Writings of Madison, Volume 3: 1816-1828, p.309

I have been so unlucky as not yet to have received the Numbers of the North American Review, written for the I expect them every moment, but the delay has deprived me as yet of the criticism in that work on your brother's book.

Writings of Madison, Volume 3: 1816-1828, p.309

The difference to which you allude between the profits of authorship in England and in the United States is very striking. It proceeds, mainly, no doubt, from the difference of the area over which the population is spread, and of the manner in which the aggregate wealth is distributed in the two Countries. The number of people in this is perhaps equal to that in England, and the number of readers of popular works, at least, probably not less, if not greater. But in their scattered situation here, they are with more difficulty supplied with new publications than when they are condensed within an easy reach of them; and where, indeed, a vast proportion, being in the Metropolis, are on the same spot with the printing offices. But the unequal divisions of wealth in England enters much into the advantage given there to authors and editors. With us there are more readers than buyers of books. In England, there are more buyers than readers. Hence those gorgeous editions which are destined to sleep in the private libraries of the rich, whose vanity aspires to that species of furniture; or who give that turn to their public spirit and patronage of letters.

Writings of Madison, Volume 3: 1816-1828, p.309

Whatever may be the present obstacles to the diffusion of literature in our Country, it is a consolation that its growing improvements are daily diminishing them; and that, in the mean time, individuals are seen making generous efforts to overcome them.

To J. Maury.

MONTPELLIER, March 24, 1823.

Writings of Madison, Volume 3: 1816-1828, p.310

DR SIR,—The speech of the French King breathing war against Spain has just made its appearance. Your own bosom will inform you of the sensation produced here by such a crusade, on the avowed principle that nations have no title to their liberty, but from the free gift of an individual with a crown on his head; no matter how he came by it, nor what sort of a head it may cover. There is not a little impatience to learn the course of the British Government at such a crisis. Its weight must be great into whatever scale it may be put; and the effect even great, should it be withheld from both scales. If the public sympathies should give the impulse to the Cabinet, it is presumed that conspiring against the Independence of Spain would be the road to its object, strewed with difficulties not counted on. There have been British statesmen who would place the glory of their Country in promoting free Government every where. There have [been] some, also, whom we have seen callous to so exalted a policy. From which of the two examples the present leaders will take counsel, will probably, by this time, be known on your side of the Atlantic.

To Dr. Morse.

MARCH 28, 1823.

Queries.

Writings of Madison, Volume 3: 1816-1828, p.310

1. Do the planters generally live on their own estates?

Writings of Madison, Volume 3: 1816-1828, p.310

2. Does a planter with ten or fifteen slaves employ an over-looker, or does he overlook his slaves himself?

Writings of Madison, Volume 3: 1816-1828, p.310

3. Obtain estimates of the culture of Sugar and Cotton, to show what difference it makes where the planter resides on his estate, or where he employs attorneys, overlookers, &c.

Writings of Madison, Volume 3: 1816-1828, p.310

4. Is it a common or general practice to mortgage slave estates?

Writings of Madison, Volume 3: 1816-1828, p.311

5. Are sales of slave estates very frequent under execution for debt, and what proportion of the whole may be thus sold annually?

Writings of Madison, Volume 3: 1816-1828, p.311

6. Does the Planter possess the power of selling the different branches of a family separate?

Writings of Madison, Volume 3: 1816-1828, p.311

7. When the prices of produce, Cotton, Sugar, &c., are high, do the Planters purchase, instead of raising, their corn and other provisions?

Writings of Madison, Volume 3: 1816-1828, p.311

8. When the prices of produce are low, do they then raise their own corn and other provisions?

Writings of Madison, Volume 3: 1816-1828, p.311

9. Do the negroes fare better when the Corn, &c., is raised upon their master's estate, or when he buys it?

Writings of Madison, Volume 3: 1816-1828, p.311

10. Do the tobacco planters in America ever buy their own Corn or other food, or do they always raise it?

Writings of Madison, Volume 3: 1816-1828, p.311

11. If they always, or mostly, raise it, can any other reason be given for the difference of the system pursued by them and that pursued by the Sugar and Cotton planters than that the cultivation of tobacco is less profitable than that of Cotton or Sugar?

Writings of Madison, Volume 3: 1816-1828, p.311

12. Do any of the Planters manufacture the packages for their produce, or the clothing for their negroes? and if they do, are their negroes better clothed than when clothing is purchased?

Writings of Madison, Volume 3: 1816-1828, p.311

13. Where, and by whom, is the Cotton bagging of the Brazils made? is it principally made by free men or slaves?

Writings of Madison, Volume 3: 1816-1828, p.311

14. Is it the general system to employ the negroes in task work, or by the day?

Writings of Madison, Volume 3: 1816-1828, p.311

15. How many hours are they generally at work in the former case? how many in the latter? Which system is generally preferred by the master? which by the slaves?

Writings of Madison, Volume 3: 1816-1828, p.311

16. Is it common to allow them a certain portion of time instead of their allowance of provisions? In this case, how much is allowed? Where the slaves have the option, which do they generally choose? On which system do the slaves look the best, and acquire the most comforts?

Writings of Madison, Volume 3: 1816-1828, p.311

17. Are there many small plantations where the owners possess only a few slaves? What proportion of the whole may be supposed to be held in this way?

Writings of Madison, Volume 3: 1816-1828, p.312

18. In such cases, are the slaves treated or almost considered a part of the family?

Writings of Madison, Volume 3: 1816-1828, p.312

19. Do the slaves fare the best when their situations and that of the master are brought nearest together?

Writings of Madison, Volume 3: 1816-1828, p.312

20. In what state are the slaves as to religion or religious instruction?

Writings of Madison, Volume 3: 1816-1828, p.312

21. Is it common for the slaves to be regularly married?

Writings of Madison, Volume 3: 1816-1828, p.312

22. If a man forms an attachment to a woman on a different or distant plantation, is it the general practice for some accommodation to take place between the owners of the man and woman, so that they may live together?

Writings of Madison, Volume 3: 1816-1828, p.312

23. In the United States of America, the slaves are found to increase at about the rate of 3 per cent. per annum. Does the same take place in other places? Give a census, if such is taken. Show what cause contributes to this increase, or what prevents it where it does not take place.

Writings of Madison, Volume 3: 1816-1828, p.312

24. Obtain a variety of estimates from the Planters of the cost of bringing up a child, and at what age it becomes a clear gain to its owner.

Writings of Madison, Volume 3: 1816-1828, p.312

25. Obtain information respecting the comparative cheapness of cultivation by slaves or by free men.

Writings of Madison, Volume 3: 1816-1828, p.312

26. Is it common for the free blacks to labour in the field?

Writings of Madison, Volume 3: 1816-1828, p.312

27. Where the labourers consist of free blacks and of white men, what are the relative prices of their labour when employed about the same work?

Writings of Madison, Volume 3: 1816-1828, p.312

28. What is the proportion of free blacks and slaves?

Writings of Madison, Volume 3: 1816-1828, p.312

29. Is it considered that the increase in the proportion of free blacks to slaves increases or diminishes the danger of insurrection?

Writings of Madison, Volume 3: 1816-1828, p.312

30. Are the free blacks employed in the defence of the Country, and do they and the Creoles preclude the necessity of European troops?

Writings of Madison, Volume 3: 1816-1828, p.312

31. Do the free blacks appear to consider themselves as more closely connected with the slaves or with the white population? and in cases of insurrection, with which have they generally taken part?

Writings of Madison, Volume 3: 1816-1828, p.313

32. What is their general character with respect to industry and order, as compared with that of the slaves?

Writings of Madison, Volume 3: 1816-1828, p.313

33. Are there any instances of emancipation in particular estates, and what is the result?

Writings of Madison, Volume 3: 1816-1828, p.313

34. Is there any general plan of emancipation in progress, and what?

Writings of Madison, Volume 3: 1816-1828, p.313

35. What was the mode and progress of emancipation in those States in America where slavery has ceased to exist?

Hon. James Madison, Esqr.

NEW HAVEN, Mar. 14, 1823.

Writings of Madison, Volume 3: 1816-1828, p.313

SIR,—The foregoing was transmitted to me from a respectable correspondent in Liverpool, deeply engaged in the abolition of the slave trade, and the amelioration of the condition of slaves. If, sir, your leisure will allow you, and it is agreeable to you to furnish brief answers to these questions, you will, I conceive, essentially serve the cause of humanity, and gratify and oblige the Society above named, and, Sir, with high consideration and esteem, your most obt servt,

Writings of Madison, Volume 3: 1816-1828, p.313

JED'H MORSE.

Answers.

Writings of Madison, Volume 3: 1816-1828, p.313

1. Yes.

Writings of Madison, Volume 3: 1816-1828, p.313

2. Employs an overseer for that number of slaves, with few exceptions.

Writings of Madison, Volume 3: 1816-1828, p.313

4. Not uncommonly the land; sometimes the slaves; very rarely both together.

Writings of Madison, Volume 3: 1816-1828, p.313

5. The common law, as in England, governs the relation between land and debts; slaves are often sold under execution for debt; the proportion to the whole cannot be great within a year, and varies, of course, with the amount of debts and the urgency of creditors.

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6. Yes.

Writings of Madison, Volume 3: 1816-1828, p.313

7-10. Instances are rare where the tobacco planters do not raise their own provisions.

Writings of Madison, Volume 3: 1816-1828, p.314

11. The proper comparison, not between the culture of tobacco and that of sugar and cotton, but between each of these cultures and that of provisions. The tobacco planter finds it cheaper to make them a part of his crop than to buy them. The cotton and sugar planters to buy them, where this is the case, than to raise them. The term, cheaper, embraces the comparative facility and certainty of procuring the supplies.

Writings of Madison, Volume 3: 1816-1828, p.314

12. Generally best clothed when from the household manufactures, which are increasing.

Writings of Madison, Volume 3: 1816-1828, p.314

14, 15. Slaves seldom employed in regular task work. They prefer it only when rewarded with the surplus time gained by their industry.

Writings of Madison, Volume 3: 1816-1828, p.314

16. Not the practice to substitute an allowance of time for the allowance of provisions.

Writings of Madison, Volume 3: 1816-1828, p.314

17. Very many, and increasing with the progressive subdivisions of property; the proportion cannot be stated.

Writings of Madison, Volume 3: 1816-1828, p.314

18, 19. The fewer the slaves, and the fewer the holders of slaves, the greater the indulgence and familiarity. In districts composing [comprising?] large masses of slaves there is no difference in their condition, whether held in small or large numbers, beyond the difference in the dispositions of the owners, and the greater strictness of attention where the number is greater.

Writings of Madison, Volume 3: 1816-1828, p.314

20. There is no general system of religious instruction. There are few spots where religious worship is not within reach, and to which they do not resort. Many are regular members of Congregations, chiefly Baptist; and some Preachers also, though rarely able to read.

Writings of Madison, Volume 3: 1816-1828, p.314

21. Not common; but the instances are increasing.

Writings of Madison, Volume 3: 1816-1828, p.314

22. The accommodation not unfrequent where the plantations are very distant. The slaves prefer wives on a different plantation, as affording occasions and pretexts for going abroad, and exempting them on holidays from a share of the little calls to which those at home are liable.

Writings of Madison, Volume 3: 1816-1828, p.314

23. The remarkable increase of slaves, as shewn by the census, results from the comparative defect of moral and prudential restraint on the sexual connexion; and from the absence, at the same time, of that counteracting licentiousness of intercourse, of which the worst examples are to be traced where the African trade, as in the West Indies, kept the number of females less than of the males.

Writings of Madison, Volume 3: 1816-1828, p.315

24. The annual expense of food and raiment in rearing a child may be stated at about 8, 9, or 10 dollars; and the age at which it begins to be gainful to its owner about 9 or 10 years.

Writings of Madison, Volume 3: 1816-1828, p.315

25. The practice here does not furnish data for a comparison of cheapness between these two modes of cultivation.

Writings of Madison, Volume 3: 1816-1828, p.315

26. They are sometimes hired for field labour in time of harvest, and on other particular occasions.

Writings of Madison, Volume 3: 1816-1828, p.315

27. The examples are too few to have established any such relative prices.

Writings of Madison, Volume 3: 1816-1828, p.315

28. See the census.

Writings of Madison, Volume 3: 1816-1828, p.315

29. Rather increases,

Writings of Madison, Volume 3: 1816-1828, p.315

30. ——

Writings of Madison, Volume 3: 1816-1828, p.315

31. More closely with the slaves, and more likely to side with them in a case of insurrection.

Writings of Madison, Volume 3: 1816-1828, p.315

32. Generally idle and depraved; appearing to retain the bad qualities of the slaves, with whom they continue to associate, without acquiring any of the good ones of the whites, from whom [they] continue separated by prejudices against their colour, and other peculiarities.

Writings of Madison, Volume 3: 1816-1828, p.315

33. There are occasional instances in the present legal condition of leaving the State.

Writings of Madison, Volume 3: 1816-1828, p.315

34. None.

Writings of Madison, Volume 3: 1816-1828, p.315

35. ——

Writings of Madison, Volume 3: 1816-1828, p.315

J. Madison presents his respects to Dr. Morse, with the annexed answers to the queries accompanying his letter of the 14th instant, so far as they were applicable to this State. The answers could not conveniently be extended as much as might, perhaps, be desired. Their brevity and inadequacy will be an apology for requesting that, if any use be made of them, it may be done without a reference to the source furnishing them.

MONTPELLIER, Mar. 28, 1823.

To Robert Mayo and Wm. R. Barlow.

MONTPELLIER, March 31, 1823.

Writings of Madison, Volume 3: 1816-1828, p.316

GENTLEMEN,—I have received the copy of an address in behalf of the Juvenile Library Company of Richmond, which you have been pleased to forward to me.

Writings of Madison, Volume 3: 1816-1828, p.316

Knowledge of the useful kinds is so conducive to individual and social happiness, and so essential to the form of Government most friendly to both, that all the means of diffusing it have their merit. Among these means, libraries adapted to the early period of life, and placed every where within the reach of those most needing the instruction and rational entertainment they offer, are well entitled to the persuasive recommendation which the address bestows on them. I wish for the Institution in Richmond all the success promised by the laudable activity of its founders, and that it may be followed by others wherever local circumstances will admit. The obstacles presented by these are more or less to be encountered as places may be more or less thinly peopled, and they must often be greatest where the benefit in view is most desirable. Much, however, may be hoped from the light of judicious examples, and from the animated efforts they may inspire. And it is a further consolation that the facilities resulting from a concentrated population must daily increase with the growth and improvement of the Country.

To Caleb Atwater.

APRIL, 1823.

Writings of Madison, Volume 3: 1816-1828, p.316

DR SIR,—I have received your letter of March 18, with the copy of a bill providing for common schools in Ohio.

Writings of Madison, Volume 3: 1816-1828, p.316

It affords much gratification to see the emulating attention which is paid to this vital object throughout our Country, particularly in a young State which is rising to such national importance; and I should most cheerfully contribute any suggestions which might be of use on such an occasion. But no course occurs to me so judicious as that pursued by the reporters of the bill, who have availed themselves of the experience of other States, by adopting a model sanctioned in its outlines by more than one, and adapting it to the local and other circumstances peculiar to their own. Of these peculiarities, and the proper adaptations to them, no stranger can so well judge as those with whom the decision lies. With the confidence, therefore, which is due to their superior competency, and the general principles on which the bill is planned, I have only to express my wishes that it may result in a system the best calculated to ful-fil the laudable views of the State. As it would be very unfortunate that the valuable fund set apart by the National Legislature in aid of public instruction in Ohio should be in any manner frustrated, it is to be hoped that remedies will be found for the dangers referred to on that subject.

To William Eustis, Governor Elect.

MONTPELLIER, May 22, 1823.

Writings of Madison, Volume 3: 1816-1828, p.317

DEAR SIR,—I received, by the last mail, your welcome favor of the 10th instant. The newspapers had prepared me for the triumphant vote which restores a prodigal sister to the bosom of the Republican family, and evinces a return of grateful feelings for a revolutionary worthy. I congratulate you very sincerely on this event, with every wish that your administration may be as happy to yourself as I am confident it will be propitious to the welfare of those who have called you into it; and I may add, of those who resisted the call. The people are now able every where to compare the principles and policy of those who have borne the name of Republicans or Democrats with the career of the adverse party; and to see and feel that the former are as much in harmony with the spirit of the Nation and the genius of the Government as the latter was at variance with both.

Writings of Madison, Volume 3: 1816-1828, p.317

A great effort has been made by the fallen party to proclaim and eulogize an amalgamation of political sentiments and views. Who could be duped by it, when unmasked by the electioneering violence of the party where strong, and intrigues where weak?

Writings of Madison, Volume 3: 1816-1828, p.318

The effort has been carried even farther. It has been asserted that the Republicans have abandoned their cause, and gone over to the policy of their opponents. Here the effort equally fails. It is true, that under a great change of foreign circumstances, and with a doubled population, and more than doubled resources, the Republican party has been reconciled to certain measures and arrangements, which may be as proper now as they were premature and suspicious when urged by the champions of Federalism. But they overlook the overbearing and vindictive spirit, the Apocryphal doctrines and rash projects, which stamped on Federalism its distinctive character; and which are so much in contrast with the unassuming and unavenging spirit which has marked the Republican ascendency.

Writings of Madison, Volume 3: 1816-1828, p.318

There has been, in fact, a deep distinction between the two parties, or, rather, between the mass of the Nation and the part of it which, for a time, got possession of the Government. The distinction has its origin in the confidence of the former in the capacity of mankind for self-government, and in a distrust of it by the other, or by its leaders; and is the key to many of the phenomena presented by our political history. In all free countries, somewhat of this distinction must be looked for; but it can never be dangerous in a well-informed community and a well-constructed Government; both of which, I trust, will be found to be the happy lot of the United States. The wrong paths into which the fathers may stray will warn the sons into the right one; according to the example under your own eye, which has touched your heart with such appropriate feelings.

Writings of Madison, Volume 3: 1816-1828, p.318

As you say nothing of the state of your health, I flatter myself it has undergone no unfavorable change, and that it will more than suffice for the labor thrown on your hands. Mrs. M., who shares largely in the gratification afforded by your letter, joins in this, and in every other wish that can express an affectionate esteem for yourself and Mrs. Eustis.

To Edward Coles.

MONTPELLIER, May 23d, 1823.

Writings of Madison, Volume 3: 1816-1828, p.319

MY DEAR SIR,—I have received yours of April 25, and lose no time in acknowledging it.

Writings of Madison, Volume 3: 1816-1828, p.319

If the Constitution does not authorise, or practical objections forbid, a call of the Senate by the Governor, it would seem proper, in the case stated, that be should give effect to the law by appointing the necessary officer, and laying the proceeding, with the grounds of it, before the Legislature, in confidence that if any validating act be deemed necessary, it will not be withheld.

Writings of Madison, Volume 3: 1816-1828, p.319

I am no friend to forced or strained constructions of a Constitution for enlarging power, whether in one or another Department of the Government. But where the object is indisputably the public good, and certainly within the policy of the constitutional provision, a less strict rule of interpretation must be admitted. It cannot be doubted that the framers of the Constitution, in authorising the Governor alone to fill vacancies during the recess of the Senate, meant to guard against delays and failures in the execution of the laws. It is highly reasonable, therefore, that in expounding the phraseology used, this acknowledged and necessary end should be kept in view. Under the Federal Government, vacancies, not strictly arising or happening, but existing only, have been filled during the recess of the Senate; as where a person not known to be dead had been appointed by the President and Senate, &c., &c. It is probable that the practice in other States may furnish cases analogous to yours. It might be worth your while to procure from some of your friends at Washington, before your Legislature meets, a list of the cases of Executive appointments to vacancies not literally arising during the recess of the Senate; and, as far as you can, like information from the other States whose Constitutions are such as to render applicable examples probable.

To Francis Preston.

MONTPELLIER, June 2d, 1823.

Writings of Madison, Volume 3: 1816-1828, p.320

DEAR SIR,—I received, by the last mail, yours of May 15; and I cannot but express my regret that any controversy should have arisen as to the distribution of the laurels gained in the memorable battle of King's Mountain, where enough were gained for all the heroes of the achievement.

Writings of Madison, Volume 3: 1816-1828, p.320

I was not what you suppose I was, a member of the Council of State, either at the date of the battle, or when the vote of the Legislature passed in honor of Col. Campbell. I had been, a considerable time before, appointed a Delegate to Congress, in which I was then attending at Philadelphia. I had, of course, no opportunity of knowing more on the subject than was publicly known: and I recollect only the universal impression, that the victory was as critical for the public affairs as it was brilliant for those concerned in it; the officer commanding being, as usual, spoken of with the distinction appertaining to his rank.

To President Monroe.

MONTPELLIER, June 9, 1823.

Writings of Madison, Volume 3: 1816-1828, p.320

DEAR SIR,—Mr. Morris, who was employed for several years on a confidential mission to Spain, observes to me that in executing the trust he incurred expenses, particularly in being transferred from Cadiz to Madrid, during his residence at the latter place, which, in the then circumstances of Spain, were great beyond foresight; and, moreover, in providing a clerk, for whose services he had occasion; and he wishes me, as he received his appointment and performed its duties whilst I was in the Administration, to express an opinion on the reasonableness of these items in his account with the public. But, as I possess no information derived from my situation when it was official, nor any means of forming an equitable estimate of special allowances in the case not possessed by those in office, I cannot be unaware that my opinion would not be entitled to the consideration Mr. Morris supposes. What I may say without impropriety is, that in every thing depending on personal confidence, I cheerfully bear my testimony to the claim given to him by the intelligence, the integrity, and the respectability belonging to his character.

To Governor Eustis.

MONTPELLIER, June 14, 1823.

Writings of Madison, Volume 3: 1816-1828, p.321

DEAR SIR,—I have duly received your letter of the 6th instant. I had previously received, under your blank cover, a printed copy of your address to the Legislature, in which your pen has done justice to the elevated devotion to the public interest which it had to express.

Writings of Madison, Volume 3: 1816-1828, p.321

The coup de grace which the address gives to the factious ascendency, so long forming a cloud over the State of Massachusetts, could not fail to pierce the consciences of the guilty, and inflame their angry passions. It was to be looked for, also, that among the innocent some sympathy might be indulged toward the sufferers, however just the punishment inflicted on them. The guilty, however, are, probably, forever disarmed, and the feelings of the misguided may be expected soon to take a turn, which will be promoted by the frank and generous course of which a presage is given in the merited tributes to your immediate predecessor. It is not for those at a distance to decide on the precise form and tone which may best adapt wholesome lessons to the state of things on the spot. But there can be no risk of error in saying, that the criminal conduct which you have portrayed and denounced is reviewed with such indignant disgust throughout the nation, that the predominant feeling will ratify the monitory stigma fixed on deserters, above all, impenitent deserters, of their Country's cause. This disgust could not be less than it is when the insurrectional spirit and unconstitutional extension of State powers displayed by the party on their latter career is contrasted with their doctrines of passive obedience, and their over-strained interpretation of the Constitutional text in favor of the General Government, when that Government was regarded as in their own hands.

Writings of Madison, Volume 3: 1816-1828, p.322

I learn with much pleasure that your general health is good, and cannot but hope, that in spite of the enigmatical symptoms you occasionally experience, you may live to enjoy and to nourish the resuscitated patriotism which has placed you in a situation to do both. It is right, nevertheless, in every situation, and especially at our ages, to look to the event which awaits us all; and if ready for it, its suddenness cannot be an evil. The excision of life is a painful operation, and the more quickly it is performed the better for the patient.

Writings of Madison, Volume 3: 1816-1828, p.322

The kind sentiments which your letter breathes are truly grateful to me, because I am sure of their sincerity, and because they are from a source that gives real value to them. With equal sincerity, I pray you to be assured of my best wishes for every thing that can contribute to your happiness. In these wishes Mrs. M. joins me; as I do in all hers in behalf of Mrs. Eustis.

To W. H. Sumner.

JUNE 20, 1823.

Writings of Madison, Volume 3: 1816-1828, p.322

J. Madison presents his respects to Mr. Sumner, with thanks for the copy of his letter to Mr. Adams on the "importance of militia."

Writings of Madison, Volume 3: 1816-1828, p.322

The views of the subject which are taken in the letter are very interesting, and, as illustrated by the experience of Massachusetts, particularly worthy of attention. As auxiliary to a regular force in time of war, and a substitute for a large one in a state of peace, a disciplined militia forms an essential part of a Republican system; it being certain that liberty cannot be safe with powerful standing armies; and that without an effective militia the danger of such armies cannot be precluded.

To Thomas Jefferson.

MONTPELLIER, June 27, 1823.

Writings of Madison, Volume 3: 1816-1828, p.323

DEAR SIR,—I return the copy of your letter to Judge Johnson inclosed in your favor of the —— instant. Your statement relating to the farewell address of General Washington is substantially correct. If there be any circumstantial inaccuracy, it is in imputing to him more agency in composing the document than he probably had. Taking for granted that it was drawn up by Hamilton, the best conjecture is, that the General put into his hands his own letter to me suggesting his general ideas, with the paper prepared by me in conformity with them; and if he varied the draught of Hamilton at all, it was by a few verbal or qualifying amendments only.\* It is very inconsiderate in the friends of General Washington to make the merit of the Address a question between him and Col. Hamilton, and somewhat extraordinary, if countenanced by those who possess the files of the General, where it is presumed the truth might be traced. They ought to claim for him the merit only of cherishing the principles and views addressed to his Country, and, for the Address itself, the weight given to it by his sanction; leaving the literary merit, whatever it be, to the friendly pen employed on the occasion; the rather, as it was never understood that Washington valued himself on his writing talent, and no secret to some that he occasionally availed himself of the friendship of others whom he supposed more practised than himself in studied composition. In a general view, it is to be regretted that the Address is likely to be presented to the public, not as the pure legacy of the Father of his Country, as has been all along believed, but as the performance of another, held in different estimation. It will not only lose the charm of the name subscribed to it, but it will not be surprising if particular passages be understood in new senses, and with applications derived from the political doctrines and party feelings of the discovered author.

Writings of Madison, Volume 3: 1816-1828, p.324

At some future day it may be an object with the curious to compare the two draughts, made at different epochs, with each other, and the letter of General Washington with both. The comparison will show a greater conformity in the first with the tenor and tone of the letter than in the other; and the difference will be more remarkable, perhaps, in what is omitted, than in what is added in the Address as it stands.

Writings of Madison, Volume 3: 1816-1828, p.324

If the solicitude of General Washington's connexions be such as is represented, I foresee that I shall share their displeasure, if public use be made of what passed between him and me at the approaching expiration of his first term. Although it be impossible to question the facts, I may be charged with indelicacy, if not breach of confidence, in making them known; and the irritation will be the greater if the authorship of the Address continue to be claimed for the signer of it, since the call on me on one occasion will favor the allegation of a call on another on another occasion. I hope, therefore, that the Judge will not understand your communication as intended for the new work he has in hand. I do not know that your statement would justify all the complaint its public appearance might bring on me; but there certainly was a species of confidence at the time in what passed forbidding publicity, at least till the lapse of time should wear out the seal on it, and the truth of history should put in a fair claim to such disclosures.

Writings of Madison, Volume 3: 1816-1828, p.324

I wish the rather that the Judge may be put on his guard, because, with all his good qualities, he has been betrayed into errors which show that his discretion is not always awake. A remarkable instance is his ascribing to Governeur Morris the Newburg letters written by Armstrong, which has drawn from the latter a corrosive attack, which must pain his feelings, if it should not affect his standing with the public. Another appears in a stroke at Judge Cooper, in a letter to the Education Committee in Kentucky, which has plunged him into an envenomed dispute with an antagonist, the force of whose mind and pen you well know. And what is worse than all, I perceive from one of Cooper's publications, casually falling within my notice, that, among the effects of Judge Johnson's excitement, he has stooped to invoke the religious prejudices circulated against Cooper.

Writings of Madison, Volume 3: 1816-1828, p.325

Johnson is much indebted to you for your remarks on the definition of parties. The radical distinction between them has always been a confidence of one and distrust of the other as to the capacity of mankind for self-government. He expected far too much in requesting a precise demarkation of the boundary between the Federal and the State authorities. The answer would have required a critical commentary on the whole text of the Constitution. The two general canons you lay down would be of much use in such a task, particularly that which refers to the sense of the State Conventions, whose ratifications alone made the Constitution what it is. In exemplifying the other canon, there are more exceptions than occurred to you of cases in which the Federal jurisdiction is extended to controversies between citizens of the same State. To mention one only: in cases arising under a bankrupt law, there is no distinction between those to which citizens of the same and of different States are parties.

Writings of Madison, Volume 3: 1816-1828, p.325

But after surmounting the difficulty in tracing the boundary between the General and State Governments, the problem remains for maintaining it in practice, particularly in cases of Judicial cognisance. To refer every new point of disagreement to the people in Conventions would be a process too tardy, too troublesome, and too expensive; besides its tendency to lessen a salutary veneration for an Instrument so often calling for such explanatory interpositions. A paramount, or even a definitive, authority in the individual States would soon make the Constitution and laws different in different States, and thus destroy that equality and uniformity of rights and duties which form the essence of the compact; to say nothing of the opportunity given to the States individually of involving by their decisions the whole Union in foreign contests. To leave conflicting decisions to be settled between the Judicial parties could not promise a happy result. The end must be a trial of strength between the posse headed by the marshal and the posse headed by the sheriff. Nor would the issue be safe if left to a compromise between the two Governments; the case of a disagreement between different Governments being essentially different from a disagreement between branches of the same Government. In the latter case, neither party being able to consummate its will without the concurrence of the other, there is a necessity on both to consult and to accommodate. Not so with different Governments, each possessing every branch of power necessary to carry its purpose into compleat effect. It here becomes a question between Independent Nations, with no other dernier resort than physical force. Negotiation might, indeed, in some instances, avoid this extremity; but how often would it happen, among so many States, that an unaccommodating spirit in some would render that resource unavailing?

Writings of Madison, Volume 3: 1816-1828, p.326

We arrive at the agitated question, whether the Judicial authority of the United States be the Constitutional resort for determining the line between the federal and State jurisdictions. Believing, as I do, that the General Convention regarded a provision within the Constitution for deciding in a peaceable and regular mode all cases arising in the course of its operation as essential to an adequate system of Government; that it intended the authority vested in the Judicial Department as a final resort, in relation to the States, for cases resulting to it in the exercise of its functions, (the concurrence of the Senate, chosen by the State Legislatures, in appointing the Judges, and the oaths and official tenures of these, with the surveillance of public opinion, being relied on as guarantying their impartiality;) and that this intention is expressed by the articles declaring that the federal Constitution and laws shall be the supreme law of the land, and that the Judicial power of the United States shall extend to all cases arising under them: Believing, moreover, that this was the prevailing view of the subject when the Constitution was adopted and put into execution; that it has so continued through the long period which has elapsed; and that even at this time an appeal to a national decision would prove that no general change has taken place: Thus believing, I have never yielded my original opinion, indicated in the "Federalist," No 39, to the ingenious reasonings of Col. Taylor against this construction of the Constitution.

Writings of Madison, Volume 3: 1816-1828, p.327

I am not unaware that the Judiciary career has not corresponded with what was anticipated. At one period, the Judges perverted the Bench of Justice into a rostrum for partisan harangues. And latterly, the Court, by some of its decisions, still more by extra-judicial reasonings and dicta, has manifested a propensity to enlarge the general in derogation of the local, and to amplify its own jurisdiction, which has justly incurred the public censure. But the abuse of a trust does not disprove its existence. And if no remedy of the abuse be practicable under the forms of the Constitution, I should prefer a resort to the nation for an amendment of the tribunal itself to continual appeals from its controverted decisions to that ultimate arbiter.

Writings of Madison, Volume 3: 1816-1828, p.327

In the year 1821, I was engaged in a correspondence with Judge Roane, which grew out of the proceedings of the Supreme Court of the United States. Having said so much here, I will send you a copy of my letters to him as soon as I can have a legible one made, that a fuller view of my ideas with respect to them may be before you.

Writings of Madison, Volume 3: 1816-1828, p.327

I agree entirely with you on the subject of seriatim opinions by the Judges, which you have placed in so strong a light in your letter to Judge Johnson, whose example, it seems, is in favor of the practice. An argument addressed to others, all of whose dislikes to it are not known, may be a delicate experiment. My particular connexion with Judge Todd, whom I expect to see, may tempt me to touch on the subject; and, if encouraged, to present views of it which, through him, may find the way to his intimates.

Writings of Madison, Volume 3: 1816-1828, p.327

In turning over some bundles of pamphlets, I met with several copies of a very small one, which, at the desire of my political associates, I threw out in 1795. As it relates to the state of parties, I inclose a copy. It had the advantage of being written with the subject full and fresh in my mind, and the disadvantage of [being] hurried, at the close of a fatiguing session of Congress, by an impatience to return home, from which I was detained by that job only. The temper of the pamphlet is explained, if not excused, by the excitements of the period.

To Captains Pannill, McRae, and Pollard.

MONTPELLIER, June 28, 1823.

Writings of Madison, Volume 3: 1816-1828, p.328

GENTLEMEN,—I received last evening your letter of the 17, inviting my participation with the Volunteers of Petersburg in celebrating the National anniversary approaching.

Writings of Madison, Volume 3: 1816-1828, p.328

Several causes unite in putting it out of my power to comply with the invitation. But I beg the volunteers to be assured that I feel all the value given to it by the motives and the quarter from which it proceeds. The conduct of the gallant band under that name in the late war has a marked place in the records of patriotism; and I should gladly join in a libation to them on a day with which every thing inspired by love of country is congenial. At this distance, I can only express the grateful respect I retain for them, and offer the good wishes to which they are so well entitled.

To John Brannan.

JULY 19, 1823.

Writings of Madison, Volume 3: 1816-1828, p.328

I have received your letter of the 4th, with the volume containing the official letters of the military and naval officers during the late war; in payment for which a note of $5 is inclosed. I take for granted that the collection is sufficiently full to give to such a publication its proper value. It is due to the men who have given such noble examples for future emulation, to the Country boasting them, and to all to whom such documents may be objects of patriotic curiosity, or materials for historical or other use, that they should be put into the best forms for preservation, and into situations diffusively accessible. I wish, therefore, that the fruit of your labours may be in such demand for public and private libraries, that you may be rewarded with profit as well as gratification. It some times happens that works of the greatest labor and intrinsic value have but little attraction for the generality of readers, or may not be intended to be generally read. Of this class is, in some degree, the work on which you have bestowed your time and pains. In such cases, the appeal is fairly made for encouragement to those who may be most sensible that it is necessary, and most able to afford it.

To Richard Rush.

MONTPELLIER, July 22d, 1823.

Writings of Madison, Volume 3: 1816-1828, p.329

DR SIR,—I have received the copy of the papers communicated to the British Parliament, which you were so good as to forward.

Writings of Madison, Volume 3: 1816-1828, p.329

The enterprize of France against the Spanish Constitution, with the grounds avowed for it, has afforded G. Britain a fine opportunity for retrieving the character lost by her abandonment of the people of the Continent after the downfal of Napoleon, and by the apparent sympathy of her Government with the schemes of the Allied Sovereigns for extinguishing the lights of the age, and fixing barriers against every improvement in the condition of the human race. What final use will be made of the opportunity is yet to be seen. The documents exhibited by the Cabinet, notwithstanding the colourings given to its policy, are not very promising. Unless its neutrality should ensure the forbearance of Austria, Russia, and Prussia, and thence give an indirect support to the Spanish patriots, it will, in effect, be a latent co-operation against them. And what has G. Britain done on that side equivalent to the part openly taken by those great powers on the other? An American mind naturally retains the impressions made by the orders given to the British squadron at Naples, to interpose for the protection of the Royal family in case the slightest violence should be offered to it by the people; whilst no outrages on the people from the Royal quarter, though backed by the unlawful intrusion of other powers, was thought to justify an interference in their behalf. The same exclusive patronage of the Royal personages has shewn itself at Madrid; so that neutrality, which means impartiality between contending nations, admits, between despots and the nations oppressed by them, a guarantee of the inviolability of the former against the latter.

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The principles proclaimed by France ought to excite universal execration, and the alarm of every free people not beyond the reach of her power and that of her associates. She not only revives the obsolete and impious doctrine of the divine right of Kings, but asserts the right in every Government to overthrow a neighbouring one which reproaches its corruptions by the precedent of reformation. But if the departure of the Spanish Government from the French model be a pretext for the interposition of French bayonets, is not the pretext stronger for Prussia, &c., to put down by like means the Government of France, which is a far greater departure from their models, and more obviously formidable to them? And would not the plea be still stronger for a united attack on the British Government, the mother and model of the Representative element in the monarchies of Europe? Finally, if the measure of their powers were co-extensive with the scope of their principles, the Government of the United States, as the great departure from Monarchy and Legitimacy, and the example the most formidable, would attract a crusade as bigoted and bloody as the original one against the Saracens. Happily, the example of liberty can be felt through a space impassable to the armaments of its enemies; and the latest accounts from the revolutionary experiments on foot in Europe seem to indicate that a further influence of the example offered in this Hemisphere is necessary to ripen the nations of the other for successful struggles against their own prejudices and the strength of the oppressors.

Writings of Madison, Volume 3: 1816-1828, p.330

It is not forgotten that the British Government thought a war of more than 20 years called for against France by an edict, afterwards disavowed, which assumed the policy of propagating changes of Government in other Countries; whilst she is now passive under an avowal by France of a right to interpose for such purposes, and even under the actual employment of her arms to carry the right into effect.

Writings of Madison, Volume 3: 1816-1828, p.331

But enough, and more than enough, of other Countries. Of our own, speaking in general terms, the tranquility and prosperity form a grateful contrast to the state of Europe. There is an animated contest for the coming vacancy in the Presidency; but it sheds no blood; it shakes no establishments; and among the competitors, no choice can be made that would not shine with transcendent lustre among the intellects that wear the Crowns and sway the destinies of the nations divided from us by the Atlantic. There appears, also, a very ardent struggle in Pennsylvania among the friends of the two rivals for the Chief Magistracy of that State. On this point you probably have from others more information than I could give you.

Writings of Madison, Volume 3: 1816-1828, p.331

What most nearly concerns the mass of the people is the state of the crops and the prospect of prices. The former, in the wheat country, is not flattering. The crop, I believe, will prove short of an average one. In many places it is a very scanty one, owing principally to the Hessian fly, but in part to an insect called from its smell the chinch-bug, the name here given to the bed-bug. It attacks the Indian Corn as well as Wheat and the other small grains, hiding itself under the folds of the plants, and feeding on the stems. In its first appearance it is very minute, and does not grow to a size beyond that of a common ant. It has wings, but uses its legs generally. It comes to us from the South, and is proceeding Northward. I do not know what technical character has been given to it in the school of natural history; and the present being the first visit, I have not seen enough of it to give more of a description than the above rude outline. Of the other great staples of agriculture, Indian Corn, Cotton, and Tobacco, the season is not sufficiently advanced to decide the result. With respect to prices, they will be regulated by the demands from Europe, which can be better estimated with you than here. Without good prices and good crops the people in some quarters of the Union cannot well be relieved from their pecuniary distresses, which have been prolonged by the failures in both respects several years past.

Writings of Madison, Volume 3: 1816-1828, p.332

It is with pleasure I can say that a general ardor and emulation prevails in promoting the several great objects of improvement on the face of our Country, and in establishing schools and seminaries of every grade for the diffusion of knowledge. These, with the order and industry which characterize our situation, are fruits of our free and confederal system, which proclaim its merits, and must silence long triumphant argument for hereditary power drawn from an anarchical tendency imputed to Governments founded on popular suffrage.

Writings of Madison, Volume 3: 1816-1828, p.332

I send you a ground plot of the academic village bearing the name of the University of Virginia; this being the only graphical view of it yet taken. The buildings are finished for ten professors and about 200 students. The Rotunda, on the plan of the Pantheon, which will contain the Library and rooms for public occasions, is but just commenced; but will not delay the opening of the Institution, as soon as the Legislature turns its loans into gifts, for which we look with hope to its next session, and eligible professors can be procured, which we shall spare no pains to hasten.

To George Hay.

MONTPELLIER, August 23, 1823.

Writings of Madison, Volume 3: 1816-1828, p.332

DEAR SIR,—I have received your letter of the 11th, with the newspapers containing your remarks on the present mode of electing a President, and your proposed remedy for its defects. I am glad to find you have not abandoned your attention to great constitutional topics.

Writings of Madison, Volume 3: 1816-1828, p.332

The difficulty of finding an unexceptionable process for appointing the Executive organ of a Government such as that of the United States was deeply felt by the Convention; and as the final arrangement of it took place in the latter stage of the session, it was not exempt from a degree of the hurrying influence produced by fatigue and impatience in all such bodies, though the degree was much less than usually prevails in them.

Writings of Madison, Volume 3: 1816-1828, p.333

The part of the arrangement which casts the eventual appointment on the House of Representatives voting by States was, as you presume, an accommodation to the anxiety of the smaller States for their sovereign equality, and to the jealousy of the larger towards the cumulative functions of the Senate. The agency of the House of Representatives was thought safer, also, than that of the Senate, on account of the greater number of its members. It might, indeed, happen that the event would turn on one or two States having one or two representatives only; but even in that case the representations of most of the States being numerous, the House would present greater obstacles to corruption than the Senate, with its paucity of members. It may be observed, also, that, although for a certain period the evil of State votes given by one or two individuals would be extended by the introduction of new States, it would be rapidly diminished by growing populations within extensive territories. At the present period the evil is at its maximum. Another census will leave none of the States, existing or in embryo, in the numerical rank of Rhode Island and Delaware; nor is it impossible that the progressive assimilation of local institutions, laws, and manners, may overcome the prejudices of those particular States against an incorporation with their neighbours.

Writings of Madison, Volume 3: 1816-1828, p.333

But with all possible abatements, the present rule of voting for President by the House of Representatives is so great a departure from the Republican principle of numerical equality, and even from the Federal rule, which qualifies the numerical by a State equality, and is so pregnant, also, with a mischievous tendency in practice, that an amendment of the Constitution on this point is justly called for by all its considerate and best friends.

Writings of Madison, Volume 3: 1816-1828, p.333

I agree entirely with you in thinking that the election of presidential electors by districts is an amendment very proper to be brought forward at the same time with that relating to the eventual choice of President by the House of Representatives. The district mode was mostly, if not exclusively, in view when the Constitution was framed and adopted; and was exchanged for the general ticket and the legislative election as the only expedient for baffling the policy of the particular States which had set the example. A constitutional establishment of that mode will doubtless aid in reconciling the smaller States to the other change, which they will regard as a concession on their part. And it may not be without a value in another important respect. The States, when voting for President by general tickets or by their Legislatures, are a string of beads; when they make their elections by districts, some of these differing in sentiment from others, and sympathizing with that of districts in other States, they are so knit together as to break the force of those geographical and other noxious parties which might render the repulsive too strong for the cohesive tendencies within the political system.

Writings of Madison, Volume 3: 1816-1828, p.334

It may be worthy of consideration whether, in requiring elections by districts, a discretion might not be conveniently left with the States to allot two members to a single district. It would manifestly be an important proviso that no new arrangement of districts should be made within a certain period previous to an ensuing election of President.

Writings of Madison, Volume 3: 1816-1828, p.334

Of the different remedies you propose for the failure of a majority of electoral votes for any one candidate, I like best that which refers the final choice to a joint vote of the two Houses of Congress, restricted to the two highest names on the electoral lists. It might be a question whether the three instead of the two highest names might not be put within the choice of Congress, inasmuch as it not unfrequently happens that the candidate third on the list of votes would, in a question with either of the two first, out-vote him, and, consequently, be the real preference of the voters. But this advantage of opening a wider door and a better chance to merit may be outweighed by an in creased difficulty in obtaining a prompt and quiet decision by Congress with three candidates before them, supported by three parties, no one of them making a majority of the whole.

Writings of Madison, Volume 3: 1816-1828, p.334

The mode which you seem to approve, of making a plurality of electoral votes a definitive appointment, would have the merit of avoiding the legislative agency in appointing the Executive; but might it not, by multiplying hopes and chances, stimulate intrigue and exertion, as well as incur too great a risk of success to a very inferior candidate? Next to the propriety of having a President the real choice of a majority of his constituents, it is desirable that he should inspire respect and acquiescence by qualifications not suffering too much by comparison.

Writings of Madison, Volume 3: 1816-1828, p.335

I cannot but think, also, that there is a strong objection to undistinguishing votes for President and Vice President, the highest number appointing the former, the next the latter. To say nothing of the different services (except in a rare contingency) which are to be performed by them, occasional transpositions would take place, violating equally the mutual consciousness of the individuals and the public estimate of their comparative fitness.

Writings of Madison, Volume 3: 1816-1828, p.335

Having thus made the remarks to which your communication led with a frankness which I am sure you will not disapprove, whatever errors you may find in them, I will sketch for your consideration a substitute which has occurred to myself for the faulty part of the Constitution in question:

Writings of Madison, Volume 3: 1816-1828, p.335

"The electors to be chosen in districts, not more than two in any one district, and the arrangement of the districts not to be alterable within the period of ——— previous to the election of President. Each elector to give two votes, one naming his first choice, the other his next choice. If there be a majority of all the votes on the first list for the same person, he of course to be President; if not, and there be a majority (which may well happen) on the other list for the same person, he then to be the final choice; if there be no such majority on either list, then a choice to be made by joint ballot of the two Houses of Congress from the two names having the greatest number of votes on the two lists taken together." Such a process would avoid the inconvenience of a second resort to the electors, and furnish a double chance of avoiding an eventual resort to Congress. The same process might be observed in electing the Vice President.

Writings of Madison, Volume 3: 1816-1828, p.335

Your letter found me under some engagements which have retarded a compliance with its request, and may have also rendered my view of the subject presented in it more superficial than I have been aware. This consideration alone would justify my wish not to be brought into the public discussion. But there is another, in the propensity of the moment to view everything, however abstract from the presidential election in prospect, through a medium connecting it with that question; a propensity the less to be excused, as no previous change of the Constitution can be contemplated, and the more to be regretted, as opinions and commitments formed under its influence may become settled obstacles at a practicable season.

Writings of Madison, Volume 3: 1816-1828, p.336

Be pleased to accept the expression of my esteem and my friendly respects.

To Thomas Jefferson.

MONTPELLIER, Septr 6, 1823.

Writings of Madison, Volume 3: 1816-1828, p.336

DEAR SIR,—I return the two communications from the President, inclosed in your letter of August 30.

Writings of Madison, Volume 3: 1816-1828, p.336

I am afraid the people of Spain as well as of Portugal need still further light, and heat, too, from the American example, before they will be a match for the crimes, the intrigues, and the bribes of their enemies, the treachery of their leaders, and, what is most of all to be dreaded, their Priests and their prejudices. Still, their cause is so just, that whilst there is life in it hope ought not to be abandoned.

Writings of Madison, Volume 3: 1816-1828, p.336

I am glad you have put on paper a correction of the apocryphal tradition, furnished by Pickering, of the Draught of the Declaration of Independence. If he derived it from the misrecollections of Mr. Adams, it is well that the alterations of the original paper proposed by the latter, in his own handwriting, attest the fallibility of his aged memory. Nothing can be more absurd than the cavil that the Declaration contains known and not new truths. The object was to assert, not to discover truths, and to make them the basis of the Revolutionary act. The merit of the Draught, therefore, could only consist in a lucid communication of human rights, in a condensed enumeration of the reasons for such an exercise of them, and in a style and tone appropriate to the great occasion, and to the spirit of the American people.

Writings of Madison, Volume 3: 1816-1828, p.337

The friends of R. H. Lee have shewn not only injustice in underrating the Draught, but much weakness in overrating the motion in Congress preceding it; all the merit of which belongs to the Convention of Virginia, which gave a positive instruction to her Deputies to make the motion. It was made by him as next in the list to P. Randolph, then deceased. Had Mr. Lee been absent, the task would have devolved on you. As this measure of Virginia makes a link in the history of our national birth, it is but right that every circumstance attending it should be ascertained and preserved. You probably can best tell where the instruction had its origin, and by whose pen it was prepared. The impression at the time was, that it was communicated in a letter from yourself to [Mr. Wythe,] a member of the Convention.

To Tench Coxe.

October 12, 1823.

Writings of Madison, Volume 3: 1816-1828, p.337

DR SIR,—I have received your favor inclosing the printed extracts from the late pamphlet of Cunningham, and have made the communication of it where you intended. It is impossible not to feel indignation at the outrage committed by the publication on private confidence. From the specimen given of its contents, it will nevertheless have much effect in inflaming animosities in certain quarters, and probably bringing fully to light political and personal matters hitherto unknown, or little known. Should there be mingled with them statements unjust to individuals, to parties, or to principles, it is well that there are existing sources of detection and correction; and I am well aware of the peculiar value of those within your well-stored memory and copious files. I had, before the receipt of your letter, seen in the Gazettes glances at the subject of it, but was unapprized of the extensive range of the published correspondence, and of its prolific tendencies.

To H. Wheaton.

MONTPELLIER, Octr 15, 1823.

Writings of Madison, Volume 3: 1816-1828, p.338

DR SIR,—I have received your letter of Sepr 29, touching on your proposed Biography of the late William Pinkney. You have chosen a subject furnishing an opportunity of at once doing justice to your own pen, and to a memory with which a rich assemblage of rare gifts is associated.

Writings of Madison, Volume 3: 1816-1828, p.338

I should take pleasure in contributing any private recollections that might aid in finishing the portrait; but my intercourse with Mr. Pinkney was almost entirely by written correspondence on public subjects. I never even had the gratification of hearing any of those splendid displays of eloquence so much admired for the diversified merits united in them.

Writings of Madison, Volume 3: 1816-1828, p.338

On looking into the letters from him preserved on my files, I find that, during his diplomatic service in G. Britain, he was in the practice of adding to his official dispatches private communications and comments, which give a continued and interesting view of the subjects then in controversy between that Country and the U. States, and of the latent as well as overt policy of the former in its unwise and unworthy career. The letters do equal honor to his penetration and his patriotism, and are in the lucid and graceful style so familiar to him. I take for granted that this source of information is among the papers left by him, to which you will have recourse. Should it be inferred, in any instances, that copies of letters to me have not been preserved, be so good as to note the dates of those found; and if chasms appear, which I can supply, I shall readily do it, confiding as I do in the care and early return of memorials particularly valued by me.

To President Monroe.

OCT. 30, 1823.

Writings of Madison, Volume 3: 1816-1828, p.339

DR SIR,—I have just received from Mr. Jefferson your letter to him, with the correspondence between Mr. Canning and Mr. Rush, sent for his and my perusal, and our opinions on the subject of it.

Writings of Madison, Volume 3: 1816-1828, p.339

From the disclosures of Mr. Canning it appears, as was otherwise to be inferred, that the success of France against Spain would be followed by an attempt of the Holy allies to reduce the revolutionized colonies of the latter to their former dependonce.

Writings of Madison, Volume 3: 1816-1828, p.339

The professions we have made to these neighbours, our sympathies with their liberties and independence, the deep interest we have in the most friendly relations with them, and the consequences threatened by a command of their resources by the Great Powers, confederated against the rights and reforms of which we have given so conspicuous and persuasive an example, all unite in calling for our efforts to defeat the meditated crusade. It is particularly fortunate that the policy of Great Britain, though guided by calculations different from ours, has presented a co-operation for an object the same with ours. With that co-operation we have nothing to fear from the rest of Europe, and with it the best assurance of success to our laudable views. There ought not, therefore, to be any backwardness, I think, in meeting her in the way she has proposed; keeping in view, of course, the spirit and forms of the Constitution in every step taken in the road to war, which must be the last step if those short of war should be without avail.

Writings of Madison, Volume 3: 1816-1828, p.339

It cannot be doubted that Mr. Canning's proposal, though made with the air of consultation as well as concert, was founded on a predetermination to take the course marked out, whatever might be the reception given here to his invitation. But this consideration ought not to divert us from what is just and proper in itself. Our co-operation is due to ourselves and to the world; and whilst it must ensure success in the event of an appeal to force, it doubles the chance of success without that appeal. It is not improbable that Great Britain would like best to have the merit of being the sole champion of her new friends, notwithstanding the greater difficulty to be encountered, but for the dilemma in which she would be placed. She must, in that case, either leave us, as neutrals, to extend our commerce and navigation at the expense of hers, or make us enemies, by renewing her paper blockades and other arbitrary proceedings on the Ocean. It may be hoped that such a dilemma will not be without a permanent tendency to check her proneness to unnecessary wars.

Writings of Madison, Volume 3: 1816-1828, p.340

Why the British Cabinet should have scrupled to arrest the calamity it now apprehends, by applying to the threats of France against Spain the small effort which it scruples not to employ in behalf of Spanish America, is best known to itself. It is difficult to find any other explanation than that interest in the one case has more weight in its casuistry than principle had in the other.

Writings of Madison, Volume 3: 1816-1828, p.340

Will it not be honorable to our Country, and possibly not altogether in vain, to invite the British Government to extend the "avowed disapprobation" of the project against the Spanish Colonies to the enterprise of France against Spain herself, and even to join in some declaratory act in behalf of the Greeks? On the supposition that no form could be given to the act clearing it of a pledge to follow it up by war, we ought to compare the good to be done with the little injury to be apprehended to the U.S., shielded as their interests would be by the power and the fleets of Great Britain united with their own. These are questions, however, which may require more information than I possess, and more reflection than I can now give them.

Writings of Madison, Volume 3: 1816-1828, p.340

What is the extent of Mr. Canning's disclaimer as to "the remaining possessions of Spain in America?" Does it exclude future views of acquiring Porto Rico, &c., as well as Cuba? It leaves Great Britain free, as I understand it, in relation to other quarters of the Globe.

Writings of Madison, Volume 3: 1816-1828, p.340

I return the correspondence of Mr. Rush and Mr. Canning, with assurances, &c.

Writings of Madison, Volume 3: 1816-1828, p.340

J.M.

To Thomas Jefferson.

MONTPELLIER, Novr 1st, 1823.

Writings of Madison, Volume 3: 1816-1828, p.341

DR SIR,—I return the letter of the President. The correspondence from abroad has gone back to him, as you desired. I have expressed to him my concurrence in the policy of meeting the advances of the British Government, having an eye to the forms of our Constitution in every step in the road to war. With the British power and navy combined with our own, we have nothing to fear from the rest of the world; and in the great struggle of the epoch between liberty and despotism, we owe it to ourselves to sustain the former, in this hemisphere at least. I have even suggested an invitation to the British Government to join in applying the "small effort for so much good" to the French invasion of Spain, and to make Greece an object of some such favorable attention. Why Mr. Canning and his colleagues did not sooner interpose against the calamity, which could not have escaped foresight, cannot be otherwise explained but by the different aspect of the question when it related to liberty in Spain, and to the extension of British commerce to her former Colonies.

To Tench Coxe.

MONTPELLIER, Novr 3d, 1823.

Writings of Madison, Volume 3: 1816-1828, p.341

DR SIR,—I have received yours without date, postmarked Oct. 27. I thank you for your kindness in dispensing with answers to your favors. Occupations and attentions belonging to my situation will probably oblige me to avail myself much of the privilege. I am very sensible, also, of your great kindness in what you say of a malignant attack on me. Why I should be made a target for poisoned arrows now, I cannot well see. Withdrawn as I am from the public Theatre, and holding life itself by a short thread, it would not be an unreasonable expectation that hostilities of every sort and from every quarter should cease. It has been my practice, through a long career, to leave the various calumnies which I did not escape to die their natural death, and the successful examples of others have given a sanction to this policy. You tell me more than I knew of the masses of materials which have been hoarded by the curious or malicious for good or bad uses. It is to be hoped that the friends of truth will have provided adequate corrections for errors of the former and libels of the latter, as time may bring them to light. Your solicitude for the memory of Franklin, to whom his Country and the human race owe so much, is highly praiseworthy. I cannot say what particular knowledge Mr. Jefferson's files or recollections may possess that could aid in securing posthumous justice. A future day may unlock the former; but his great age, and his devotion of what remains of time and strength to the establishment of a University, forbid, I believe, any present expectations from him. You have enough of both funds of information to draw upon, probably, for that as well as other important and benevolent purposes. The papers which I happen to have preserved are considerable, and some of them doubtless very valuable; but they are, for the most part, suited rather for general and future use than for occurrences of the day.

To G. F. H. Crockett.

NOVEMBER 6th, 1823.

Writings of Madison, Volume 3: 1816-1828, p.342

SIR,—I received your letter of September 24 some days ago. The printed address it refers to has but just come to hand. The subject which has employed your thoughts is one on which enlightened opinions are as yet much at variance. Nothing will probably reconcile them but actual and fair experiments; and no where can such be made with less prejudice or less inconvenience than in the United States, where the Legislative power held by each confederated member can bring innovations to that test, with partial evil only if they fail, and a ready extension of them to the whole if found to be improvements. In this view I should not regret a fair and full trial of the entire abolition of capital punishments by any State willing to make it, though I do not see the injustice of such punishments, in one case at least. But it is not my purpose to enter into the important discussion; nor do I know that I could furnish you with any new ideas or hints, such as you ask, if there were time for the task. You seem to have consulted some of the sources where they were most likely to be found.

Writings of Madison, Volume 3: 1816-1828, p.343

I must ask the favor of you to make no public use of this letter, for which it is in no respect calculated. It is meant only as a mark of the friendly respect and good wishes which I pray you to accept.

To Thomas Jefferson.

MONTPELLIER, Novr 11, 1823.

Writings of Madison, Volume 3: 1816-1828, p.343

DEAR SIR,—I have received yours of the 6th. My preference for F. Gilmer for the law professorship, to any other name brought into view, has not changed; and I know of no one better suited for the mission now declined by Mr. Cabell. It will be well, I think, to hold out, in the first instance at least, not more than $1,500 for the salary, as the reduction of the number of professors from 10 to 7 may not be finally settled; and if settled in the negative, the annuity would fall short. It is true that a professor of law, if taken from the Bar, may be expected to make a greater pecuniary sacrifice than might be made by the others; but, on the other hand, his class and his fees will probably be more numerous. I should prefer a fixed sum for the service abroad to defraying actual expenses. You can better estimate these than I can. Supposing that he will be absent not more than 6, 7, or 8 months, I suggest $1,500 for the allowance; but shall acquiesce in any sum you may prefer, not exceeding $2,000. The gratification of such a trip to Europe will doubtless be felt as an item in the compensation. I incline to making the allowance a special provision for the service, rather than a salary for professional services not performed. The distinction, however, is more nominal than material.

Writings of Madison, Volume 3: 1816-1828, p.344

I return Mr. Cabell's letter, with the copy of your answer to the President. You will see by mine inclosed that they substantially agree; and you will see by Mr. Rush's letter, which I also inclose, and which is of later date than his correspondence sent us by the President, how skittish the British Cabinet is on the very business into which it has invited us. It is not impossible that Canning, looking more ahead than his Colleagues, and more to the vox popudi at the moment, may be drawn back occasionally from his own advances.

Writings of Madison, Volume 3: 1816-1828, p.344

Mr. Crawford proceeded hence on his way to Washington this afternoon. He came from Governor Barbour's on Sunday, and was detained here yesterday and part of to-day by the state of the weather. He seems equal to the journey; but his constitution seems a good deal shaken, and will require care as well as time for a thorough repair.

Writings of Madison, Volume 3: 1816-1828, p.344

With Mr. Rush's letter you will be kind enough to return my answer to the President.

To Richard Rush.

MONTPELLIER, NOVR 13, 1823.

Writings of Madison, Volume 3: 1816-1828, p.344

DR SIR,—I have received your favor of September 10, with a copy of the printed documents on the subject of the slave trade. The mask of humane professions covering an indifference in some and a repugnance in others to its effectual abolition, is as obvious as it is disgusting. G. Britain alone, whatever may be her motives, seems to have the object really at heart. It is curious, at the same time, to observe her experiment for bringing about a change in the law of Nations by denominating the trade piracy without the universal consent, which she held essential to the code of the armed neutrality dissented from solely by herself. Her Cabinet is chargeable with a like inconsistency in its readiness to interpose between the allied Powers and Spanish America, and its scruples to do so against the invasion of Spain herself. Nor is it easy to reconcile the advances made to you in behalf of our Southern neighbours with a disrelish of your proposition that their Independence be immediately acknowledged, a right to do which appears to have been publicly asserted. In point of mere policy, it excites surprise, that if the British Government dreads the foreseen extension of the views of the Holy Alliance to Spanish America in the event of success in the invasion of Spain, it did not arrest the invasion, as it might have done by a like interposition with that which is to stifle the projected resubjugation of her former Colonies. It can excite no surprise, indeed, that our co-operation should be courted in measures that may lead to war; it being manifest that in such an issue G. Britain would be under the dilemma of seeing our neutral commerce and navigation aggrandized at the expense of hers, or of adding us to her enemies by renewing her paper blockades and other maritime provocations. May it not be hoped that a foresight of this dilemma will be a permanent check to her warlike propensity?

Writings of Madison, Volume 3: 1816-1828, p.345

But whatever may be the motives or the management of the British Government, I cannot pause on the question whether we ought to join her in defeating the efforts of the Holy Alliance to restore our Independent neighbours to the condition of Spanish Provinces. Our principles and our sympathies; the stand we have taken in their behalf; the deep interest we have in friendly relations with them; and even our security against the Great Powers, who, having conspired against national rights and reforms, must point their most envenomed wrath against the United States, who have given the most formidable example of them; all concur in enjoining on us a prompt acceptance of the invitation to a communion of counsels, and, if necessary, of arms, in so righteous and glorious a cause. Instead of holding back, I should be disposed rather to invite, in turn, the British Government to apply, at least, "the small effort" of Mr. Canning to the case of the French invasion of Spain, and even to extend it to that of the Greeks. The good that would result to the world from such an invitation, if accepted, and the honor to our Country, even if declined, outweigh the sacrifices that would be required, or the risks that would be incurred. With the British fleets and fiscal resources associated with our own, we should be safe against the rest of the world, and at liberty to pursue whatever course might be prescribed by a just estimate of our moral and political obligations.

Writings of Madison, Volume 3: 1816-1828, p.346

You ask my view of the claim of the United States to the navigation of the St Lawrence through the British Territory, and my recollection of the grounds on which they claimed that of the Mississippi through Spanish Territory. On the latter point I may refer to a Report of a Committee of the Revolutionary Congress in 1780,\* in which, among other things, the right of the U. States is argumentatively touched on; and to the extract now enclosed from a letter I wrote to Mr. Jefferson, then at Paris, in the year 1784, in which there is a glance at the cases having more or less of analogy to that of the Mississippi. It being more easy to obtain by another hand the extract as it stands than to separate the irrelevant matter by my own, I must trust to that apology for obtruding a perusal of the latter. At the dates referred to, the navigation of the Mississippi was a cardinal object of National policy; and Virginia feeling a particular interest in it, through Kentucky, then a part of the State, the claim was warmly espoused by her public councils, of which I was a member at the last date, and one of her Delegates to Congress at the first.

Writings of Madison, Volume 3: 1816-1828, p.346

As a question turning on natural right and public law, I think the navigation of the St Lawrence a fair claim for the United States.

Writings of Madison, Volume 3: 1816-1828, p.346

Rivers were given for the use of those inhabiting the country of which they make a part; and a primary use of the navigable ones is that of external commerce. Again: the public good of Nations is the object of the law of Nations, as that of individuals composing the same Nation is of municipal law. This principle limits the rights of ownership in the one case as well as in the other; and all that can be required in either is, that compensation be made for individual sacrifices for the general benefit. This is what is done in the case of roads, and the right of way under a municipal jurisdiction; and is admitted to be reasonable, in the form of tolls, where a foreign passage takes place through a channel protected and kept in repair by those holding its shores. Vattel allows a right even in armies marching for the destructive purposes of war to pass through a neutral country with due precautions. How much stronger the claim for the beneficial privileges of commerce?

Writings of Madison, Volume 3: 1816-1828, p.347

In applying these principles it is doubtless proper to compare the general advantage with the particular inconvenience, and to require a sufficient preponderance of the former. But was there ever a case in which the preponderance was greater than that of the Mississippi? and the view of it might be strengthened by supposing an occupancy of its mouth limited to a few acres only, and by adding to the former territory of the U. States the vast acquisition lately made on the waters of that River. The case of the St Lawrence is not equally striking; but it is only in comparison with the most striking of all cases that its magnitude is diminished to the eye. The portion of the United States connected with the River and the inland seas through which it communicates with the ocean forms a world of itself; and after every deduction suggested by the artificial channels which may be substituted for the natural, they will have a sufficient interest in the natural to justify their claim and merit their attention. It will be a question with some, perhaps, whether the use of the river by citizens of the U. States will not be attended with facilities for smuggling, and a danger of collisions with a friendly power, which render its attainment little desirable. But if any considerable body of citizens feel a material interest in trading through that channel, and there be a public right to it, the Government will feel much delicacy in forbearing to contend for it.

Writings of Madison, Volume 3: 1816-1828, p.347

How far it may be expedient to appeal from the transitory calculations to the permanent policy of G. Britain in relation to Canada, as was done with respect to Spain and Louisiana, you can best judge. I have noticed allusions in Parliament to the considerations recommending an alienation of the Province; and it is very possible that they may be felt by the Government. But it may well be expected that the solid interest of the nation will be overruled by the respect for popular prejudices, and by the colonial pasturage for hungry favorites. It is very certain that Canada is not desirable to the United States as an enlargement of domain. It could be useful to them only as shutting a wide door to smuggling; as cutting off a pernicious influence on our savage neighbours; and as removing a serious danger of collisions with a friendly power.

Writings of Madison, Volume 3: 1816-1828, p.348

Having made these observations as due to your request, I must not decline saying, that whatever just bearing any of them may have on the point of right in the case of the St Lawrence, I consider the moment for asserting it not the most propitious, if a harmony of views be attainable with the British Government on the great subject of Spanish America, to say nothing of other subjects in principle akin to it. I doubt not, however, that enough will be left to your discretion; and that there will be more than enough of that so to manage the discussion as to prevent an interference of one object with another.

Writings of Madison, Volume 3: 1816-1828, p.348

Just as the above was closed, the fall of Cadiz and the Cortes are confirmed to us. What next? is the question. Every great event in the present state of the world may be pregnant with a greater. As the Holy Alliance will premise negotiation and terror to force against the new States south of us, it is to be hoped they will not be left in the dark as to the ultimate views of G. Britain in their favor. To conceal these would be to betray them as Spain has been betrayed.

To Edward Everett.

MONTPELLIER, Novr 26th, 1823.

Writings of Madison, Volume 3: 1816-1828, p.348

DR SIR,—I received several weeks ago your favor of October 30th, accompanied by the little treatise on population, analysing and combating the Theory of Malthus, which, till within a few days, I have been deprived of the pleasure of reading. Its reasoning is well entitled to the commendation you bestow on its ingenuity, which must at least contribute to a more accurate view of the subject; and on its style, which is characterised by the artless neatness always pleasing to the purest tastes. Be so obliging as to convey my debt of thanks to the author, and to accept the share of them due to yourself.

Writings of Madison, Volume 3: 1816-1828, p.349

Notwithstanding the adverse aspects under which the two authors present the question discussed, the one probably with an eye altogether to the case of Europe, the other chiefly to that of America, I should suppose that a thorough understanding of each other ought to narrow not a little the space which divides them.

Writings of Madison, Volume 3: 1816-1828, p.349

The American admits the capacity of the prolific principle in the human race to exceed the sources of attainable food, as is exemplified by the occasions for colonization. And the European could not deny that, as long as an increase of the hands and skill in procuring food should keep pace with the increase of mouths, the evils proceeding from a disproportion could not happen.

Writings of Madison, Volume 3: 1816-1828, p.349

It may be presumed, also, that Mr. Malthus would not deny that political institutions and social habits, as good or bad, would have a degree of influence on the exertion and success of labor in procuring food; whilst his opponent seems not unaware of the tendency of a scanty or precarious supply of it to check the prolific principle by discouraging marriages, with a consequent increase of the moral evils of licentious intercourse among the unmarried, and to produce the physical evils of want and disease, with the moral evils engendered by the first.

Writings of Madison, Volume 3: 1816-1828, p.349

An essential distinction between the United States and the more crowded parts of Europe lies in the greater number of early marriages here than there, proceeding from the greater facility of providing subsistence; this facility excluding a certain portion of the physical society, as the marriages do a certain portion of the moral one. But that the rate of increase in the population of the United States is influenced, at the same time, by their political and social condition, is proved by the slower increase under the vitious institutions of Spanish America, where nature was not less bountiful. Nor can it be doubted that the actual population of Europe would be augmented by such reforms in the systems as would enlighten and animate the efforts to render the funds of subsistence more productive. We see every where in that quarter of the Globe the people increasing in number as the ancient burdens and abuses have yielded to the progress of light and civilization.

Writings of Madison, Volume 3: 1816-1828, p.350

The theory of Mr. Godwin, if it deserves the name, is answered by the barefaced errors, both of fact and of inference, which meet the eye on every page.

Writings of Madison, Volume 3: 1816-1828, p.350

Mr. Malthus has certainly shewn much ability in his illustrations and applications of the principle he assumes, however much he may have erred in some of his positions. But he has not all the merit of originality which has been allowed him. The principle was adverted to and reasoned upon long before him, though with views and applications not the same with his. The principle is, indeed, inherent in all the organized beings on the Globe, as well of the animal as the vegetable classes; all and each of which, when left to themselves, multiply till checked by the limited fund of their pabulum, or by the mortality generated by an excess of their numbers. A productive power beyond a mere continuance of the existing stock was in all cases necessary to guard against the extinction which successive casualties would otherwise effect; and the checks to an indefinite multiplication in any case were equally necessary to guard against too great a disturbance of the general symmetry and economy of nature. This is a speculation, however, diverging too much from the object of a letter chiefly intended to offer the acknowledgments and thanks, which I beg leave to repeat, with assurances of my continued esteem and respect.

To James Barbour, Senator.

MONTPELLIER, December 5, 1823.

Writings of Madison, Volume 3: 1816-1828, p.350

DEAR SIR,—Your favor of the 2d was duly received the evening before the last. I thank you for it, and return, as desired, the pamphlet of Cunningham, your remarks on which appear very just.

Writings of Madison, Volume 3: 1816-1828, p.351

You ask my views of a resolution to be proposed to the Senate, advising a treaty of co-operation with Great Britain against an interference of the allied powers for resubjugating South America. You will take them for what they are worth, which can be but little, with my imperfect knowledge of the facts and circumstances that may be known to yourself.

Writings of Madison, Volume 3: 1816-1828, p.351

The message of the President, which arrived by an earlier mail than usual, has, I observe, distinctly indicated the sentiments of the United States with respect to such an interference. But, in a case of such peculiarity and magnitude, a fuller manifestation of the national will may be expedient, as well to bear out the Executive in measures within his Department as to make the desirable impressions abroad. The mode you have thought of would certainly be of great avail for the first purpose, and if promulged, for the second also. But would not declaratory resolutions by the two Houses of Congress be of still greater avail for both? They would be felt by the Executive as the highest sanction to his views; would inspire Great Britain with the fullest confidence in the policy and determination of the United States; and would have all the preventive effect on the allied powers of which they are susceptible from a monitory measure from this quarter.

Writings of Madison, Volume 3: 1816-1828, p.351

It can hardly be doubted that Great Britain will readily cooperate with this Country, or, rather, that she wishes our co-operation with her, against a foreign interference for subverting the independence of Spanish America. If the attempt can be prevented by remonstrance, she will probably unite with us in a proper one. If she begins with that, she will not hesitate to proceed, if necessary, to the last resort, with us fighting by her side. If any consideration were to restrain her from that resort, even without our co-operation, it would be the dilemma of seeing our neutral commerce and navigation flourishing at the expense of hers; or of throwing us into a war against her by renewing her maritime provocations.

Writings of Madison, Volume 3: 1816-1828, p.351

On the whole, I think we ought to move hand in hand with Great Britain in the experiment of awing the confederated powers into forbearance; and, if that fail, in following it by means which cannot fall; and that we cannot be too prompt or too decisive in coming to an understanding and concert with her on the subject. This hemisphere must be protected against the doctrines and despotisms which degrade the other. No part of it can be as secure as it ought to be if the whole be not so. And if the whole be sound and safe, the example of its principles will triumph gradually every where.

Writings of Madison, Volume 3: 1816-1828, p.352

How much is it to be regretted that the British Government shrunk from even remonstrance against the invasion of old Spain, and that it has not the magnanimity to interpose, late as it is, in behalf of the Greeks! No nation ever held in its hand in the same degree the destiny of so great a part of the civilized world, and I cannot but believe that a glorious use would be made of the opportunity if the head of the nation was worthy of its heart.

To Mr. Monroe.

MONTPELLIER, December 6, 1823.

Writings of Madison, Volume 3: 1816-1828, p.352

DEAR SIR,—I received, by yesterday's mail, your favor of the 4th, covering a copy of the message, and another copy under a blank cover. It presents a most interesting view of the topics selected for it. The observations on the foreign ones are well moulded for the occasion, which is rendered the more delicate and serious by the equivocal indications from the British Cabinet. The reserve of Canning, after his frank and earnest conversations with Mr. Rush, is mysterious and ominous. Could he have stepped in advance of his superiors? or have they deserted their first objects? or have the allies shrunk from theirs? or is any tiring taking place in Spain which the adroitness of the British Government can turn against the allies, and in favor of South America? Whatever may be the explanation, Canning ought, in candour, after what had passed with Mr. Rush, not to have withheld it; and his doing so enjoins a circumspect reliance on our own councils and energies. One thing is certain: that the contents of the message will receive a very close attention every where, and that it can do nothing but good any where.

To Thomas Jefferson.

MONTPELLIER, Decr 18, 1823.

Writings of Madison, Volume 3: 1816-1828, p.353

DEAR SIR,—I return the letter from Mr. Gilmer. It would have been more agreeable if he had not suspended his decision as to the ulterior object offered him; but he cannot be blamed for yielding to the reasons he gives for it. There is weight in what he suggests as to an extension of his research into Germany; and there may be some advantage in the attraction which a professor from that quarter might have for students from the German regions of the United States. But there will be time for consideration before a final instruction on the subject will be given. If the Continent of Europe, however, be opened at all, it may be well not to shut out some other parts of it. I hope, if the Assembly fulfils our wishes at an early period of the session, that the Envoy will be able to embark before the end of it, if it be a long one.

To President Monroe.

MONTPELLIER, December 26, 1823.

Writings of Madison, Volume 3: 1816-1828, p.353

DEAR SIR,—Yours of the 20th was duly received. The external affairs of our country are, I perceive, assuming a character more and more delicate and important. The ground on which the Russian communications were met was certainly well chosen. It is evident that an alienation is going on between Great Britain and the ruling powers of the Continent, and that the former is turning her views to such a connexion with this side of the Atlantic as may replace her loss of political weight and commercial prospects on the other. This revolution was indicated by the coaxing speech of Mr. Canning at the Liverpool dinner; and is fully displayed by his project for introducing the United States to a Congress on the Continent. Whilst the English Government very naturally endeavors to make us useful to her national objects, it is incumbent on us to turn, as far as we fairly can, the friendly consultations with her to ours; which, besides being national, embrace the good of mankind every where. It seems particularly our duty not to let that nation usurp a meritorious lead in measures due to our South American neighbors; one obstacle to which was aptly furnished [by] Mr. Rush in his proposal to Mr. Canning, that their Independence should be forthwith acknowledged. Nor ought we to be less careful in guarding against an appearance in the eyes of Europe, at which the self-love of Great Britain may aim, of our being a satellite of her primary greatness.

Writings of Madison, Volume 3: 1816-1828, p.354

This last consideration will, of course, be felt in the management of the invitation which Mr. Canning is inviting for us to the expected Congress. A participation in it would not be likely to make converts to our principles; whilst our admission under the wing of England would take from our consequence what it would add to hers. Such an invitation, nevertheless, will be a mark of respect not without a value, and this will be more enhanced by a polite refusal than by an acceptance; not to mention that the acceptance would be a step leading us into a wilderness of politics and a den of conspirators.

Writings of Madison, Volume 3: 1816-1828, p.354

Whether any of these hasty ideas ought to be changed by a fuller acquaintance with existing circumstances, or under the influence of others now in embryo only, you can better judge than myself.

Writings of Madison, Volume 3: 1816-1828, p.354

If there be no error in the account of the French reception given to the notification of the British Ambassador at Paris, it would almost justify suspicion of some original understanding that, if the British Government would not interfere against the French invasion of Spain, the French would no t thwart the policy of Great Britain with regard to South America. Or must we suppose that France, with the great powers at her back, is ready to defy the united strength of G. Britain and America? She could not surely flatter herself with the hope of reconciling them to the scheme for fixing anew the Spanish yoke on those who have shaken it off.

Writings of Madison, Volume 3: 1816-1828, p.355

Events may soon unravel these and other mysteries.

1824

To John Cartwright.\*

1824.

Writings of Madison, Volume 3: 1816-1828, p.355

It is so long since I received your volume on the English Constitution, with the letter accompanying it, that I must add to my thanks for the favours an apology for the delay in returning them. I perceived at once, that, to do justice to such a work, it ought to be read with a continued attention, which happened to be impossible till within a short time past.

Writings of Madison, Volume 3: 1816-1828, p.355

I am now able to say that I have found in your pages not a little to admire, very much to approve, but some things in which I cannot concur. Were I to name instances of the last, I should not omit your preference of a single to a double legislature.

Writings of Madison, Volume 3: 1816-1828, p.355

The infirmities most besetting popular governments, even in the representative form, are found to be defective laws, which do mischief before they can be mended, and laws passed under transient impulses, of which time and reflection call for a change. These causes render the statute-book complex and voluminous, multiply disputed cases between individuals, increase the expense of legislation, and impair that certainty and stability which are among the greatest beauties as well as most solid advantages of a well-digested code.

Writings of Madison, Volume 3: 1816-1828, p.355

A second branch of the legislature, consisting of fewer and riper members, deliberating separately and independently of the other, may be expected to correct many errors and inaccuracies in the proceedings of the other, and to control whatever of passion or precipitancy may be found in them; and being, in like manner with the other, elective and responsible, the probability is strengthened that the will and interest of their common constituents will be duly pursued.

Writings of Madison, Volume 3: 1816-1828, p.355

In support of this view of the subject it may be remarked, that there is no instance among us of a change of a double for a single legislature, while there is more than one of a contrary change; and it is believed, that if all the States were now to form their governments over again, with lights derived from experience, they would be unanimous in preferring two legislative chambers to a single one.

Writings of Madison, Volume 3: 1816-1828, p.356

I hope you will have no occasion to regret your early patronage of the independence of this country, or your approbation of the principles on which its governments have been established. Thus far, the trees can be safely tested by their fruits.

Writings of Madison, Volume 3: 1816-1828, p.356

It affords sincere pleasure to find your government and nation relaxing their prejudices against us. Experience has proved what a few on your side as well as on this foresaw, that the separation of the colonies, though a gain to them, would be no loss of retainable commerce to the parent State, while it would be a gain to its treasury in the diminished demands on it.

Writings of Madison, Volume 3: 1816-1828, p.356

It remains for the two countries now but to cultivate mutual good-will, to enrich and improve each other by all the interchanges having these tendencies, and to promote by their examples the improvement and happiness of all other countries.

Writings of Madison, Volume 3: 1816-1828, p.356

I beg you to accept my acknowledgments for the friendly sentiments you have addressed to me, and to be assured of my great respect and good wishes.

To George M'Duffie.

MONTPELLIER, January 3, 1824.

Writings of Madison, Volume 3: 1816-1828, p.356

SIR,—I have received your letter of December 26, enclosing a copy of "A joint Resolution" for amending the Constitution in the case of choosing a President and Vice President, accompanied by an able "Report" thereon, and on the expediency of introducing a fixed uniformity in the modes of choosing members of the House of Representatives and electors of President and Vice President.

Writings of Madison, Volume 3: 1816-1828, p.356

You ask my opinions and my suggestions on these points. I should give them with more cheerfulness if I were less aware how much you appear disposed to overvalue them.

Writings of Madison, Volume 3: 1816-1828, p.357

I agree entirely with the committee in thinking an election of representatives and of electors by districts preferable to that by general ticket; and, in the case of electors, preferable to that also by the State Legislatures. I agree equally with them in preferring an eventual choice of President and Vice President by a joint ballot of the two houses of Congress, to the existing provision for such a choice by the House of Representatives voting by States. The committee appear to me to be very right, also, in linking the amendments together, as a compromise between the States, who may mutually regard them as concessions.

Writings of Madison, Volume 3: 1816-1828, p.357

In the amendment relating to district elections of representatives, it is provided that the districts shall not be alterable previous to another census. And the "Joint Resolution" extends the prohibition to the electoral districts. As the return of a census may not be within less than ten years, the regulation may become very inconvenient and dissatisfactory, especially in the new States, within different parts of which the population will increase at such unequal rates. It would be a better provision that no change of districts should take place within a period of ——— preceding elections next in view; and to apply the rule to cases where Congress may have a right to interpose, as well as in the ordinary exercise of the power by the States.

Writings of Madison, Volume 3: 1816-1828, p.357

The power given by the joint resolution to the electors of President and Vice President to fill up their own vacancies, and to appoint the two additional electors, is liable to the remark that, where there may be but a single elector, casualties to him might deprive his State of its two additional electors; and that a single elector, with a right to appoint two others, would have in effect three votes, a situation exposing him in a particular manner to temptations of which the Constitution is jealous. The objection to such an augmented power applies generally with a force proportioned to the fewness of electors allotted to a State. There may be some difficulty in finding a satisfactory cure for the inconvenience. In States entitled to but one representative, the single district might choose three electors. In States having two representatives, each of its two districts, by choosing two electors, would furnish its quota of four. In all other States the difficulty would occur. And as uniformity is so justly an object, it would seem best to let the State Legislatures appoint or provide for the appointment of the two additional electors, and for filling electoral vacancies, limiting the time within which the appointment must be made.

Writings of Madison, Volume 3: 1816-1828, p.358

Would it not be better to retain the word "immediately," in requiring the two houses to proceed to the choice of President and Vice President, than to change it into "without separating?" If the change could quicken and ensure a final ballot, it would certainly be a good one. But as it might give rise to disputes as to the validity of an election after an adjournment and separation forced by a repetition of abortive ballotings, the existing term might, perhaps, as well remain, and take its chance of answering the purpose. The distinction between a regulation which is directory only, and one a departure from which would have a vitiatory effect, is not always obvious; and in the delicate affair of electing a Chief Magistrate, it will be best to hazard as little as possible a discussion of it.

Writings of Madison, Volume 3: 1816-1828, p.358

In the appeal to the second meeting of electors, their choice is limited to the two names having the highest number of votes given at the first meeting. As there may be an equality of votes among several highest on the list, the option ought to be enlarged accordingly, as well with a view to obviate uncertainty as to deal equally with equal pretensions.

Writings of Madison, Volume 3: 1816-1828, p.358

The expedient of resorting to a second meeting of the Presidential electors, in order to diminish the risk of a final resort to Congress, has certainly much to recommend it. But the evil to be guarded against would lose not a little of its formidable aspect by the substitution of a joint ballot of the members of Congress for a vote by States in the Representative branch; while the prolonged period during which the electors must be in appointment before the final votes would be given, relinquishes the contemplated advantages of functions to be so quickly commenced and closed as to preclude extraneous management and intrigue. The increased trouble and expense are of minor consideration, though not to be entirely disregarded. It may be a more important remark that in cases where, from an equality of votes on the electoral list, more than two names might be sent back to the electors, very serious embarrassments and delays might happen from miscalculations or perverse dispositions in some of so many distinct meetings; and that, after all, no perfect security would exist against an ultimate devolution of the choice on Congress. Still, it may be a fair question whether a second meeting of electors, with its prospect of preventing an election by the members of the Legislature, would not be preferable to a single meeting with the greater probability of a resort to them.

Writings of Madison, Volume 3: 1816-1828, p.359

As your request extends to suggestions as well as opinions, I shall more fully comply with it by sketching for consideration a process which omits a second meeting of electors, and aims at an improved chance of a decisive vote in the first.

Writings of Madison, Volume 3: 1816-1828, p.359

"Each elector to give two votes; one naming his first choice, the other his next choice. If there be a majority for the first name, the choice is made. If there be not a majority for the first, and one for the next name, the next to be President. If there be not a majority for either, then a final choice to be made by joint ballot of the House of Representatives and Senate, out of the two or more names having the two highest number of votes on the two lists taken together. A Vice President to be chosen in a similar manner."

Writings of Madison, Volume 3: 1816-1828, p.359

If there be no objections to such a process, not yet occurring to me, it may be entitled to comparative examination by its avoiding the inconveniences of a second meeting of electors, and its doubling the chance of a decisive ballot at a single one. In contested elections, especially where there may be a number of candidates, the name second in preference might well unite a majority of votes, those for the first being so scattered as to fail of it.

Writings of Madison, Volume 3: 1816-1828, p.359

Should a provision for a second meeting of electors be deemed indispensable, and any value be attached to the suggested mode of voting at the first, there is no incompatibility between the two arrangements.

Writings of Madison, Volume 3: 1816-1828, p.360

It may be proper for me to observe, that in a late answer to a letter from a gentleman of distinguished ability, who has turned his thoughts to an improvement of the elective provisions for President and Vice President, I was led to a sketch similar to the above, with an intimation that it would be agreeable to me not to be brought into any public discussion of the subject.

Writings of Madison, Volume 3: 1816-1828, p.360

Your letter reached me on Monday evening, but I was for several days under an indisposition which prevented a due attention to it; nor am I sure that, with the present remains of it, I have even done justice to my own ideas. I am very sure that I have been far from doing it to the subject itself.

Writings of Madison, Volume 3: 1816-1828, p.360

With great respect,

To Thomas Jefferson.

MONTPELLIER, Jany 14, 1824.

Writings of Madison, Volume 3: 1816-1828, p.360

DR SIR,—I return the letters from Doctor Cooper inclosed in yours of the 7th. It is truly to be lamented that at his stage of life, and in the midst of his valuable labours, he should experience the persecutions which torment and depress him. Should he finally wish to exchange his present berth for one in our University, and make the proposition without any advances on our part, there could be no indelicacy in our receiving him. What I should dread would be, that notwithstanding his pro-eminent qualifications, there might be difficulties to overcome among ourselves in the first instance; and what is worse, that the spirit which persecutes him where he is would find a copartner here not less active in poisoning his happiness and impairing the popularity of the Institution. We must await the contingency, and act for the best.

Writings of Madison, Volume 3: 1816-1828, p.360

You have, probably, noticed that the manner in which the Constitution, as it stands, may operate in the approaching election of President, is multiplying projects for amending it. If electoral districts, and an eventual decision by joint ballot of both Houses of Congress, could be established, it would, I think, be a real improvement; and as the smaller States would approve the one, and the larger the other, a spirit of compromise might adopt both.

Writings of Madison, Volume 3: 1816-1828, p.361

An appeal from an abortive ballot in the first meeting of the Electors to a reassembling of them, a part of the several plans, has something plausible, and, in comparison with the existing arrangement, might not be inadmissible. But it is not free from material objections. It relinquishes, particularly, the policy of the Constitution in allowing as little time as possible for the Electors to be known and tampered with. And beside the opportunities for intrigue furnished by the interval between the first and second meeting, the danger of having one electoral body played off against another, by artful misrepresentations rapidly transmitted, a danger not to be avoided, would be at least doubled. It is a fact within my own knowledge, that the equality of votes which threatened such mischief in 1801 was the result of false assurances despatched at the critical moment to the Electors of one State, that the votes of another would be different from what they proved to be.

Writings of Madison, Volume 3: 1816-1828, p.361

Having received letters from certain quarters on the subject of the proposed amendments which I could not decline answering, I have suggested for consideration, "that each Elector should give two votes; one naming his first choice, the other naming his next choice. If there be a majority for the first, he to be elected; if not, and a majority for the next, he to be elected: if there be not a majority for either, then the names having the two highest number of votes on the two lists taken together to be referred to a joint ballot of the Legislature." It is not probable that this modification will be relished by either of those to whom it has been suggested, both of them having in hand projects of their own. Nor am I sure there may not be objections to it which have been overlooked. It was recommended to my reflections by its avoiding the inconveniences of a second meeting of Electors, and at the same time doubling the chance of avoiding a final resort to Congress. I have infatuated to my correspondents my disinclination to be brought in any way into the public discussion of the subject; the rather, as every thing having a future relation only to a Presidential election may be misconstrued into some bearing on that now depending.

To John McLean.

MONTPELLIER, Feby 2, 1824.

Writings of Madison, Volume 3: 1816-1828, p.362

DR SIR,—I have received your letter of January 28, inclosing the memorandum from Mr. Wagner relating to a publication of the Archives of the Confederation.

Writings of Madison, Volume 3: 1816-1828, p.362

It seems very proper, that whatever is valuable in the unpublished Archives of the Revolution, and may no longer be under a seal of secrecy, should be secured against the waste and casualties of time by a multiplication of printed copies; and the writer of the memorandum may be deemed well qualified for the task. In some respects he would, as he suggests, enjoy particular facilities; and I cannot suppose him deficient in the requisite fairness and faithfulness, for which there would, moreover, be a pledge in his regard as well to profit as to reputation.

Writings of Madison, Volume 3: 1816-1828, p.362

I have implied that the Archives may contain confidential matter, the seal of which is not even yet worn out. From my partial knowledge and recollection of them, I infer that there may be personalities and delicate transactions in the correspondence of some of our public Ministers, which might awaken feelings, foreign or domestic, original or derivative, to which it would be best to allow at least a prolonged repose. In the discrimination of such from other parts of the documents, I take for granted that the judgment of any editor would be aided by a superintending one.

Writings of Madison, Volume 3: 1816-1828, p.362

If the requested permission be granted, would it not be well to stipulate for a certain number of copies, to be so distributed into fixed situations, as would contribute not only to their useful acceptability, but to their more certain descent to posterity?

Writings of Madison, Volume 3: 1816-1828, p.362

It occurs that a resolution passed Congress several years ago authorizing a publication of the foreign correspondence during the Revolutionary period. I do not remember its precise tenor or its result. It will, of course, be adverted to in any new arrangement involving the same subject.

To Mr. Monroe.

MONTPELLIER, February 4, 1824.

Writings of Madison, Volume 3: 1816-1828, p.363

DEAR SIR,—I received a few days ago a letter from Mr. M'Lean, Postmaster General, enclosing an application from Mr. Wagner for permission to publish the archives of the Revolutionary Congress, and conveying "your request of my advice" on the subject; it being supposed that "my acquaintance with Mr. W. would enable me to judge of his ability and integrity." As I felt much respect for Mr. M'Lean, and as he spoke directly from yourself, I gave him the prompt answer, which I do not enclose, because it will of course be communicated to you. Not wishing to attach to it an importance which might be implied by making it confidential, I did not mark it as such. It has since occurred that it may be best not to leave it open to be viewed in a different light; and I will thank you to make the remark to Mr. M., which can be done with truth, I presume, as an inference from yourself, and without manifesting any doubt on my part of his delicacy, a doubt which I do not in the least entertain. Misapprehension alone could, I am sure, mislead him in such a case.

Writings of Madison, Volume 3: 1816-1828, p.363

The second thought I have expressed was suggested by my ignorance of the footing on which Mr. W. may be with the Secretary of State, to whom, as keeper of the archives, an immediate application, if not made to yourself, was most obvious, especially if there be no particular intimacy between Mr. W. and the intermediary chosen; and by my ignorance, also, of his course, as it may have related to yourself, and, indeed, of his general course for a period of years past. For myself, I should not under any circumstances refuse to do him the justice of saying, that during his service in the Department of State, whilst it was contemporary with mine at the head of it, I had full evidence of his ability, without any whatever of his want of integrity or fidelity. After the resignation of his post I had no personal communication with him, nor any particular knowledge of his career. From the manner in which he withdrew I had a right to suppose he was dissatisfied, though the cause was never explained; and his manner of attending [adverting?] to his official period in his memorandum has the aspect of studiously avoiding a reference to his then superior, either from an unfriendly feeling in himself, or a belief of an unfriendly one towards him. Whatever may be the reality of the former, there is so little of the latter, that if the publication in question be decided on, and he be viewed as the proper hand for the task, I should never wish him to be deprived of its advantage. This is sufficiently shewn by my letter to Mr. M'Lean, however I may incline that its purport should not be exposed to the risk of misconstructions by those whose knowledge of circumstances may be either greater or less than mine.

Writings of Madison, Volume 3: 1816-1828, p.364

Health and every other happiness.

To President Monroe.

FEBRUARY 5, 1824.\*

DEAR SIR,—Your favor of January 26 came duly to hand. The information I wish to be obtained from General Jackson is—1st. What were the form and dates of the appointments of Brigadier and of Brevet Major General, accepted by him in his letter of June 8, 1814, to the Secretary of War, and what the date of the Secretary's letter enclosing the appointments? The term "form," refers to the distinction between commissions signed by the President and appointments signed by the Secretary alone. 2ndly. What were the form and date of the appointment of Major General, accepted by him in his letter of June 20, 1814, to the Secretary of War, and what the date of the Secretary's letter enclosing it? and particularly whether the appointment was to take effect from its date, or at a subsequent day?

Writings of Madison, Volume 3: 1816-1828, p.365

I am sorry that, in addition to the trouble to yourself, any should be given to General Jackson; especially as I do not foresee any very material light in the expected information beyond what is now possessed. I had no reason, judging by my own feelings, to doubt the friendly ones of the General. I could not mistake his character so far as to suppose him capable of being influenced by the perverted statement in print, unless in contempt for its author, whose object could not escape him.

Writings of Madison, Volume 3: 1816-1828, p.365

It affords Mrs. Madison and myself great pleasure to learn that the tedious instability of Mrs. Monroe's health is terminating so happily. She must not give her physicians too much credit at the expense of what is due to the climate, which proved so beneficial during her last visit, nor forget that its conservative virtues are not inferior to its restorative. We offer her and yourself our cordial respects and best wishes.

To R. H. Lee.

MONTPELLIER, Feby 9, 1824.

Writings of Madison, Volume 3: 1816-1828, p.365

DR SIR,—Your letter of January 24 came to hand by the mail of Friday last. The letter from President Monroe, which it enclosed, would have been received with pleasure from your own hand.

Writings of Madison, Volume 3: 1816-1828, p.365

Your Grandfather, Richard Henry Lee, of whom you are preparing a biographical Memoir, having borne a conspicuous part in our Revolution, I should very cheerfully make any contribution in my power towards the portrait of his character which is destined for posterity. But, although we were always on a footing of mutual cordiality, my intercourse with him furnished fewer opportunities of witnessing his private life and his public career than were enjoyed by others of his friends, and by some of his fellow-labourers on the political theatre. The distance of our abodes from each other did not admit of social communication, and my first acquaintance with him was subsequent to the close of the Revolutionary struggles; the period during which his powers and public virtues were drawn into their greatest display. At later periods we were, in several instances, associated in public life; and I was thence a witness of his patriotic zeal and of his captivating eloquence. Occasions occurred, also, on which I shared in the private gratifications afforded by the charms of his colloquial gifts and polished manners. Beyond these remarks, I could speak of him as one of the distinguished worthies of the distinguished times in which his lot was cast, in the general terms only which expressed the rank he held in the estimation of his country.

Writings of Madison, Volume 3: 1816-1828, p.366

I am somewhat at a loss what to say on the subject of the letters from me which you wish to print among the selections from the correspondence of your Grandfather. I find that the haste in which they were probably written, in the midst of public duties, has left no trace of their contents among my papers by which I could judge of their fitness for such a use. I do not question the judgment or delicacy of intention which decides them to be unexceptionable in that respect. But it is quite possible that, written, as they may have been, at times of political excitement, they may have bearings not agreeable to the feelings of cotemporaries yet living, of their surviving connexions, though not particularly striking the attention of others. In this view, I may not improperly feel some hesitation at giving a positive sanction to the proposed publicity, unless I could have a previous opportunity of looking over the letters themselves. As this may be effected without any material delay, may I ask the favor of you to put the letters into a channel by which they may speedily reach me? The surest, perhaps, will be the mail from Washington to Orange Court-House, Virginia, that route being less liable to mistakes and casualties than those less public across the Country. The marked attention to the address is suggested by the many places of the same name, from which I often experience delays, and sometimes failures, of letters intended for me.

Writings of Madison, Volume 3: 1816-1828, p.366

My files, I perceive, contain a few letters from your Grandfather; the first of them to the Virginia Delegation in Congress, the others to me. They are of the following dates: June 12, 1781; Nov. 20 and Dec. 26, 1784; May 30, 1785. If copies should not be among his papers, and a sight of them be desired, they will be forwarded.

To Robert S. Garnett.

MONTPELLIER, Feb. 11, 1824.

Writings of Madison, Volume 3: 1816-1828, p.367

DEAR SIR,—The mail brought me, the evening before the last, your favor of the 5th, with the copy of the "New Views," &c., for which I tender my acknowledgments. I must put off the reading of such a work till it may be subject to less interruption than would at this time be unavoidable. From a glance at a few passages in the outset, I do not doubt that more competent lights as to the proceedings of the Convention would have saved the distinguished author from much error, into which he may have been led by the faint or refracted rays to which he trusted. The general terms or phrases used in the introductory propositions, and now a source of so much constructive ingenuity, were never meant to be inserted in their loose form in the text of the Constitution. Like resolutions preliminary to legal enactments, it was understood by all that they were to be reduced, by proper limitations and specifications, into the form in which they were to be final and operative; as was actually done in the progress of the session.

Writings of Madison, Volume 3: 1816-1828, p.367

Whether the Constitution, in any of its stages, or as it now stands, be a national or a federal one, is a question which ought to be premised by a definition of the terms; and then the answer must be, that it is neither the one nor the other, but possessing attributes of both. It is a system of Government emphatically sui generis, for designating which there consequently was no appropriate term or denomination pre-existing.

Writings of Madison, Volume 3: 1816-1828, p.367

If there be any thing in these hasty remarks which is rendered inapplicable by parts of the volume into which I have not yet looked, you will be as ready to excuse as sure to detect the misconception.

Writings of Madison, Volume 3: 1816-1828, p.368

With friendly respects and good wishes.

To Revd Timothy Alden, Secretary to Board Trustees Alleghany College, Etc.

FEBY 18, 1824.

Writings of Madison, Volume 3: 1816-1828, p.368

SIR,—I have received the Resolution of the Trustees of Alleghany College, with the printed copy of its Library, as forwarded by you.

Writings of Madison, Volume 3: 1816-1828, p.368

The Trustees were not mistaken in the belief that it would give me pleasure to know that a learned institution had been so promptly reared in so favorable a position, and under such happy auspices. No one who regards public liberty as essential to public happiness can fail to rejoice at every new source of that intellectual and moral instruction without which liberty can neither last long, nor be fruitful of its proper blessings whilst it does last.

Writings of Madison, Volume 3: 1816-1828, p.368

The College may be very justly congratulated on the number and value of the Books so munificently contributed to its infant Library. I cannot, as yet, say as much of an Institution which was commenced with us a few years ago, under the name of the Central College, on the basis of private subscriptions, and which has since been adopted and endowed by the Legislature as a State University. Its present funds do but compleat the buildings and provide for the introductions of professors and students. The indispensable furniture of a Library, with that of an exemplifying apparatus, exist only in our hopes, which rest on the wise policy and patriotic liberality which has thus far patronised the Institution.

Writings of Madison, Volume 3: 1816-1828, p.368

I pray you, Sir, to present my thanks to the Trustees for their polite attention, and my best wishes that their future exertions in the cause of useful science may be distinguished by all the success which is promised by the smiles from above on their past.

To Richard Rush.

FEBY 27, 1824.

Writings of Madison, Volume 3: 1816-1828, p.369

DR SIR,—Almost at the moment of receiving yours of December 28, my hand casually fell on the inclosed scrap, which I must have extracted from the Author,\* [borrowed for the purpose,] on some occasion when the right of navigating the Mississippi engaged my attention. I add it to my former enclosures on that subject, merely as pointing to one source of information which may lead to others fuller and better.

Review of a Statement Attributed to Gen. John Armstrong,

With An Appendix of Illustrative Documents.\*

[Note: Click here to go to the appendix.]

Introductory note by Mr. Madison.

It was several years after the publication before it came to the knowledge of J. M., who prepared the review of it, with an intention of sending it to the editor. He was dissuaded from this course by the President, who observed that no credit was given to what came from the writer. It appeared, also, that the Repository had been some time discontinued.

Writings of Madison, Volume 3: 1816-1828, p.369

In the "Literary and Scientific Repository," No. VI, page 502-'3, published at New York, October, 1821, the following statement is made as "from documents of the highest character:"

Writings of Madison, Volume 3: 1816-1828, p.369

"Early in the month of May, 1814, the then Secretary of War proposed to confer on General Jackson the appointment of Brigadier in the army of the United States, with the Brevet of Major General, until a vacancy, by resignation or otherwise, should permit his appointment to a similar grade in the line. He was, at the same time, named to the command of Military District No. 7, of which New Orleans made a part. This proposition, in both its branches, the promissory as well as the appointing, was approved by the President, and a communication to General Jackson made accordingly. On the twenty-second of May General Harrison's resignation was received at the War Office, and on the day following was reported to the President, as furnishing means for giving immediate execution to the promise already stated. The President's answer was indecisive. 'The better way,' says he, 'will be to send on a Major General's commission at once; but on this I suspend a final decision till I see you.' The Secretary, on the other hand, not believing that a right to tamper with engagements solemnly made and communicated existed anywhere, or for any length of time, hastened to act on what appeared to be the first impression of the President; immediately forwarded the commission; and took on himself the responsibility of doing so."

Writings of Madison, Volume 3: 1816-1828, p.374

From this statement an appeal is made to the following extracts and letters; it being kept in mind that the correspondence of the President and Secretary of War took place while the former was at his residence in Virginia; that during the period no other than written communications passed between them; and that the extracts contain every thing relative to the matter of them:

Extract of a letter from the Secretary of War to the President,

dated May 14, 1814.

Writings of Madison, Volume 3: 1816-1828, p.374

"Something ought to be done for General Jackson. The vacant Major General's place [produced by General Hampton's resignation] cannot be filled during the recess of the Senate. But we can make him a Brigadier and give him the Brevet of Major General; and send him to relieve General Flournoy, who is very impatient in his present position."

Extract of a letter from the President to the Secretary of War,

dated May 17, 1814.

Writings of Madison, Volume 3: 1816-1828, p.374

"Send, also, [to the President,] a commission of Brigadier and a Brevet of Major General for General Jackson."

Extract of a letter from the President to the Secretary of War,

dated May 20, 1814.

Writings of Madison, Volume 3: 1816-1828, p.374

"I have the day for setting out for Washington still to fix. It was my original purpose to be back before the first of next month, and I shall endeavour to effect it."

Extract of a letter from the Secretary of War to the President,

dated May 20, 1814.

Writings of Madison, Volume 3: 1816-1828, p.375

"General Harrison resigned his military appointment on the eleventh instant, and expects to be relieved on the thirty-first in the command of the 8th District. McArthur is next to him in rank; but being destined to the command of the brigade composed of Paul's and Miller's regiments, he will not be long in the District, and in his absence the command devolves on General Howard. Of this officer I have heard nothing lately. The presumption is that he has gone on to St Louis."

Writings of Madison, Volume 3: 1816-1828, p.375

Here is no allusion to the resignation as creating a vacancy for General Jackson, nor to any commission enclosed in the letter. The difficulty of supplying a commander of the District would intimate rather the expediency of retaining General Harrison longer in the service.

Extract of a letter from the President to the Secretary of War,

dated May 24, with a postscript of May 25.

Writings of Madison, Volume 3: 1816-1828, p.375

"I have received yours of the twentieth instant. The commission by Brevet for General Jackson is not accompanied by the preliminary one of Brigadier. As the resignation of General Harrison renders that circuit unnecessary, the better way will be to send at once a Major General's commission. I suspend a final decision, however, till I see you; which will be in two or three days after the arrival of this."

Writings of Madison, Volume 3: 1816-1828, p.375

From this it appears that a commission was enclosed in the Secretary's letter of the twentieth, and received as the Brevet for General Jackson called for by the President; no suggestion of a change of purpose being made by the Secretary.

From the Secretary to the General.

Copies of Letters Between the

Secretary of War and General Jackson,

from the Files of the War Department.

From the Secretary to the General.

"MAY 22d, 1814."

Writings of Madison, Volume 3: 1816-1828, p.376

SIR,—The vacancy produced by General Hampton's resignation not having been filled during the late session of the Senate, cannot be supplied constitutionally during the recess of that body, All, therefore, that can be done at present, in reward for your able and gallant conduct during the campaign, and in testimony of the public respect these have obtained, is, to make you a Brigadier in the line, with the Brevet of Major General, and to invest you with command of the 7th Military District. Commissions of this character will be immediately prepared and forwarded; and I cannot but hope but that they will be acceptable and accepted, and that it will not be inconvenient for you to assume the new command without loss of time. I avail myself of the occasion to offer you my great respect and best wishes."

Writings of Madison, Volume 3: 1816-1828, p.376

This letter is dated two days after the letter to the President communicating the resignation of General Harrison. The two commissions promised, it appears, were never forwarded. One of them only was sent to the President for his sanction; namely, the one enclosed in the letter of the twentieth, mentioning the resignation of General Harrison, without mentioning the commission.

Writings of Madison, Volume 3: 1816-1828, p.376

Extract of a letter from the Secretary to the General.

Writings of Madison, Volume 3: 1816-1828, p.376

"MAY 24, 1814. "In the event of your acceptance of the appointment announced by my letter of the 22d instant, I have to suggest the wish of the President that you should proceed without delay to Fort Jackson, and consummate the arrangements committed to General Pinckney in relation to the hostile Creeks. A copy of the instructions given to General Pinckney is enclosed. I enclose, also, a copy of his General Orders of the 28th of April, shewing the distribution made of the troops."

Copy of a letter from General Jackson to the Secretary of War.

"NASHVILLE, June 8th, 1814.

Writings of Madison, Volume 3: 1816-1828, p.377

"SIR,—Yours of the twenty-second and twenty-fourth, with enclosures, have been received, and are now before me. The former alone shall be the subject of this communication. The appointment of Brigadier and Brevet Major General are accepted under the circumstances tendered; believing that the Senate on its meeting will honor me with the rank in the line which I have held in the Militia of the Republic for many years. Your other communications shall be the subject of a separate letter. I shall avail myself of the earliest opportunity to assume the command of the 7th Military District, pursuant to your wishes."

Copy of a letter from the Secretary of War to General Jackson.

"MAY 28th, 1814.

Writings of Madison, Volume 3: 1816-1828, p.377

"SIR,—Since the date of my letter of the twenty-fourth, Major General Harrison has resigned his commission in the army; and thus is created a vacancy of that grade, which I hasten to fill with your name. This circumstance does away the necessity of sending the commissions formerly contemplated."

Copy of a letter from General Jackson to the Secretary of War.

"NASHVILLE, June 20th, 1814.

Writings of Madison, Volume 3: 1816-1828, p.377

"SIR,—I have the pleasure to acknowledge the receipt of your note of the twenty-eighth ultimo, accompanied with the appointment of Major General, made by the President of the United States. You will please to receive this as my acceptance.

Writings of Madison, Volume 3: 1816-1828, p.377

"I assumed the command of this District on the 15th instant, and shall proceed to Fort Jackson, as per advice, on the 13th."

Extract of a letter from Major General Harrison to the Secretary of War.

"CINCINNATI, 11 May, 1814.

"I have the honor, through you, to request the President to accept my resignation of the appointment of Major General in the Army, with which he has honored me.

Writings of Madison, Volume 3: 1816-1828, p.378

"Lest the public service should suffer before a successor can be nominated, I shall continue to act until the 31st instant, by which time I hope to be relieved."

Extract of a letter from the Secretary of War to General Harrison.

"MAY 24, 1814.

Writings of Madison, Volume 3: 1816-1828, p.378

"Your letters of the 10 and 11 instant have been received.

Writings of Madison, Volume 3: 1816-1828, p.378

"Your resignation has been communicated to the President, who is now on a visit to Virginia."

Copy of a letter from the Secretary of War to General Harrison.

"MAY 28, 1814."

SIR,—Your resignation is accepted, to take place the 31 instant, as you requested; and General McArthur is accordingly ordered to take command of the District.

Writings of Madison, Volume 3: 1816-1828, p.378

"I beg you, Sir, to accept the assurance of my great respect.''

Extracts from the National Intelligencer of April 28 and May 31, 1814.

Writings of Madison, Volume 3: 1816-1828, p.378

"The President of the United States and family left this place yesterday, [April 27,] on a short visit to Montpelier, his seat in Orange County, Virginia."

"The President of the United States yesterday [May 30] returned to this city, with his family, from his visit to Montpelier, his seat in Virginia."

Writings of Madison, Volume 3: 1816-1828, p.378

With these lights, a fair estimate can be made of the statement in the Repository.

Writings of Madison, Volume 3: 1816-1828, p.379

"Early in the month of May, 1814," says the statement, "the then Secretary of War proposed to confer on General Jackson the appointment of Brigadier in the army of the United States, with the Brevet rank of Major General, until a vacancy, by resignation or otherwise, should permit his appointment to a similar grade in the line."

Writings of Madison, Volume 3: 1816-1828, p.379

The proposition, as is seen, was made on the fourteenth of May, and referred expressly to the existing vacancy produced by the resignation of Major General Hampton.

Writings of Madison, Volume 3: 1816-1828, p.379

"The proposition in both its branches, the promissory as well as the appointing, was approved by the President, and a communication to General Jackson made accordingly."

Writings of Madison, Volume 3: 1816-1828, p.379

The answer of the President to the proposition simply was, "send a commission of Brigadier, and a Brevet of Major General, for General Jackson;" for the purpose, of course, that they might be sanctioned for transmission.

Writings of Madison, Volume 3: 1816-1828, p.379

The only promise which appears to have been communicated to the General, by the Secretary, is that contained in his letter of May twenty-second, answered by the General June the eighth, on which it may be remarked—1. That the letter, though written two days after the notice given by the Secretary to the President of the resignation of Major General Harrison, makes no allusion to that event; but, on rite contrary, expressly informs General Jackson that a commission of Brigadier and a Brevet of Major General, with a view to the existing vacancy produced by Major General Hampton's resignation, was all that could, at the time, be done for him. 2. At the date of the letter, one only of the two commissions promised to be immediately prepared and forwarded had been sent to the President, the other not being sent at all. 3. By the letter of May twenty-eighth, from the Secretary to the General, it appears that neither of the promised commissions had been forwarded. 4. The promising letter of May twenty-second was never made known to the President, either before or after it was forwarded to General Jackson. 5. If it had been made known to the President before it was forwarded, his letter of May twenty-fourth—fifth to the Secretary—shews that with his knowledge of the resignation of Major General Harrison, and that the commission of Brigadier and Brevet of Major General was not all that could be done for General Jackson, he could not have failed to cause the letter to be suspended, at least, till he should see the Secretary.

Writings of Madison, Volume 3: 1816-1828, p.380

"On the twenty-second of May," continues the statement, "General Harrison's resignation was received at the War office."

Writings of Madison, Volume 3: 1816-1828, p.380

On the twentieth of May, as has been seen, the Secretary informed the President "that General Harrison had resigned his military appointment."

Writings of Madison, Volume 3: 1816-1828, p.380

Here, in the Repository, it is stated that the receipt of the resignation was on the twenty-second of May.

Writings of Madison, Volume 3: 1816-1828, p.380

Again: On the twenty-second, he writes to General Jackson as if no such resignation had taken place; holding up the vacancy produced by Major General Hampton's resignation as the only one, at that time, in prospect.

Writings of Madison, Volume 3: 1816-1828, p.380

On the twenty-fourth of May, even, another letter to General Jackson has the same aspect.

Writings of Madison, Volume 3: 1816-1828, p.380

Yet the letter of the Secretary to General Harrison, of the twenty-fourth, states that his resignation had been received and communicated to the President.

Writings of Madison, Volume 3: 1816-1828, p.380

Finally, the letter of the twenty-eighth of May, to General Jackson, says, "since the date of my letter of the twenty-fourth, General Harrison has resigned his commission in the army."

Writings of Madison, Volume 3: 1816-1828, p.380

An attempt to cover these incongruities by pleading a distinction between a resignation sent in and a resignation finally accepted raises the question—1. Why, if the distinction was intended, the ambiguity should be permitted to run through the. reiterated language employed? 2. Why General Jackson should have been promised the immediate transmission of the two commissions looking to the existing vacancy produced by Major General Hampton's resignation, and been expressly told that nothing more could then be done for him; when, two days before, the Secretary had informed the President of the resignation of General Harrison, which furnished the means of doing more for him; and when he had a right to expect the President's answer within three or four days at furthest?

Writings of Madison, Volume 3: 1816-1828, p.381

Must the ambiguity and precipitancy in the case be explained by the eagerness of the Secretary to gain additional credit with the General by disclosing what was intended for him, if the resignation of General Harrison had not occurred; a disclosure for which the opportunity was to be superseded by the expected answer from the President, "doing away the necessity of sending on the two promised commissions?" The eagerness of the Secretary to call the attention of the General to himself as the source to which he owed his appointment is strikingly displayed by the letter of May twenty-eighth, in which, alluding to the new vacancy, he takes upon himself to say, "which I hasten to fill with your name." The answer of the General, distinguishing between the arrogated and the real authority, acknowledged the receipt of the letter as "accompanied by the appointment of Major General, made by the President of the United States."

Writings of Madison, Volume 3: 1816-1828, p.381

To proceed with the statement: "and on the day following [May twenty-third] was reported to the President, as furnishing the means for giving immediate effect to the promise already stated."

Writings of Madison, Volume 3: 1816-1828, p.381

The proper comment on this statement is in the following facts: 1. The report was made not on the twenty-third, but on the twentieth of May. 2. On the twentieth no promise whatever had been communicated to General Jackson; the date of the communication being the twenty-second of May. 3. The report was not only silent as to an immediate appointment to the vacancy produced by the resignation of General Harrison, but enclosed a Brevet of Major General, having reference to the original vacancy produced by that of General Hampton. 4. Two days after the report had been made, viz: on the twenty-second of May, the only promise ever made was accompanied with the remark that all that could be done was by the way of a Brigadier and Brevet appointment 5. It is proper to remark here, that the letter itself from Genera Harrison resigning his commission was never sent to the President; and that the only sanction for its acceptance was the letter of the twenty-fourth of May from the President, which ought to have suspended the answer to General Harrison, as well as the appointment to General Jackson, till he should see the Secretary.

Writings of Madison, Volume 3: 1816-1828, p.382

"The President's answer was indecisive; the 'better way,' says he, 'will be to send on a Major General's commission at once; but on this I will suspend a final decision till I see you.'"

Writings of Madison, Volume 3: 1816-1828, p.382

If the statement had not dropped the words, "which will be in two or three days after the arrival of this," which, in the answer of the President, followed the words "till I see you," the charge would have vanished as it fell from the pen. The object of the suppression is shewn by the use made of it.. What might not be proved or disproved by such mutilations, and who could be safe against them?

Writings of Madison, Volume 3: 1816-1828, p.382

Had, indeed, the suppressed words not been contained in the answer of the President, a notice to the same effect had been given but four days before, in his letter to the Secretary of May 20, saying, "that it was his original purpose to be back before the first of next month, and that he should endeavour to effect it."

Writings of Madison, Volume 3: 1816-1828, p.382

But the charge, as the statement proceeds to its close, takes a more serious complexion.

Writings of Madison, Volume 3: 1816-1828, p.382

"The Secretary, on the other hand, not believing that a right to tamper with engagements solemnly made and communicated existed anywhere, or .for any length of time, hastened to act on what appeared to be the President's first impression; immediately forwarded the commission; and took on himself the responsibility of doing so."

Writings of Madison, Volume 3: 1816-1828, p.382

There are certainly not many minds that would regard the Undertaking of a subordinate officer to judge between the first and last impression of his chief, and to act on the first, as a mitigation of disobedience.

Writings of Madison, Volume 3: 1816-1828, p.382

But what was the engagement made and communicated, on which this charge of tampering is founded. None has appeared but that implied in the Secretary's letter of May twenty-second, of which letter the President had no knowledge when he suspended his final decision, (nor was it, indeed, ever communicated by the Secretary,) which held out a Brevet of Major General as all that could be done for him; and which the President, as is shewn by the tenor of his letter of May twenty-fourth, would for that very reason have arrested, at least, till he should see the Secretary.

Writings of Madison, Volume 3: 1816-1828, p.383

What, again, was the length of time to which such a tampering would have extended? Three days at most, with the chance that it might be but two days. It turned out, in fact, that the President was, as witnessed by the National Intelligencer, back at Washington the thirtieth of May, a day short of the time he had named to the Secretary for his return; and two days only after the Secretary had hurried off a commission to General Jackson.

Writings of Madison, Volume 3: 1816-1828, p.383

Whatever clue may be applied to the labyrinth presented by the conduct of the Secretary, the course pursued by the President requires none. That was open and direct. When it was proposed to him to confer on General Jackson the appointment of Brigadier and a Brevet of Major General, with a view to his being nominated for the existing vacancy produced by the resignation of Major General Hampton, his immediate answer was, "send me the two commissions." When the unforeseen resignation of Major General Harrison was notified to him, his instant suggestion was, "the better way, then, would be to send to General Jackson a Major General's commission at once;" suspending only a final decision for three or four days, till he could have a personal communication with the Secretary. The short delay could be attended with no possible inconvenience; the services of General Jackson, as Major General, being provided for by the brevet rank giving him the command of the district for which he was allotted; whilst it was not a little called for by the obscurity and reserve of the Secretary on the occasion, and by the possibility that reasons, honorable to General Harrison, whose letter containing his resignation had not been transmitted to the President, might render it expedient not to part immediately with his services. The difficulty of providing an immediate successor in the command of the district, noticed by the Secretary as arising from the situation of General McArthur and General Howard, without hinting, as might have been expected, what was most advisable in the case, very naturally suggested the propriety of keeping the final arrangement suspended till the President could make it the subject of a personal consultation with the Secretary.

Writings of Madison, Volume 3: 1816-1828, p.384

Out of such materials has been wrought a statement for the public, representing the President as backward in bestowing on General Jackson an appointment which was so splendidly justified, and imputing to him a tampering with solemn engagements, which it became the duty of a subordinate functionary to take on himself the responsibility of frustrating.

Writings of Madison, Volume 3: 1816-1828, p.384

Should it be asked why the individual in question was placed, and, after such developments in his career, continued, at the head of the War Department, the answer will readily occur to those best acquainted with the circumstances of the period. Others may be referred for an explanation to the difficulty, which had been felt in its fullest pressure, of obtaining services which would have been preferred; several eminent citizens to whom the station had been offered having successively declined it. It was not unknown at the time that objections existed to the person finally appointed, as appeared when his nomination went to the Senate, where it received the reluctant sanction of a scanty majority. Nor was the President unaware or unwarned of the temper and turn of mind ascribed to him, which might be uncongenial with the official relations in which he was to stand. But these considerations were sacrificed to recommendations from esteemed friends; a belief that he possessed, with known talents, a degree of military information which might be useful; and a hope that a proper mixture of conciliating confidence and interposing controul would render objectionable .peculiarities less in practice than in prospect. And as far as disappointments were experienced, it was thought better to bear with them than to incur anew the difficulty of finding a successor, with the inconveniences of an internal and a forced change in the head of the Department of War in the midst of war. This view of the subject continued to prevail till the departure of the Secretary took place.

Writings of Madison, Volume 3: 1816-1828, p.384

It might with truth be added, that the particular case which has called forth this review did not receive at the time the full investigation now given to it. The aggravation of it by such a statement as has been reviewed was assuredly not to have been anticipated.

Writings of Madison, Volume 3: 1816-1828, p.385

In the periodical work referred to in the preceding pages there are other gross misstatements\* from the same pen. That above exposed will suffice to put every one on his guard, and justify a general protest against the credibility of a writer capable of such perverted and deceptive views of facts.

[Note: Appendix I, consisting of pages 386 through 427, appears at the end of Volume 3 in this electronic version. Click here to go to the Appendix.]

To Mathew Carey.

Letters, Etc.

To Mathew Carey.

March 10th, 1824.

Writings of Madison, Volume 3: 1816-1828, p.427

DR SIR,—Yours of Feby 28 was duly received, with the pamphlet referred to, and I add to my thanks for it those due for the several previous communications with which you favored me. They afford continued proofs of the ability and public spirit which you have exerted on the subject of them, and I cannot be insensible of the friendly and the flattering terms in which you invite a public exposition of my views of it. Waiving, however, the remark that the press and the debates are not likely to omit any thing that I could offer, candor obliges me to say that I should probably dissent too much from both sides of the depending question, ardent and determined as they now are, to be listened to by either.

Writings of Madison, Volume 3: 1816-1828, p.427

I cannot but view the friends of the Tariff, in its proposed extent, with some of the reasonlugs on which it rests, as losing sight too much of the general principle which leaves to the sagacity and interest of individuals the free choice of their industrious pursuits. Whilst the opponents of the measure, some of them at least, appear to pass into the opposite extreme, of rejecting exceptions to the general rule which are called for by a practical estimate of the public safety and prosperity. To illustrate the generality of the rule, and, at the same time, specify and explain the just exceptions to it, is a task not yet, perhaps, adequately performed by political economists. But it is one which must be looked for from others who have more time before them, as well as better qualifications than I have. Whoever may undertake it will certainly find in the able and extensive discussions ia this country a valuable addition to the lights derived from others.

To R. H. Lee.

Writings of Madison, Volume 3: 1816-1828, p.428

J. M. presents his respects to Mr. Lee, and returns the letters sent for his inspection. They contain nothing which would seem to require his dissent to their publication, if deemed worthy of a place in the correspondence selected for that purpose. If there be any doubtful passage, it is the allusion to a culpable love of power in the General Assembly; which may touch the personal feelings of surviving or the political sympathies of the succeeding members of the Body.

MONTPELLIER, March 11, 1824.

To Doctor Thomas Cooper.

MONTPELLIER, March 22, 1824.

Writings of Madison, Volume 3: 1816-1828, p.428

DEAR SIR,—I have received the little pamphlet on the Tariff before Congress, which you were so good as to send me. I had previously read its contents in the newspapers, but they are well worth perusing in the other form you have given them.

Writings of Madison, Volume 3: 1816-1828, p.428

I have always concurred in the general principle that the industrious pursuits of individuals ought to be left to individuals, as most capable of chusing and ma!naging them. And this policy is certainly most congenial with the spirit of a free people, and is particularly due to the intelligent and enterprising citizens of the United States.

Writings of Madison, Volume 3: 1816-1828, p.428

The true question to be decided, therefore, is, what are the exceptions to the rule, not incompatible with its generality, and what the reasons justifying them? That there are such cases seems to be not sufficiently impressed on some of the opponents of the Tariff. Its votaries, on the other hand, some at least, convert the exceptions into the rule, and would make the Government a general supervisor of individual concerns. The length to which they push their system is involving it in complexities and inconsistencies, which can hardly fail to end in great modifications, if not total miscarriage. What can be more incongruous than to tax raw materials in an act for encouraging manufactures? or than to represent a temporary protection of them as ensuring an early competition and reduction of prices, and at the same time to require for their safety a progressive augmentation of the protecting impost?

Writings of Madison, Volume 3: 1816-1828, p.429

I know not a better service that could be rendered to the science of political economy than a judicious explanation of the cases constituting exceptions to the principle of grce industry, which, as a general principle, has been so unanswerably established. You have glanced at some of them. Among others that might be added, I would admit cases in which there could be scarce a doubt that a manufacture once brought into activity would support itself and be profitable to the nation. An example is furnished by [the?] cotton branch among ourselves, which, if it had not been stimulated by the effect of the late war, might not for a considerable time have sprung up; and which, with that impulse, has already reached a maturity which not only supplies the home market, but faces its rivals in foreign ones. To guard the example, however, against fallacious inferences, it has been well observed that the manufactories in this case owe their great success to the advantage they have in the raw material, and to the extraordinary proportion of the work which is performed by mechanical agency.

Writings of Madison, Volume 3: 1816-1828, p.429

Is it not fair, also, in estimating the comparative cost of domestic and foreign products, to take into view the effect of wars, even foreign wars, on the latter? Were there a certainty of perpetual peace, and, still more, a universal freedom of commerce, the theory might hold good without exception, that government should never bias individuals in the choice of their occupations. But such a millenium has not yet arrived; and experience shews that if peace furnishes supplies from abroad cheaper than they can be made at home, the cost in war may exceed that at which they could be afforded at home; whilst it cannot be expected that a home provision will be undertaken in war, if the return of peace is to break down the undertakers. It would seem reasonable, therefore, that the war price should be compared with the peace price, and the war periods with the peace periods, which in the last century have been nearly equal; and that from these data should be deducted the tax that could be afforded in peace in order to avoid the tax imposed by war.

Writings of Madison, Volume 3: 1816-1828, p.430

In yielding thus much to the patrons of domestic manufactures, they ought to be reminded that in every doubtful case the Government should forbear to intermeddle, and that particular caution should be observed where one part of the community would be materially favoured at the expense of another. In Governments independent of the people, the danger of oppression is from the will of the former. In Governments where tho will of the people prevails, the danger of injustice arises from the interest, real or supposed, which a majority may have in trespassing on that of a minority. This danger in small Republics has been conspicuous. The extent 'and peculiar structure of ours are the safeguards on which we must rely; and although they may occasionally somewhat disappoint us, we have a consolation always in the greater abuses inseparable from Governments less free, and in the hope, also, that the progress of political science and the lessons of experience will not be lost on the National Councils.

To Henry Clay.

MONTPELLIER, April —, 1824.

Writings of Madison, Volume 3: 1816-1828, p.430

DEAR SIR,—I have received the copy of your speech on "American Industry," for which I pray you to accept my thanks. I find in it a full measure of the ability and eloquence so often witnessed on preceding occasions. But whilst doing this justice to the task you have performed, which I do with pleasure as well as sincerity, candor obliges me to add that I cannot concur in the extent to which the pending bill carries the tariff, nor in some of the reasonings by which it is advocated.

Writings of Madison, Volume 3: 1816-1828, p.430

The bill, I think, loses sight too much of the general principle which leaves to the judgment of individuals the choice of profitable employments for their labor and capital; and the arguments in favor of it, from the aptitudes of one situation for manufacturing establisliments, tend to shew that these would take place without a legislative interference. The law would not say to the cotton planter, you overstock the market, and ought to plant tobacco; nor to the planter of tobacco, you would do better by substituting wheat. It presumes that profit being the object of each, as the profit of each is the wealth of the whole, each will make whatever change the state of the markets and prices may require. We see, in fact, changes of this sort frequently produced in agricultural pursuits, by individual sagacity watching over individual interest. And why not trust to the same guidance in favor of manufacturing industry, whenever it promises more profit than any of the agricultural branches, or more than mercantile pursuits, from which we see capital readily transferred to manufacturing establishments likely to yield a greater income?

Writings of Madison, Volume 3: 1816-1828, p.431

With views of the subject such as these, I am a friend to the general principle of "free industry," as the basis of a sound system of political economy. On the other hand, I am not less a friend to the legal patronage of domestic manufactures, as far as they come within particular reasons for exceptions to the general rule, not derogating from its generality. If the friends of the tariff, some of them at least, maintain opinions subversive of the rule, there are among its opponents views taken of the subject which exclude the fair exceptions to it.

Writings of Madison, Volume 3: 1816-1828, p.431

For examples of these exceptions, I take—1. The case of articles necessary for national defence. 2. Articles of a use too indispensable to be subjected to foreign contingencies. 3. Cases where there may be sufficient certainty that a temporary encouragement will introduce a particular manufacture, which, once introduced, will flourish without that encouragement. That there are such cases is proved by the cotton manufacture introduced by the impulse of the war and the patronage of the law, without which it might not, for a considerable time, have effect-nally sprung up. It must not be forgotten, however, that the great success in this case was owing to the advantage in the raw material, and to the extraordinary degree in which manual labor is abridged by mechanical agency. 4. A very important exception results from the frequency of wars among the manufacturing nations; the effect of a state of war on the price of their manufactures; and the improbability that domestic substitutes will be provided by establishments which could not out-last occasions of such uncertain duration. I have not noticed any particular reference to this consideration in the printed discussions, the greater cheapness of imported fabrics being assumed from their cost in time of peace. Yet it is clear, that if a yard of imported cloth, which costs six dollars in peace, costs eight in war, and the two periods should be, as for the last two centuries taken together, nearly equal, a tax of nearly one dollar a yard in time of peace could be afforded by the consumer, in order to avoid the tax imposed by the event of war.

Writings of Madison, Volume 3: 1816-1828, p.432

Without looking for other exceptions to the principle restraining legislative interference with the industrious pursuits of individuals, those specified give sufficient scope for a moderate tariff, that would at once answer the purpose of revenue and foster domestic manufactures.

Writings of Madison, Volume 3: 1816-1828, p.432

With respect to the operation of the projected tariff, I am led to believe that it will disappoint the calculations both of its friends and of its adversaries. The latter will probably find that the increase of duty on articles which will be but partially manufactured at home, with the annual increment of consumers, will balance, at least, the loss of the Treasury from the diminution of tariffed imposts: whilst the sanguine hopes of the former will be not less frustrated by the increase of smuggling, particularly through our eastern and northern frontiers, and by the attraction of the labouring classes to the vacant territory. This is the great obstacle to the spontaneous establishment of manufactories, and will be overcome with the most difficulty wherever land is cheapest, and the ownership of it most attainable.

Writings of Madison, Volume 3: 1816-1828, p.432

The tariff, I apprehend, will disappoint those, also, who expect it to put an end to an unfavorable balance of trade. Our imports, as is justly observed, will not be short of our exports. They will probably exceed them. We are accustomed to buy not only as much as we can pay for, but as much more as can be obtained on credit. Until we change our habits, therefore, or manufacture the articles of luxury, as well as the useful articles, we shall be apt to be in arrears in our foreign dealing, and have the exchange bearing against us. As long as our exports consist chiefly of food and raw materials, we shall have the advantage in a contest of privations with a nation supplying us with superfiuities. But in the ordinary freedom of intercourse, the advantage will be on the other side; the wants on that being limited by the nature of them, and ours as boundless as fancy and fashion.

To President Monroe.

MONTPELLIER, April 13, 1824.

Writings of Madison, Volume 3: 1816-1828, p.433

DEAR SIR,—Your favors of March 27 and April — came duly to hand. You know already that I submit the recommendations, which I cannot sometimes decline, in entire subordination to your view of the comparative merits and pretensions before you. I think you perfectly right in not allowing locality to give exclusive claims to offices of general concern.

Writings of Madison, Volume 3: 1816-1828, p.433

I did not forget the name of Dr. Torrey when in consultation on the subject of a professor of chemistry for our University. But the solicitude for qualifications of the highest order will turn the attention to Europe, as well as to the United States.

Writings of Madison, Volume 3: 1816-1828, p.433

Mr. Cabell communicated to us the friendly disposition of yourself, and others near you, with respect to the claim of the State assigned to the University for pecuniary advances during the late war, and the chance of success on a resort to Congress. The claim seems to be rigidly just; and if not formidable as a precedent, or if backed by concurrent claims from a number of other States, may work its passage through the Legislature. It will be a seasonable and precious succour to the scanty resources of the Institution.

Writings of Madison, Volume 3: 1816-1828, p.433

I never had a doubt that your message, proclaiming the just and lofty sentiments of ten millions, soon to become twenty, enjoying in tranquil freedom the rich fruits of successful revolution, would be received in the present crisis of Europe with exulting sympathies by all such men as Lafayette, and with envenomed alarm by the partisans of despotism. The example of the United States is the true antidote to the doctrines and devices of the Holy Allies; and if continued, as we trust it will be, must regenerate the old world, if its regeneration be possible.

Writings of Madison, Volume 3: 1816-1828, p.434

Your message on the compact with Georgia places the subject in a very fair view. The letter from her representatives has not yet reached us. The character given of it exceeds all that could have been imagined from men not equally blind to every thing becoming themselves and required by public duty. The result can scarcely fail to make them sensible of their egregious miscalculation.

Writings of Madison, Volume 3: 1816-1828, p.434

If honesty be the best policy, a magnanimous policy is the truest wisdom. The Southern members gave an example of this wisdom in joining the Eastern in contending for reciprocity in the West India trade, after the latter had deserted their own cause when espoused by the former. It is to be hoped that your patronage of the Massachusetts claim will lead to another display of like merit.

Writings of Madison, Volume 3: 1816-1828, p.434

Mr. Livingston may be assured that I never considered our personal relations to be other than friendly, and that I am more disposed to cherish them by future manifestations than to impair them by recollections of any sort.

To W. H. Crawford.

MONTPELLIER, April 13, 1824.

Writings of Madison, Volume 3: 1816-1828, p.434

DEAR SIR,—I received by the last mail yours of the 8th, and I enclose the requested copy of the letter shewing your reasons for declining the charge of the War Department on the resignation of Mr. Eustis; to which justice requires me to add, that the mission to France, which you afterwards accepted, was unsolicited on your part.

Writings of Madison, Volume 3: 1816-1828, p.435

I thank you for the volume of the Diplore: Françoise, which I retain till I can conveniently look over the article touched on in our conversation.

Writings of Madison, Volume 3: 1816-1828, p.435

I am very sorry for the prolonged weakness of your sight. As it is probably a sympathetic effect of the cause which has impaired your general health, it may be expected to yield to its re-establishment. In sincere wishes that tiffs may speedily take place, Mrs. M. unites with me, as I do with her, in cordial regards to Mrs. Crawford and your amiable amanuensis.

To Edward Livingston.

MONTPELLIER, April 17, 1824.

Writings of Madison, Volume 3: 1816-1828, p.435

DEAR SIR,—I have been retarded in thanking you for the copy of your speech on the subject of internal improvement, by a necessary absence from home, and by successive occurrences since my return. I now beg you to accept that debt due to your kindness.

Writings of Madison, Volume 3: 1816-1828, p.435

I have read your observations with a due perception of the ability which pervades and the eloquence which adorns them; and, I must add, not without the pleasure of noticing that you have pruned from the doctrine of some of your fellow-labourers its most luxuriant branches. I cannot but think, at the same time, that you have left the root in too much rigour. This appears particularly in the question of canals. My impression with respect to the authority to make them may be the stronger, perhaps, (as I had occasion to remark as to the bank, on its original discussion,) from my recollection that the authority had been repeatedly proposed in the convention, and negatived, either as improper to be vested in Congress, or as a power not likely to be yielded by the States. My impression is also very decided, that if the construction which brings canals within the scope of commercial regulations had been advanced or admitted by the advocates of the Constitution in the State conventions, it would have been impossible to overcome the opposition to it. It is remarkable that Mr. Hamilton himself, the strenuous patron of an expansive meaning in the text of the Constitution, with the views of the convention fresh in his memory, and in a report contending for the most liberal rules of interpretation, was obliged, by his candour, to admit that they could not embrace the case of canals.

Writings of Madison, Volume 3: 1816-1828, p.436

In forbearing to exercise doubtful powers, especially when not immediately and manifestly necessary, I entirely agree with you. I view our political system, also, as you do, as a combination and modification of powers without a model, as emphatically sui generis, of which one remarkable feature is its annihilation of a power inherent in some branch of all other governments, that of taxing exports. I wish, moreover, that you might be followed in the example of defining the terms used in argument, the only effectual precaution against fruitless and endless discussion. This logical precept is peculiarly essential in debating constitutional questions, to which, for want of more appropriate words, such axe often applied as lead to error and confusion. Known words express known ideas; and new ideas, such as are presented by our novel and unique political system, must be expressed either by new words, or by old words with new definitions. Without attention to this circumstance, volumes may be written, which can only be answered by a call for definitions, and which answer themselves as soon as the call is complied with.

Writings of Madison, Volume 3: 1816-1828, p.436

It cannot be denied, without forgetting what belongs to human nature, that, in consulting the contemporary writings which vindicated and recommended the Constitution, it is fair to keep in mind that the authors might be sometimes influenced by the zeal of advocates. But, in expoundlug it now, is the danger of bias less from the influence of local interests, of popular currents, and even from an estimate of national utility?

Writings of Madison, Volume 3: 1816-1828, p.436

Having rambled thus far, I venture on another devious step, by alluding to your inference from a passage in one of my messages, that in a subsequent one my objection was not to the power, but to the details of the bill in which it was exercised. If the language was not more carefully guarded against such an inference, it must have been because I relied on a presumed no., toriety of my opinion on the subject; and probably considered the terms, "existing powers," as essentially satisfied by the uncontested authority of Congress over the Territories.

To Major H. Lee.

APRIL 22d, 1824.

Writings of Madison, Volume 3: 1816-1828, p.437

J. Madison acknowledges with thanks the receipt of the volume\* which Major Lee has been so good as to send him. He delays the perusal of it till he can precede it by that of the work which it reviews. If injustice, however occasioned, has been done to the memory of General Lee, a vindication of it cannot but be acceptable to one whose friendship, contracted with him at the earliest date, was particularly gratified by the brilliant career which ranked him among the most distinguished of our Revolutionary Heroes.

To Robert S. Garnett.

Writings of Madison, Volume 3: 1816-1828, p.437

J. Madison presents his respects to Mr. Carheft, who obligingly forwarded the Volume from Major Lee, and requests the favor of him to add the place to the address of the inclosed letter; the proper one being unknown to J. M.

APRIL 22d, 1824.

To Richard Rush.

MONTPELLIER, Apl 26, 1824.

Writings of Madison, Volume 3: 1816-1828, p.437

DEAR SIR,—This will be handed to you by Francis W. Gilmer, Esqr.

Writings of Madison, Volume 3: 1816-1828, p.437

The buildings for our University being now adequately prepared, and the Legislature of the State having given to its funds an extent authorizing the commencement of its operations, the duty of the Visitors is turned to the appointment of Professors. It would certainly be desirable to make the selection altogether at home. But the preoccupancies by other Institutions, and the inferiority of qualifications here for some departments of science to those which may be found abroad, have induced us, in our anxiety to make the University as attractive and useful as possible, to seek there also for the means of filling particular chairs. This task has been committed to Mr. Gilmcr, to be executed within the British Isles, to which a preference was obviously suggested by a samehess of language, and by the fewer dissimilarities in other respects there than elsewhere.

Writings of Madison, Volume 3: 1816-1828, p.438

As Mr. Gilmer will be entirely a stranger, and with a trust equally delicate and important, he will of course wish for information and counsel from those most able to give them; and I have assured him of yours, not only in pointing to any characters known to yourself to be worthy of consideration, but in bringing him into communication with others having better opportunities than you may have of rendering that assistance. Among the individuals of this description he anticipates Sir James Mackintosh, whom he understands, as we all do, to be not more distinguished for his genius and learning than for his liberal principles and his enlarged philanthropy. Mr. Gilmer will accordingly be gratified by an occasion, which I have encouraged him to expect from your kindness, of paying his respects to one of such conspicuous merit, and of conferring with him on the object of his mission. I should have felt a pleasure myself in contributing a line of introduction, but there seemed to be too great an absence of the circumstances requisite for such a liberty; and the omission will be more than supplied by the advantage of your interposition, favored, as is presumed, by a personal as well as public acquaintance.

Writings of Madison, Volume 3: 1816-1828, p.438

It would be superfluous to offer any special recommendation of Mr. Gilmer to your friendly reception. A sufficient one is, the choice made of him for such a service; and he will, moreover, quickly recommend himself by his enlightened and accomplished mind, and by dispositions and manners with which you cannot fail to be pleased.

To Major H. Lee.

Writings of Madison, Volume 3: 1816-1828, p.439

J. Madison has received Major Lee's note of the 4th, in which reference is made to a contemplated new edition of his Father's Memoirs.

Writings of Madison, Volume 3: 1816-1828, p.439

The events embraced by the Memoirs will occupy so large and so important a space in the history of our Independence, that an exhibition of them from such a source cannot be made too full or too free from error. J.M. would, accordingly, not only feel a pleasure, but perform a duty, in contributing useful lights on the subject, were such in his possession. He believes, however, that neither his papers nor his recollections can avail him on the occasion. Throughout the period of the Southern war his abode was at the distance of Philadelphia, where he served as one of the Virginia Delegation to Congress; and being in rio private correspondence with any of the actors or spectators, he had no knowledge of what passed but from official documents now open to the public; among which, the correspbnd-ence of the Executives of the Southern States with the General Government (and, perhaps, witl, each other) may merit attention. Should any thing of a nature to supply omissions or correct errors unexpectedly occur to J. M., he will not fail to comply with the request of Major Lee, to whom he tenders his good wishes. \*

MONTPELLIER, May 12, 1824.

To Thomas Jefferson.

MONTPELLIER, May 20, 1824.

Writings of Madison, Volume 3: 1816-1828, p.439

DEAR SIR,—I return the letter from Mr. Cabell with your answer to it, inclosed in yours of the 16th, just come to hand.

Writings of Madison, Volume 3: 1816-1828, p.439

It is not probable that a removal of the College from Williamsburg will be espoused by a majority of the Visitors, controuled as they will be by the popular voice in that quarter. If it should, Richmond will not be without competitors. The pretensions of Petersburg have already been brought forward. And if, in its new position, it is to be co-ordinate with the present University, there will be a bold claim by the ultramontane country. After all, is the climate of Richmond so different in the public eye from that of Williamsburg as to make it a satisfactory substitute? Is not Richmond, also, becoming too much of a city to be an eligible site for such an Institution? The most extensive and flourishing of our learned institutions are not in the most populous towns. That in Philadelphia is eclipsed by rising seminaries in other parts of the State. In New York the case is not dissimilar. Be all this as it may, I concur entirely in your opinion, that the best counsel for us is to be passive during the experiment, and turn the result to the best account we can for the interest of science and of the State.

Writings of Madison, Volume 3: 1816-1828, p.440

I wish Mr. Cabell may comply with your invitation to a conversational interview on his way to Warminster; with an understanding that mine is included, and that we should be much gratified in welcoming him and his lady over our threshhold.

To Littleton Dennis Teackle.

MONTPELLIER, June —, 1824.

Writings of Madison, Volume 3: 1816-1828, p.440

DEAR SIR,—I have received yours of the 8th, inclosing the plan of a work under the title of "Political Economist."

Writings of Madison, Volume 3: 1816-1828, p.440

The science of political economy has received much elucidation from modern discussions. But it is so important to the prosperity of States, that it merits every further light that can be thrown on it. The application of its true principles to our Country, which is not in some respects similar to the old ones of Europe, is well worthy the attention of an enlightened society, such as that referred to in Baltimore. And it is an encouragement to their efforts, that if we are behind the old world in some respects, we are less fettered by. inveterate hobits and prejudices, and, consequently, more docile to instruction and improvement. That these may be promoted by the lucubrations and labours of the Society, is my sincere wish. Were I more competent, under any circumstances, to aid it by mine, the pledge would now be forbidden by the wear and tear of life of which I am becoming sensible. Perhaps I ought, in candour, to add, that although I am not unfriendly to public interpositions with private pursuits. in certain cases forming clear exceptions to the general rule of "free industry," I am so much attached to the general rule, that it is quite possible my views with respect to the exceptions would too little harmonize with those of the Society for a beneficial co-operation.

To John Finch.

Writings of Madison, Volume 3: 1816-1828, p.441

June —,1824.

Writings of Madison, Volume 3: 1816-1828, p.441

DEAR SIR,—I have received your favor of May 20, with the two printed papers, one on the "Tertiary Formations," the other on the "Celtic Antiquities of America," for which I return my thanks.

Writings of Madison, Volume 3: 1816-1828, p.441

Without venturing to decide on the validity of these ingenious speculations, I may express my respect for the philosophic and literary character of which they bear the stamp. They merit, each of them, the further researches requisite in such cases. The second involves the question, bow far similar monuments of the simplest forms and the most obvious materials, among different communities in the rudest stages, may be derived by either from the other, or be a spontaneous result of propensities and situations common to both.

To H. Lee.

MONTPELLIER, June 25, 1824.

Writings of Madison, Volume 3: 1816-1828, p.441

I have received, sir, your letter of the 18th, enclosing the proposal of a new publication, under the title of "American Gazette and Literary Journal." Of the prospectus, I cannot say less than that it is an interesting specimen of cultivated talents. I must say, at the same time, that I think it concedes too much to a remedial power in the press over the spirit of party. Besides the occasional and transient subjects on which parties are formed, they seem to have a permanent foundation in the variance of political opinions in free States, and of occupations and interests in all civilized States. The Constitution itself, whether written or prescriptive, influenced as its exposition and administration will be by those causes, must be an unfailing source of party distinctions. And the very peculiarity which gives pre-eminent value to that of the United States, the partition of power between different governments, as well as between different departments of government, opens a new door for controversies and parties. There is, nevertheless, sufficient scope for combating the spirit of party, as far as it may not be necessary to fan the flame of liberty, in efforts to divert it from the more noxious channels; to moderate its violence, especially in the ascendant party; to elucidate the policy which harmonizes jealous interests; and particularly to give to the Constitution that just construction which, with the aid of time and habit, may put an end to the more dangerous schisms otherwise growing out of it.

Writings of Madison, Volume 3: 1816-1828, p.442

With a view to this last object, I entirely concur in the propriety of resorting to the sense in which the Constitution was accepted and ratified by the nation. In that sense alone it is the legitimate Constitution. And if that be not the guide in expounding it, there can be no security for a consistent and stable, more than for a faithful, exercise of its powers. If the meaning of the text be sought in the changeable meaning of the words composing it, it is evident that the shape and attributes of the government must partake of the changes to which the words and phrases of all living languages are constantly subject. What a metamorphosis would be produced in the code of law if all its ancient phraseology were to be taken in its modern sense! And that the language of our Constitution is already undergoing interpretations unknown to its founders will, I believe, appear to all unbiased inquirers into the history of its origin and adoption. Not to look farther for an example, take the word "consolidate," in the Address of the convention pre-fixed to the Constitution. It there and then meant to give strength and solidity to the union of the States. In its current and controversial application, it means a destruction of the States by transfusing their powers into the government of the Union.

Writings of Madison, Volume 3: 1816-1828, p.443

On the other point touched in your letter, I fear I shall not very soon be able to say anything. Notwithstanding the importance of such a work as that of Judge Johnson, and the public standing of the author, I have never given it a reading. I have put it off, as in several other voluminous cases, till I could go through the task with a less broken attention. While I find that the span of life is contracting much faster than the demands on it can be discharged, I do not, however, abandon the proposed perusal of both the "Life of Greene," and "the Campaign of 1781."

To Henry Wheaton.

MONTPELLIER, July 11, 1824.

Writings of Madison, Volume 3: 1816-1828, p.443

DR SIR,—I have received your letter of the 3d instant, referring to a penciled note of mine on a letter from Mr. Pinkney.

Writings of Madison, Volume 3: 1816-1828, p.443

It is a fact, as there noted, that when the Embargo was recommended to Congress, Decr 18, 1807, a copy of the British Orders in Council of Novr 11, 1807, as printed in an English newspaper, stating them to be ready in that form to be signed and issued, lay on the President's table. From what quarter the newspaper came, or whether known, I do not recollect. But the measure it threatened could not be doubted; and manifestly required, if there had been no other ground for apprehending the danger, that American property and seamen should not be exposed to it. Besides the precise warning contained in the newspaper, it was generally understood that some such outrage was contemplated by the British Cabinet. I do not pretend to recollect the several grounds for the belief. The files of the Department of State may contain some of them. In a private letter of October 5th, 1707, from an intelligent and close observer in London of the indicated views of the Cabinet towards the United States, I find the following passage: "The Gazette of Saturday has gone by without announcing the injurious blockade of all French ports and all ports under the influence of France, which was threatened all the week and very generally expected." Another letter from the same, of Octr 11, adds: "Two more Gazettes have been published without announcing the rigorous blockade, one of them as late as last night. I hope they have thought better of it."

Writings of Madison, Volume 3: 1816-1828, p.444

Although it is true, therefore, that no official evidence existed of the Orders in Council when the Embargo was recommended, there was a moral certainty in the evidence described by Mr. Pinkney,\* which included "the newspapers of this country [G. Britain] received in the United States some days before the Message of the President."

Writings of Madison, Volume 3: 1816-1828, p.444

To this view of the case the language of the Message was accommodated. And the subsequent Message of Feby 2, 1808, founded on the official receipt of the Orders in Council, squares with the idea that they had been unofficially known when the provident measures of the Embargo was recommended. If the files of Congress of that period are in preservation, the papers communicated with the Message may throw light on the subject. I cannot, I think, be mistaken in saying that the information in the English newspapers was republished in the National Intelligencer; and if so, that alone must settle the question.

Writings of Madison, Volume 3: 1816-1828, p.444

I am glad to find you turning a critical attention to this subject. No part of the public proceedings during the two last administrations is less understood, or more in danger of historical misrepresentations, than the Embargo and the other restrictions of our external commerce. It has become a fashion to decry the whole as inefficacious and unworthy substitutes for war. That immediate war, under existing circumstances, was inexpedient, and that experimental measures short of war were preferable to naked submission, cannot well be doubted. It is equally clear that the Embargo, as a precaution against the surprise and devastation of our trade, was proper, even if war had been intended; and the presumption is strengthened by late experience, that, if faithfully executed, it would have produced a crisis in the British West Indies that might have extorted justice without a resort to war. If it failed, it was because the Government did not sufficiently distrust those in a certain quarter whose successful violation of the law led to the general discontent which called for its repeal. Could the bold and combined perfidies have been anticipated, an expense, which would have proved economical, might have been prevented or quickly subdued them. The patriotic fishermen of Marblehead at one time offered their services; and if they could, at an early day, have been employed in armed vessels, with a right to their prizes, and an authority to carry them into ports where the Tribunals would have enforced the law, the smuggling would have been crushed.

Writings of Madison, Volume 3: 1816-1828, p.445

With respect to the restrictive laws generally, it is a known fact that, under all the disadvantages which they encountered, their pressure on the manufacturers of G. Britain, as reported to the Parliament and painted by Mr. Brougham, ultimately brought about a revocation of the predatory orders. It is remarkable that this revocation, bearing date June 23d, followed at no very long interval the letter of Castlereagh to Foster, communicated in extenso to the American Government, in which it was haughtily declared that the Orders in Council would not be repealed, and, consistently with other engagements, could not be repealed; a declaration which, leaving no alternative to the United States but submission or war, was met, of course, by the latter. Had the repeal of the orders taken place a few weeks sooner, it is to be presumed that the declaration of war, which preceded the repeal five days only, would at least have been suspended by that event, with an experiment, under its auspices, of further negotiations for a discontinuance of impressments, the other great obstacle to pacific relations; and that the success of the restrictive laws in obtaining the repeal, without a resort to war, would have been followed by songs of praise, instead of the criticisms to which an oblivion of their efficacy has given rise.

JULY 21, 1824.

Writings of Madison, Volume 3: 1816-1828, p.446

P.S. After writing the above, it occurred that it might be well to consult the recollections and memoranda of Mr. Jefferson. His answer, just received, says, "there is no fact in the course of my life which I recollect more strongly than that of my being, at the date of the Message, in possession of an English newspaper containing a copy of the orders, &c., which I think came to me through a private channel." The answer extracts from his notes on the occasion circumstances in full accordance with his memory, and he does not doubt that the general fact is remembered by all the members of the Cabinet, and probably attested by the papers communicated to Congress with the message. Mr. Jefferson thinks, also, as I do myself, that the turn of the arguments of the opposition party will be found not to deny the fact, but the propriety of acting on newspaper authority.

To President Monroe.

MONTPELLIER, August 5, 1824.

Writings of Madison, Volume 3: 1816-1828, p.446

DEAR SIR,—I have just had the pleasure of receiving yours of the 2nd. We had looked for the greater pleasure of giving a welcome about this time to you and Mrs. Monroe, being informed from Albemarle that you were to be there in a few days. We are very sorry for the uncertainty you intimate, but still hope that Mrs. Monroe's health will not only permit you to make the journey, but her to join you in it. It could not fail to be beneficial to both; and you owe it to yourself as well as to your friends to take some repose with them after the vexations which have beset you. Come, I pray you, and be not in your usual hurry.

Writings of Madison, Volume 3: 1816-1828, p.446

The Convention with Russia is a propitious event, as substituting amicable adjustment for the risks of hostile collision. But I give the Emperor, however, little credit for his assent to the principle of "Mare Liberater" in the North Pacific. His pretensions were so absurd, and so disgusting to the maritime world, that he could not do better than retreat from them through the forms of negotiation. It is well that the cautious, if not courteous, policy of England towards Russia has had the effect of making us, in the public eye, the leading Power in arresting her expansive ambition. It is, as you note, an important circumstance in the case, that the principles and views unfolded in your message were not unknown at St. Petersburg at the date of the Convention. It favors the hope that, bold as the allies, with Russia at their head, have shewn themselves in their enmity to free government everywhere, the maritime capacities of the United States, with the naval and pecuniary resources of Great Britain, have a benumbing influence on all their wicked enterprises.

Writings of Madison, Volume 3: 1816-1828, p.447

The advances of France towards a compromise with Columbia, if sincere, is a further indication of the dread of the united strength and councils of this country and Great Britain. The determination of the latter not to permit foreign interference in the contest between Spain and South America, and if confided in, with the language of your message on the subject, ought, I think, to quiet the apprehensions of Colombia, and to parry the question of Mr. Salazar, at least till the meeting of Congress; knowing, as he must do, the incompetency of the Executive to give a precise answer.

Writings of Madison, Volume 3: 1816-1828, p.447

Repeating my exhortations, in all which Mrs. Madison joins me, we offer Mrs. Monroe and yourself our affectionate respects and best wishes.

To Thomas Jefferson.

MONTPELLIER, Aug. 16, 1824.

Writings of Madison, Volume 3: 1816-1828, p.447

DR SIR,—I acknowledged in my last yours of the 8th, and now return the letters of Mr. Gilmer and Mr. Rush inclosed in it. It would be a matter of much regret if insanity should befall such a man as Ivory; but it is to be hoped his condition will be fixed before he leaves England, or, rather, before any engagement of him. I hope Mr. Gilmer will be able to avoid, also, men much advanced in life. After a certain age they will be less flexible to our manners, and the sooner lost by death or debility. A limitation to a suitable age furnishes a convenient reply to domestic applicants beyond it.

Writings of Madison, Volume 3: 1816-1828, p.448

The cheapness of the Polyglot in Boston is very tempting. But considering the ticklish footing on which we are with the Assembly, and the chance that the article may remain unsold, it may be best to suspend the purchase till we can decide more understandingly. I observe in the London Catalogue of Longman & Co., in 1816, there are several copies of Walton's Polyglot, one of which, in 6 volumes, is at £42 sterling, noted as the "Republican" copy, because patronised by Cromwell and his Council. You have, I presume, this catalogue. If not, I will send it.

Writings of Madison, Volume 3: 1816-1828, p.448

I will endeavour to make out a list of theological works, but am less qualified for the task than you seem to think; and fear, also, that my catalogues are less copious than might be wished. There is a difficulty in marking the proper limit to so inexhaustible a chapter, whether with a view to the Library in its infant or more mature state.

To Henry Lee.

AUGUST—, 1824.

Writings of Madison, Volume 3: 1816-1828, p.448

I have received, Sir, your letter of August 5th, with a copy of the address reported by the Committee of a late meeting at Fred———, for which you will please to accept my thanks.

Writings of Madison, Volume 3: 1816-1828, p.448

I am not surprised at your purpose of adopting literature as your favorite object. It will always be found a source not only of rich enjoyment, but of public distinction and usefulness also, where there is a union of talents with a taste for the pursuit. The biographical branch which you have selected, though not allowed the same grade with history, may embrace enough of the latter to become of general importance, where the individual subjects have been so far connected with public transactions as to bring these within the purview of the author. And I infer from the names to which you have pointed, and the period assigned for the task, that this has been a ruling consideration with you. It is certainly the only one that could have given attraction to my career of life.

Writings of Madison, Volume 3: 1816-1828, p.449

The friendly inducements to your request of such materials in relation to it as I might be able to furnish could not but have their due weight. But [overlooking the approach of such a step to an autobiography, a privilege to which few can pretend] it is strictly true, that, with respect to those of a private stamp merely, I have preserved none, nor could my memory supply any, meriting a place in a biographical record.

Writings of Madison, Volume 3: 1816-1828, p.449

With respect to my participation in public transactions, whether those within my native State or those of a national character, it will best be traced in documents which the press, with little exception, has laid before the public. There are, indeed, on my files, private correspondences and other papers which may throw a valuable light on subjects of public interest. But I have regarded these, if ever to be drawn from their confidential abode, as belonging to a posthumous period; posthumous to others as well as myself.

Writings of Madison, Volume 3: 1816-1828, p.449

I ought not, perhaps, to leave unnoticed an object, sometimes the principal, if not the sole object of biography; I mean that of literary authorship. If any thing from my pen can fall under that title, it does not extend beyond a pamphlet or two, the source of which was not unknown, and a few anonymous minor articles which have probably passed into oblivion.

Writings of Madison, Volume 3: 1816-1828, p.449

I must ask your excuse for the tardiness of this acknowledgment of your favor, which has happened not to be avoidable.

To General Lafayette

AUGUST 21, 1824.

Writings of Madison, Volume 3: 1816-1828, p.450

I this instant learn, my dear friend, that you have safely reached the shores where you will be hailed by every voice of a free people. That of no one, as you will believe, springs more from the heart than mine. May I not hope that the course of your movements will give me an opportunity of proving it by the warmth of my embrace on my own threshhold? Make me happy by a line to that effect, when you can snatch a moment for a single one from the eager gratulations pouring in upon you.

To Thomas Jefferson.

MONTPELLIER, Septr 20, 1824.

Writings of Madison, Volume 3: 1816-1828, p.450

DEAR SIR,—On the receipt of yours of Aug. 8, I turned my thoughts to its request on the subject of a theological catalogue for the library of the University; and not being aware that so early an answer was wished, as I now find was the case, I had proceeded very leisurely in noting such authors as seemed proper for the collection. Supposing, also, that although theology was not to be taught in the University, its Library ought to contain pretty full information for such as might voluntarily seek it in that branch of learning, I had contemplated as much of a comprehensive and systematic selection as my scanty materials admitted, and had gone through the five first centuries of Christianity when yours of the 3d instant came to hand, which was the evening before the last. This conveyed to me more distinctly the limited object your letter had in view, and relieved me from a task which I found extremely tedious; especially considering the intermixture of the doctrinal and controversial part of Divinity with the moral and metaphysical part, and the immense extent of the whole. I send you the list I had made out, with an addition on the same paper of such books as a hasty glance of a few catalogues and my recollection suggested. Perhaps some of them may not have occurred to you, and may suit the blank you have not filled. I am sorry I could not make a fair copy without failing to comply with the time pointed out.

Writings of Madison, Volume 3: 1816-1828, p.451

I find by a letter from Fayette, in answer to a few lines I wrote him on his arrival at New York, that he means to see us before the 19th of October, as you have probably learned from himself. His visit to the United States will make an —————— in the history of liberty.

To A. B. Woodward.

MONTPELLIER, Septr 11, 1824.

Writings of Madison, Volume 3: 1816-1828, p.451

DR SIR,—I have received, and return my thanks for, the printed communications accompanying your note of the 4th instant.

Writings of Madison, Volume 3: 1816-1828, p.451

To appreciate your proposed expedient for a standard of measures and weights would require more time than I can apply, and more mathematical science than I retain. Justice will doubtless be done to it by competent judges.

Writings of Madison, Volume 3: 1816-1828, p.451

I have given a hasty perusal to the observations "addressed to the Individual Citizen." Although I cannot concur in some of them, I may say of all that they merit every praise for the perspicuity, the precision, and the force, with which they are presented to the public attention.

Writings of Madison, Volume 3: 1816-1828, p.451

You have fallen into a mistake in ascribing the Constitution of Virginia to Mr. Jefferson, as will be inferred from the animadversions on it in his "Notes on Virginia." Its origin was with George Mason, who laid before the committee appointed to prepare a plan a very broad outline,\* which was printed by the committee for consideration, and, after being varied on some points and filled up, was reported to the Convention, where a few further alterations gave it the form in which it now stands. The declaration of rights was subsequently from the same hand. The preamble to the Constitution was probably derived in great measure, if not wholly, from the funds of Mr. Jefferson, the richness of which in such materials is seen in the Declaration of Independence, as well as elsewhere. The plan of Mr. Jefferson, annexed to one of the editions of his "Notes on Virginia," was drawn up after the Revolutionary war, with a view to correct the faults of the existing Constitution, as well as to obtain the authentic sanction of the people.

Writings of Madison, Volume 3: 1816-1828, p.452

Your love of truth will excuse this little tribute to it, or rather would not excuse its omission.

To W. H. Crawford.

MONTPELLIER, October 1, 1824.

Writings of Madison, Volume 3: 1816-1828, p.452

DEAR SIR,—I return by Mrs. Cutts the volume of the Hist. Gen. de la Diplo: Franc., having waited for such a conveyance on the supposition that the delay would produce no inconvenience. The account given in the work of the mission of Rayneval to England accords with his explanations of it to Mr. Monroe, as I recollect them. The view taken of it by Mr. Jay, if the true one, is certainly not in itself the most probable. That the British Cabinet should seek to divide France and the United States is more readily to be conceived than that the French Cabinet should furnish the means for it, by a confidence so likely to be turned against it. To have a full understanding of the matter, an authentic disclosure from the British quarter is wanted. The result, whatever may have been the object of the other parties, was fortunate for the United States.

Writings of Madison, Volume 3: 1816-1828, p.452

We learn with great pleasure that your tedious indisposition has terminated in a decided recovery of your health. To that happiness we wish every other may be added.

Writings of Madison, Volume 3: 1816-1828, p.452

P.S. On turning to your letter which accompanied the French volume, and my answer, I observe that the latter, in bearing testimony to the fact that your mission to France was not of your seeking, did not express that it was not under the seal of confidence. I hope it was rightly understood as not meant to be withheld from any use that truth and justice might be thought to require.

Writings of Madison, Volume 3: 1816-1828, p.453

Offering at the same time our united respects and regards to Mrs. C., without forgetting what is due to Miss Caroline,

Letter of M. Rayneval to Mr. Monroe,

Found Among Mr. Madison's Papers

[Note: Click here to see the English translation of this letter.]

Writings of Madison, Volume 3: 1816-1828, p.453

[Following is a letter of M. Rayneval to Mr. Monroe, found among Mr. Madison's papers, which is referred to in the preceding letter to Mr. Crawford:]

PARIS, le 14 Novembre, 1795.

Writings of Madison, Volume 3: 1816-1828, p.453

MONSIEUR,—J'ai recu la lettre que vous m'avez fait l'honneur de m'écrire le 30 du mois dernier. Je suis, on ne peut pas plus, fiatté de la marque de confiance que vous voulez bien me donner; et je crois ne pouvoir y mieux répondre qu'en vous transmettant, avec la plus scrupuleuse exactitude, les explications que vous me demandez. Je suis d'autant plus en mesure de vons satisfaire, que les faits, dont il est question, me sont en quelque sorte personnels; et je le dois, puisque le ministére avec qui je les ai partagés, n'existe plus. D'ailleurs c'est une dette que je m'empresse d'acquitter envers ma patrie, qu'on a cherché á calomnier, avec une intention qu'il n'est pas difficile de pénétrer.

Writings of Madison, Volume 3: 1816-1828, p.453

Votre lettre, Monsieur, reuferme le passage suivant: "Vous savéz que les ministres Américains ont signé avec ceux de l'Angleterre un traité provisoire, à l'inscu du cabinet Francais et contre les instructions qu'ils avaient du congrès, lequel traité ne devait pas avoir son effet, jusqu'à ce qu'il fût conclu un traité entre la France et l'Angleterre. Comme on cherchait à s'informer des motifs de cette démarche, il était dit, d'après ce que j'ai souvent entendu, que la France, témoignant de l'indifférence sur plusieurs points de nos réclamations, vis-à-vis l'Angleterre, débattus pour lors par nos ministres, avait même pris le parti de cette puissance contre nous, en cherchant à écarter nos réclamations relatives à la pêche, aux limites, et au Mississippi; et qu'elle vous avait envoyé en Angleterre expressément pour décider le Marquis de Lansdowne darts son opposition à nos demandes sur ces points, de laquelle mission vous vous êtes acquitté dans les conférences personaelles que vous avez eu avec ce ministre; et qu'enfin, si nos négociateurs out réussi sur les points que je vieas de nommer, ils devaient leur succés à la politique libérale de l'Angleterre, qui, en rejetant les conseils de la France, a préféré nous accorder nos demandes, tandis qu'instruite qu'elle était des vúux de la France à cet égard, elle aurait pu s'y refuser, et à leur propre adresse à découvrir et à déjouer les intrigues du Gouvernement Francais, en terminant le traité de la maniére et aux conditions déjà citées," &c. Voilà, Monsieur, les faits sur lesquels vous me demandez des éclaircissements, et voici ma réponse.

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Vous vous rappelez sûrement, Monsieur, qu'au combat naval qui eut lieu en Avril, 1782, dans les Antilles à la hauteur de la Dominique, M. de Grasse, fait prisonnier, fut conduit en Angleterre. Cet Amiral eat des entretiens avec Milord Shelburne, et à son retour en France en Septembre, 1782, il fit entendre que ce Ministre lui avait fait des ouvertures de paix; il remit même une note des eonditions qu'il disait lui avoir été proposées. Cet annonce causa beaucoup d'étonnement, et l'ou n'était pas sans défiance sur l'exactitude du rapport. Toutefois on jugea devoir éclaircir les faits, et on se détermina à m'envoyer pour cet effet secrétement en Angleterre. Mes instructions étaient aussi simples que laconiques; elles portaient que je devais demander l'aveu ou le désaveu de la note remise par M. de Grasse.

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No. 1. Le premier article de cette note concernait l'indépendance de l'Amérique; je joins ici un extrait du rapport que je fis lors de mon retour. Il renferme textuellement ce que e'est dit à l'égard des affaires Américaines; il est de la fin du mois de Septembre, 1782. Vous y trouverez: 1°. Que l'article fondamental de mes instructions était l'indépendance des Etats-Unis, et qu'il ne m'a rien été prescrit relativement aux autres conditions à convenir avec les commissaires Américains. 2°. Que je n'ai provoqué aucune conversation, aucune discussion sur cet objet, et que lorsque le Ministre Anglais en a parlé de lui-même, je me suis renfermé dans mon ignorance et dans mon défaut d'autorisation. 3°. Que dans les opinions que j'ai énoncées, j'ai pluton des Américains fut à son terme: je ne fus informé que le lendemain, que les articles étaient convenus, et seraient signés le même jour." Voici, Monsieur, l'explication de cette phrase. Arrivé à Londres le 20 Novembre, comme je le dit plus haut, je ne tardai pas à entrer en conférence avec les Ministres Anglais sur les affaires de l'Espagne; mais les difficultés que je rencontrai me parurent si graves, et si compliquées, que je me déterminai à revenir à Versailles, pour expliquer l'état des choses, et demander d'ultérieures instructions. J'arrivai à Versailles le 28 9bre, je passai la journée avec le Comte d'Aranda; je repartis le 29 pour Londres, où je fus de retour le 3 Xbre.

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En venant, j'avais recu à bord de mon paquebot M. Laurens qui venait à Paris; pendant toute la traversée, ce Commissaire Américain se tint sur la plus grande réserve vis-à-vis de moi. Mon retour à Londres était d'autant plus instant qu'on attendait pour décider si le Roi d'Angleterre, à la rentrée du parlement, annoncerait des espérances de paix, ou la nécessité de continuer la guerre. C'est le lendemain de mon retour qu'arriva la nouvelle de la signature du traité Américain, et c'est le lendemain de mon départ de Versailles qu'elle a eu lieu.

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Je ne dots pas omettre de vous dire, Monsieur, que Milord Lansdowne, chez qui j'étais à l'instant où il apprit cette signature, me dit, que c'était un incident qu'il ne concevait pas, et qu'il n'aurait des idées nettes à cet égard qu'a-près la lecture des dépêches. Je revis ce premier Ministre le lendemain, et il me dit que le traité dont il s'agit avait fait la plus vive sensation sur le conseil; qu'il avait retourné les esprits; que les dispositions actuelles étaient pour la continuation de la guerre, et une coalition avec les Américains; que c'était là le sentiment de tons les membres du conseil à l'exception de lui et de Milord Grantham; et que ce sentiment serait sans doute étayé par tous les ennemis du ministère; que toutefois il serait fidéle à ses principes. Il m'assura, de plus, que la signature précipitée, faite à son inscu, et surtout les conditions exagérées, étaient l'effet d'une intrigue qui avait la continuation de la guerre pour objet; mais qu'il était forcé de dissimuler.

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Je pense, Monsieur, que tous ces détails sont plus que suffisants pour vous convaincre que le Ministère Francais n'a point cherché à nuire aux intérêts des Etats-Unis; qu'il n'a fait ni démarches ni insinuations quelconques pour entraver les négociations des Commissaires du Congrés; que je n'ai pas été envoyé dans cette vue en Angleterre; que si, ce que nous avions ignoré, et ce que nous ne pouvions présumer, ils ont eu l'intention d'empièter sur notre pêche, nous ne l'avons appris que par le Ministére Anglais, et que s'ils ont échoué à cet égard, comme cela devait être, c'a été uniquement par le fait de ce même Ministère.

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Je borne là mes réflexions, parce qu'elles vous suffiront sûrement pour apprécier les assertions faites en Amérique, pour en sentir toutes les maladresses (pour ne rien dire de plus.) J'ajouterai seulement la remarque suivante,—nons n'avions aucun intérêt à empêcher les Américains de pêcher concurremment avec les Anglais. Donc, il n'est pas vraisemblable que nous ayons fait des efforts pour les priver de cet avantage; et quand même le Ministére Français eut eu une pareille intention, il n'aurait pas été assez gauche pour la confier aux Ministres Anglais; car il leur aurait donné par là des armes contre lui, et ils en auraient probablement abusé.

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An surplus, il est possible que les personnes qui était à la tête de l'intrigue, dont m'a parlé Milord Lansdowne, aient supposé ces mêmes insinuations pour tromper et égarer les plénipotentiaires Américains; et dans ce cas, ceux-ci auraient complétement donné dans le piége. Je vous prie de remarquer que c'est immédiatement après l'arrivée de Monsieur Laurens à Paris que la signature du traité eut lieu; combinez avec tout cela ce que dit M. de Vergennes dans sa lettre particuliére du 7 Xbre, et ce que m'a dit Milord Lansdowne. J'y ajouterai que vos commissaires auraient montré plus de sagacité, plus de pénétration, plus de prudence en se défiant des insinuations de leur ennemi, qu'en soupconnant la droiture, la loyauté, et les bonnes intentions bien éprouvées d'un allié.

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Je termine, Monsieur, cette longue lettre par un objet qui m'est exclusivement personnel. Je veux parler de la navigation du Mississippi.

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Mr. Jay avait été chargé d'entamer une négociation avec M. Le Comte d'Aranda relativement aux limites des Florides et de la Louisiana; mais ces deux plénipotentiaires ne purent point s'entendre, parce que le premier voulait porter les limites des Etats-Unis jusqu'au Mississippi, et le second prétendait porter les limites Espagnoles jusqu'aux frontières des Etats-Unis. Ils me choisirent pour les rapprocher, et je leur donnai mon avis par écrit.

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J'établis, d'après des preuves positives, que les pays our lesquels portait la contestation étaient occupés par des hordes sauvages, qui n'avaient jamais reconnu la souveraineté ni de l'Espagne, ni de l'Angleterre; d'où il résultait que ces mêmes peuples étaient indépendants; que par conséquent, la dispute entre les deux négociateurs était sans objet. Je proposai cependant une ligne de démarcation éventuelle, pour le cas où les deux états feraient des conquêtes sur les sauvages.

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Les deux plénipotentiaires adoptérent mon avis; et je suis bien informé, le Congrés s'en est montré satisfait, malgré l'aspect insidieux sous lequel il lui avait été présenté. Je dois ajouter qu'après avoir remis mon avis à M. Le Comte d'Aranda, ainsi qu'à M. Jay, je dis à l'un et à l'autre que le moyen le plus simple, selon moi, serait que l'Espagne ouvrit le Mississippi, et fit un port franc à la Nouvelle Orleans. Mon idée fut goutée, mais elle n'eut aucune suite. Je dois ajouter enfin que j'avais communiqué mon travail à M. Jay, avant de le remettre à l'ambassadeur d'Espagne, et qu'il convint avec moi de sa justice et de sa solidité.

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J'ai l'honneur d'être, avec la plus parfaite considération, Monsieur, votre trés humble et trés obéissant serviteur,

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RAYNEVAL.

Extrait du Rapport de Rayneval du 28 Septembre, 1782.

[Note: Click here to see the English translation of this letter.]

Writings of Madison, Volume 3: 1816-1828, p.457

No. 1. Après ce préambule nous en sommes venus aux propositions remises par M. de Grasse. Milord m'a, dit qu'il n'avait fait aucune ouverture formelle à cet officier général; qu'ils avaient causé ensemble sur la guerre et la paix; que dans la cours de la conversation milord a dit qu'il avait toujours été contraire à l'indépendance, mais qu'il sentait la nécessité de céder, et que cet objet pourrait être réglé sans condition.

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Je repris à la demande de Milord Shelbourne le papier renfermant les propositions remises par M. de Grasse, et nous les repassâmes et discutâmes, l'une après l'autre.

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1. L'indépendance: cet article est convenu; il sera sans restriction.

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2°. La pêche de Terre-Neuve. J'ai expliqué notre système à Milord Shel-burne. Je lui ai dit que jamais nous n'avions été d'accord avec l'Angleterre, ni sur la concurrence, ni sur la position de pointe riche; qu'il convenait de trancher sur les deux difficultés en faisant un nouvel arrangement, selon lequel chaque nation pêcherait exclusivement dans la partie qui lui serait assignée. Milord a adopté mon principe; mais la discussion approfondie de la question a été renvoyée jusqu'après l'examen de la carte. La conversation a été reprise. Elle a commencé par Terre-Neuve. Nous avons pris une carte de cette Isle: J'ai de nouveau expliqué les faits et les principes relatifs à la pêche. J'ai indiqué à Milord Shelburne ce que nous voulions sacrifier, et ce que nous demandions en échange, en portant ce dernier objet jusqu'au cap Mai. Milord Shelburne a persisté dans l'aveu de la justice et de la nécessité de notre principe; il est convenu également qu'il fallait oublier la discussion sur pointe riche, et faire un arrangement ex úquo et bono: mais il m'a observé qu'il y avait des établissements à l'ouest de Cap Mai, et que sans doute nous n'en prétendions pas la cession. Le Ministre a fini par dire qu'il ne ferait pas difficulté de nous abandonner jusqu'au Cap Raye. Cet article discuté pour ce qui nous regarde, Milord m'a dit que sans doute les Américains formeraient aussi des prétentions à la pêche; mais qu'il espérait que le Roi ne les appuyerait pas. J'ai répondu que j'ignorais les vues du Congrès sur l'objet en question, mais que je croyais pouvoir dire que le Roi ne protégerait jamais des demandes injustes: que je ne pouvais pus juger, si celles des Américains étaient dans ce cas; que d'ailleurs j'étais sans autorisation à leur égard.

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Plus bas: Est venu enfin l'article d'Amérique. Milord Shelburne a prévu qu'ils auraient beaucoup de difficulté avec les Américains, tant par rapport aux limites, que par rapport à la pêche de Terre-Neuve. Mais il espère que le Roi ne les soutiendra pas dans leurs demandes. J'ai répondu que je ne doutais pas l'empressement du Roi à faire ce qui dépendra de lui pour engager les Américains à se contenir dans les bornes de la justice et de la raison; et Milord ayant désiré savoir ce que je pensais de leurs prétentions, j'ai répondu que j'ignorais celles relatives à la pêche, mais que telles qu'elles puissent être, il me semblait qu'il y avait un principe sûr, à suivre sur cette matière, savoir: que la pêche en haute mer est res nullius, et que la pêche sur les c. George.

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Les pêcheurs Français jouiront de cette pêche, comme ils ont droit d'en jouir par le Traité d'Utrecht, sans toutefois hiverner sur l'Isle de Terre-Neuve.

Réponse au mémoire de la Cour

de Londres du 21 8bre, 1782.

[Note: Click here to see the English translation of this letter.]

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Le Roi et le Roi de la Grande Bretagne étant d'accord sur les principes qui doivent servir de base à la future pacification, S. Majesté propose les articles préliminaires suivants.

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1°. S. Majesté le Roi de la Grande Bretagne conservera la propriété de l'Isle de Terre-Neuve et des Isles adjacentes, ainsi que le tout lui a été cédé par l'article 13 du Traité d'Utrecht, sauf les exceptions stipulées par l'article 4 du présent Traité.

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2°. S. Majesté le Roi de France pour prévenir les querelles qui ont eu lieu jusqu'a présent entre les deux nations, Française et Anglaise, renonce au droit de pêche qui lui appartient en vertu de l'article 13, susdit, du Traité d'Utrecht, depuis le Cap de Buonavista jusqu'au Cap St. Jean, situé sur la cnner un signe de bonne volonté."

[No. 7.] Versailles, le 13 Xbre, 1782.

[Note: Click here to see the English translation of this letter.]

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"La lecture des articles préliminaires des Américains, vous aura fait connaitre, Monsieur, l'importance dont il est que cette déclaration soit exempte d'ambiguité par rapport à l'exercise exclusif de notre droit de pêche. Les Américains acquérant celui de pêcher partout concurremment avec les Anglais, il ne faut pas leur laisser occasion ni prétexte de nous troubler; car ils seraient bien portés à s'en prévaloir; il ne l'ont même pas dissimulé lorsqu'on a discuté avec eux, la rédaction de cet article. Lord Grantham m'a fait dire qu'il ne l'avait motivé ainsi, que pour mieux assurer notre droit; c'est une raison d'espérer qu'il se prêtera à l'eclaircir convenablement. Témoignez lui d'avance, je vous prie, ma sensibilité à ce bon procédé."

[Translation of the Letter of M. Rayneval to Mr. Monroe.]

[Note: Click here to see the original French text of this letter.]

PARIS, 14th November, 1795.

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SIR,—I have received the letter which you have done me the honor to write to me on the 30th of last month. I am flattered beyond measure with the mark of confidence which you are pleased to place in me; and I believe that I cannot better reciprocate it than by transmitting to you, with the utmost exactness, the explanations which you ask of me. I am so much the more enabled to satisfy you that the facts in question are to me, to some extent, personal; and it is my duty to do so, since the Ministry, with which I shared them, no longer exists; moreover, it is a debt which I hasten to discharge towards my country, which men have sought to calumniate, with an intent which it is not difficult to fathom.

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Your letter, sir, contains the following passage:

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"You know that the American Ministers have signed a provisional treaty with those of England, without the knowledge of the French Cabinet, and contrary to the instructions which they had from the Congress, which treaty was not to have its effect until a treaty should have been concluded between France and England. As it was sought to ascertain the reasons for this step, it was said, according to what I have often understood, that France, evincing indifference upon several points relating to our claims towards England, then discussed by our Ministers, had even espoused the cause of that power against us, by endeavoring to set aside our claims in reference to fishing, to boundaries, and to the Mississippi; and that she had sent you to England for the express purpose of confirming the Marquis of Lansdowne in his opposition to our demands upon these points, which mission you fulfilled in the course of the personal conferences which you have had with that Minister: and, after all, that if our negotiators have succeeded upon the points which I have just named, they owed their success to the liberal policy of England, who, by rejecting the counsels of France, has preferred to grant us our demands, whereas, well informed as she was of the wishes of France in that respect, she might have declined doing so; and also to their own skill in discovering and counteracting the intrigues of the French Government, by concluding the treaty in the manner and under the conditions already cited," &c.

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Such, sir, are the facts respecting which you ask explanations of me, and the following is my answer:

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You will surely recollect that, in the naval engagement which took place in April, 1782, in the West Indies, off Dominica, Mr. de Grasse, being made prisoner, was taken to England. This Admiral had some conversations with Lord Shelburne, and upon his return to France, in September, 1782, he caused it to be understood that that Minister had made overtures of peace to him; and he even delivered a note of the conditions which, he said, had been proposed to him. This announcement caused much astonishment, and they were not without mistrust as to the correctness of the report. Nevertheless, it was deemed proper to ascertain the facts, and it was determined upon to send me secretly to England for that purpose. My instructions were as plain as laconic; they stated that I was to ask the avowal or disavowal of the note delivered by Mr. de Grasse.

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No. 1. The first article of this note had reference to the independence of America. I add hereunto an extract from the report which I made on my return. It contains word for word what was said with respect to American affairs; it was made at the end of the month of September, 1782. In it you will find: First, that the fundamental article of my instructions related to the independence of the United States, and that nothing was prescribed me in reference to the other conditions to be agreed upon with the American Commissioners. Secondly, that I have not given rise to any conversation, any discussion, upon this subject, and that, when the English Minister spoke of it, of his own accord, I have confined myself to my ignorance of it, and to my want of authority. Thirdly, that in the opinions which I have expressed, I have sustained rather than weakened the demands of the American Commissioners. I deem it proper to observe that the language which I have held with regard to American affairs, I have likewise held with regard to those of Spain, because I was equally without authority from that power.

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After my return to France, the negotiations resumed all their activity as to what related to France. I add hereunto, under Nos. 2, 3, and 4, extracts from the papers relating to the Newfoundland fisheries. You will not find in them, sir, a single word which relates in the least manner to the interests of the United States. For the due understanding of these papers, I think it incumbent upon me to give you the following explanation:

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By the Treaty of Utrecht, (1713,) France ceded the Island of Newfoundland to England; but she reserved the fishery to herself, and this transfer was confirmed by the Treaties of Aix-la-Chapelle, (1748,) and of Paris, (1763.) We have invariably looked upon our fight to the fisheries as exclusive, in such places as were assigned to us, and we have made complaints whenever the English fishermen came into competition with our own: thence arose, incessantly, discussions, contentions, and quarrels, between the two nations; our remonstrances were frequent, and they were always unavailing. We have thought it proper to avail ourselves of the circumstances of the war of 1778, to solve the difficulty; we have, from the beginning of the negotiations, set forth in a precise manner our exclusive right, and the peremptory will to maintain it.

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But seeing the difficulty of excluding the English from the part abounding most in fish, to wit: that situated between Cape St. John and Cape Buonavista, and foreseeing that this single article would render the negotiations unavailing, we consented to a new partition; we asked for the exclusive fishery from Cape St. John to Cape Raye: and thus matters were settled. I must here observe, that the shores which have been assigned us are those abounding least in fish throughout America, and that if we were satisfied with the same, it has been solely owing to a desire for peace, and with the view of making it firm and lasting, by preventing commingling, and thus the quarrels of the fishermen belonging to the two nations.

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I now return to my subject: Whilst our negotiation progressed, that of Spain presented the greatest difficulties; and the King, being unwilling to make peace separately, thought that it was urgent to conciliate the interests of his ally i it was with this view that I was sent a second time to England, at the request of the Count of Aranda. My instructions contained, among others, the following passage: As it is possible that the English Ministers may confer with Mr. de Rayneval respecting the affairs of America, and those of the United Provinces, he will announce that he has no authority to treat upon them……. In addition, it is unimportant here to follow dates. My instructions bear that of the 15th of November, 1782. I arrived at London on the 20th, at night. I had met at Calais an English Under-Secretary of State, bearing instructions to Mr. Oswald; the provisional treaty between that plenipotentiary and those of the United States was signed on the thirtieth of the same month of November; I only heard of this unexpected event through the English Ministry; and I here add, marked No. 5, the account which I gave of it on the 4th of December.

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Whilst I was transmitting this information to M. de Vergennes, that Minister was himself writing a private letter to me upon the same subject, and subsequently an official letter, of which I add hereunto extracts, marked Nos. 6 and 7. You will note in the first one these words: "You did not suspect, when you took your departure, that the negotiation of the Americans had been concluded; it was only on the following day that I was informed that the articles had been agreed upon, and would be signed the same day." The following, sir, is the explanation of that sentence: Having arrived in London on the 20th of November, as I stated above, I was not long in entering into conference with the English Ministers touching the affairs of Spain; but the difficulties with which I met seemed to me so serious and complicated, that I determined to return to Versailles, to explain the state of things, and to ask further instructions; I arrived at Versailles on the 28th November; I spent the day with the Count of Aranda; I left again for London on the 29th, where I was back again on the 3d of December.

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Whilst on my way, I had received on board my packet Mr. Laurens, who was coming to Paris; during the whole voyage, this American Commissioner stood upon the strictest reserve towards me. My return to London was the more urgent, that they were waiting to decide whether the King of England, at the reopening of Parliament, would announce hopes of peace, or the necessity of continuing the war. It was on the day after my return that the news of the signing of the American Treaty arrived, and it was on the day after my departure from Versailles that it took place.

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I must not omit to tell you, sir, that Lord Lansdowne, at whose house I was at the time he was informed of this signing, said to me that it was an incident which he did not understand, and that he could have no clear ideas in reference thereto until after reading the despatches. I again saw this first Minister on the next day, and he said to me that the treaty in question had created the most lively sensation upon the Council; that it had altered their minds; that the present intentions were for the prosecution of the war, and a coalition with the Americans; that such was the feeling of all the members of the Council, with the exception of himself and Lord Grantham; and that this feeling would without doubt be sustained by all the enemies of the Ministry; that, however, he would be faithful to his principles. He furthermore assured me that this hasty signing, entered into without his knowledge, and especially the exaggerated conditions, were the result of an intrigue which had in view the continuation of the war; but that he was compelled to dissemble.

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I think, sir, that all these details are more than sufficient to convince you that the French Ministry has not sought to injure the interests of the United States; that it has taken neither steps nor made insinuations of any kind, in order to impede the negotiations of the Commissioners of Congress; that I was not sent to England for that purpose; that if—of which we were ignorant, and which we could not conjecture—they have intended to encroach upon our fishing, we have only learned it through the English Ministry; and that if they have failed in that respect, as this ought to have happened, it has been entirely through the act of that same Ministry.

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I here limit my observations because they will certainly suffice you to appreciate the assertions made in America, to feel all their awkwardness, (to say nothing more.) I will only add the following remark: we had no interest whatever in preventing the Americans from fishing in competition with the English. Therefore, it is not probable that we have exerted ourselves to deprive them of that advantage; and even if the French Ministry should have had such an intention, it would not have been simple enough to confide it to the English Ministers, for it would thus have furnished them with arms against itself, and they probably would have taken advantage of it.

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Besides, it is possible that the persons who were at the head of the intrigue of which Lord Lansdowne spoke to me may have invented these same insinuations to deceive and mislead the American Plenipotentiaries; and in that event these would have fallen completely into the snare. I beg you to observe, that it was immediately after the arrival of Mr. Laurens in Paris that the signing of the Treaty occurred; put all this together, with what M. de Vergennes tells me in his private letter of the 7th of December, and what Lord Lansdowne has told me. I will add to this that your Commissioners would have shown more sagacity, more penetration, more prudence, by mistrusting the insinuations of their enemy, than by suspecting the uprightness, loyalty, and the well-tried good intentions of an Ally.

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I conclude, sir, this long letter with a subject which is exclusively personal to me. I allude to the navigation of the Mississippi.

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Mr. Jay had been instructed to open a negotiation with the Count of Aranda in reference to the boundaries of the Floridas and Louisiana; but these two Plenipotentiaries were unable to agree together, because the first desired to extend the boundaries of the United States to the Mississippi, and the second assumed to extend the Spanish boundaries to the frontiers of the United States. They selected me to reconcile them, and I gave them my advice in writing.

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I established, by the most positive proofs, that the countries respecting which the controversy had been raised were occupied by bands of savages, who had never acknowledged the sovereignty of Spain, nor that of England; from which it resulted that these same peoples were independent; that, consequently, the question between the two negotiators was objectless. I proposed, however, a contingent line of demarcation, in case that the two States should make conquests over the savages.

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The two Plenipotentiaries adopted my advice; and, I am well informed, the Congress have manifested their approbation of it, notwithstanding the insidious view in which it had been presented to them. I must add, that after having delivered my advice to the Count of Aranda as well as to Mr. Jay, I said to both, that the most simple way, in my opinion, would be that Spain should open the Mississippi, and make a free port at New Orleans. My idea was relished, but it had no result. I must add, finally, that I had communicated my work to Mr. Jay before transmitting it to the Ambassador of Spain, and that he concurred with me as to its justice and soundness.

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I have the honor to be, with the most perfect consideration, sir, your very humble and very obedient servant,

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RAYNEVAL.

Extract from the Report of Mr. De Rayneval

of the 28th September, 1782.

[Note: Click here to see the original French text of this letter.]

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No. 1. After this preamble we came to the propositions delivered by Mr. De Grasse. His lordship said to me that he had made no formal overture to that general officer; that they had conversed upon war and peace; that in the course of the conversation his lordship said that he had always been opposed to the independence, but that he felt the necessity of yielding, and that this matter could be settled unconditionally.

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I again took up, at the request of Lord Shelburne, the paper containing the propositions delivered by Mr. De Grasse, and we reviewed and discussed them, one after the other.

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1st. The Independence; this is agreed upon, unconditionally.

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2nd. The Newfoundland fishery.

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I explained our system to Lord Shelburne. I said to him that we had never agreed with England, either as to the equality of right or the situation of the most productive point; that it was proper to determine upon the two difficulties by making a new arrangement, according to which each nation would fish exclusively in that locality which should be assigned to it. His lordship adopted my principle; but the more deep discussion was deferred until after the examination of the chart. The conversation was renewed. It commenced with respect to Newfoundland. We took up a chart of that island; I again explained the facts and the principles in relation to the fishery. I indicated to Lord Shelburne what we were willing to yield, and what we asked in exchange, by carrying this last object as far as Cape May. Lord Shelburne still continued to admit the justice and the necessity of our principle; it was also agreed that the discussion as to the most productive point must be laid aside, and to make an arrangement ex úquo et bono; but he observed to me that there were establishments to the westward of Cape May, and that undoubtedly we did not pretend to their cession. The Minister finally said that he would make no difficulty in yielding to us up to Cape May. This article having been discussed so far as we were concerned, his lordship said to me that without doubt the Americans would also lay claims to the fishery; but that he hoped that the King would not encourage them. I replied that I was ignorant of the views of Congress upon the matter in question, but that I thought I could say the King would never protect unjust demands; that I could not form an opinion as to whether those of the Americans were such, and, besides that, I had no authority respecting them.

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Subsequently, the article upon America was taken up. Lord Shelburne foresaw that they would have great difficulty with the Americans, both with respect to the limits and to the Newfoundland fishery. But he hopes that the King will not support them in their demands. I replied that I did not doubt of the readiness of the King to do all in his power to induce the Americans to restrain themselves within the bounds of justice and reason; and his lordship having desired to know what I thought of their pretensions, I replied that I did not know anything as to those relating to the fishery, but that whatever they might be, it seemed to me that there was a sure principle to follow upon this matter, namely: that fishing upon the high seas is res nullius, and that fishing upon the coasts belongs of right to the proprietors of the coasts, unless there be derogations rounded upon conventions or upon the possession.

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As to the extent of the limits, I presumed the Americans would seek it from their charts; and the discussion went no further, inasmuch as it was no business of mine either to sustain or to defeat the American pretension, having no knowledge of it. I merely added, that the English Ministry ought to find from the negotiations of 1754, relative to the Ohio, the limits which England, then the sovereign of America, thought she ought to assign them.

No. 2.—Remarks upon the project of the

preliminary articles proposed to the Court of London,

on the 15th of November, 1782.

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The main object of the two Courts, in the new arrangements which they will make respecting the Newfoundland fishery, shall be to prevent the daily quarrels to which competition has given rise. It is with a view to accomplish this end that the King has proposed the sacrifice of the fishery from Cape Buonavista to Cape St. John, and that His Majesty has asked that, following the spirit of the Treaty of Utrecht, the two nations should fish exclusively upon such parts of the coast as the future treaty shall assign to them. The King will consider this exclusive [latitude] as sufficiently established by article 3; and His Majesty declares that he will be satisfied therewith, it being fully understood that His Majesty, the King of Great Britain, will give him the positive assurance that he will take the most efficacious measures to prevent the enterprises of his subjects to the detriment of exclusive latitude, and to destroy the permanent establishments which might be found upon the coasts assigned to the French. With respect to the clause that the French shall enjoy the fishery as they have enjoyed it, or may enjoy it, by virtue of the treaty of Utrecht, there results therefrom that they shall continue to have the right to cut the timber necessary for their scaffoldings and for the refitting of their vessels; that they should also have the right to haul their vessels ashore during the winter, to secure the salt remaining on hand; and to continue their fishery as long as the season shall permit.

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In reply to the articles proposed, in the name of His Most Christian Majesty, by the Count de Vergennes, on the 5th of October, 1782, to serve as the basis of the future pacification between the crowns of Great Britain and France, the King proposes the following explanation of his views respecting the said articles:

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Article First.—Newfoundland.

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In order to prevent the inconveniences and disputes which have often unhappily arisen between the English and French fishermen upon the coasts of the Island of Newfoundland, the King thinks that an extension of that part of the coast allowed to French fishermen by the Treaties of Utrecht, Aix-la-Chapelle, and Paris, would hereafter prevent like disputes.

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In so much the more that His Majesty binds himself to prevent, by the most positive orders, his subjects from interrupting, in any manner, the French fishermen.

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The French subjects will therefore have this right from Cape St. John, passing northward, to Cape St. George, situated in about 48 degrees of north latitude, which Cape forms the northern extremity of the Bay of St. George.

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The French fishermen shall enjoy that fishery, as they have the right to enjoy it under the Treaty of Utrecht, without, however, wintering upon the Island of Newfoundland.

Reply to the memorial of the Court of London,

of the 21st of October, 1782.

[Note: Click here to see the original French text of this letter.]

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The King, and the King of Great Britain, having agreed upon the principles which are to serve as a basis to the future pacification, His Majesty proposes the following preliminary articles:

First: His Majesty, the King of Great Britain, will retain the ownership of the Island of Newfoundland, and of the islands adjacent, in the same manner as the whole has been ceded to him by article 13th of the Treaty of Utrecht, saving the exceptions stipulated by article 4 of the present Treaty.

Second: His Majesty, the King of France, in order to prevent the quarrels which have occurred up to the present between the French and English nations, renounces the right to the fishery, which belongs to him by virtue of article 13th, aforesaid, of the Treaty of Utrecht, from Cape Buonavista to Cape St. John, situated upon the eastern coast of Newfoundland, in latitude about 50 degrees; by means of which the French fishery will begin at the said Cape St. John, shall pass northward, and, descending by the western coast of the Island of Newfoundland, will have for its boundary the place called Cape Raye, situated in latitude 47 degrees 50 minutes.

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Third: The French fishermen shall enjoy the fishery which is assigned them by the preceding article in like manner as they have the right to enjoy it by virtue of the Treaty of Utrecht; and His Britannic Majesty binds himself to prevent his subjects, by the most positive orders, from interrupting and embarrassing, in any manner whatsoever, the French fishermen—it being well understood that the latter will not be permitted to winter upon the Island of Newfoundland.

[No. 5.] London, 4th December, 1782.

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SIR,—"An express arrived here yesterday from Paris, with the news that the preliminary articles between the English and American Commissioners were signed, provisionally, on the 30th of November. I have asked Lord Grantham in what manner matters had been settled; he replied to me that the matter of the boundaries was settled in a satisfactory manner to the Americans; that those of the Loyalists had been put off, because the American Commissioners pleaded exception to their want of power with respect to that article; that, however, a general amnesty had been agreed upon. The Americans will pay the debts they owe in England. In short, they will be entitled to the joint fishery with the English upon the coasts of Newfoundland, and the latter will be entitled to it upon those of America. Lord Grantham has confided to me, under injunctions of secrecy, that it was sought to give the Americans the joint fishery with us, but that he had strenuously opposed it, not being willing to take from France with one hand what he secured to her with the other."

[No. 6.] Versailles, 7th December, 1782.

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"You did not suspect, sir, when you took your departure, that the negotiation of the Americans had been concluded. I was only informed the next day that the articles were agreed upon, and would be signed the same day. The translation of it, which I annex hereunto, makes it unnecessary for me, sir, to go into details as to their contents,—you will there perceive that the English purchase rather than make peace; their concessions, both as to boundaries, as to the fishcries, and the loyalists, exceed all that could be thought possible. What is the motive which can have prompted facilities, which might be viewed as an abandonment? You are better enabled than I am to discover it. It is an apple of discord which it was desired to throw into the alliance, and between us, which the Americans did not hasten much to pick up. They are honest people, but they presume too much upon their intelligence, and they have not sufficient experience to unravel the snares which are spread to their credulity. I fear the sensation which the conditions agreed upon will create in America if our negotiation should be broken off. How can you persuade a sovereign people, who sign only for the blessings of peacc, to deprive themselves of them in order to subserve foreign interests? these will appear still more strange to them when they shall learn that the interests of Spain are those which cause the continuation of the war—a power which has been unwilling to do any thing for them, not even to give them a sign of good will."

[No. 7.] Versailles, 13th December, 1782.

[Note: Click here to see the original French text of this letter.]

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"The perusal of the preliminary articles of the Americans will have apprised you, sir, of the importance there is that that declaration should be free from ambiguity concerning the exclusive exercise of our right of fishery. The Americans, by acquiring that of fishing everywhere conjointly with the English, no occasion nor pretext must be left them to disturb us; for they would be very likely to avail themselves of it; they did not even conceal it when the drawing up of that article was discussed with them. Lord Grantham has sent me word that he had only thus arranged it the better to secure our right; this is a reason for hoping that he will be disposed to properly explain it. Express to him in advance, I pray you, my satisfaction at this handsome conduct."

To Robert G. Scott.

MONTPELLIER, Oct. 6th, 1824.

Writings of Madison, Volume 3: 1816-1828, p.471

DR SIR,—I have just received your letter of Sepr 27th, inviting me, in behalf of the volunteers of the State, to join them and other citizens at Yorktown on the 19th instant, in celebrating the event of which that is the anniversary, and in expressing the gratitude and affection due to General La Fayette, whose presence, with all the recollections awakened by it, must give to the occasion a peculiar interest.

Writings of Madison, Volume 3: 1816-1828, p.471

I am very sensible of what I owe to the volunteers for their kind invitation; and should particularly regret the circumstances which disable me from complying with it, but for the opportunity in prospect of otherwise shewing how my feelings are in harmony with the gratulations every where poured out on one who has endeared himself to the American people by such distinguished services; and entitled himself to the admiration and gratitude of the friends of liberty every where, by his heroic and equal devotion to the rights of man and the order of society.

Writings of Madison, Volume 3: 1816-1828, p.471

Be pleased, sir, to accept the expression of my particular respects.

To John Adams, Mayor of Richmond, and Others.

MONTPELLIER, October 17, 1824.

Writings of Madison, Volume 3: 1816-1828, p.471

GENTLEMEN,—I received by the last mail your letter of the 12th instant, inviting me to the reception at Richmond of General La Fayette, and I have to regret that the obstacles to a compliance with a late kindred invitation will not permit me to avail myself of that so kindly conveyed by you. I can only, therefore, express, at a distance, the sincerity with which I should mingle my affectionate gratitude with the offerings to be made to the distinguished benefactor of the United States, who has been unanimously welcomed to their bosom; and to whom no State can be more indebted, as there is none more warmly devoted, than Virginia. She will never forget the veteran skill with which his youthful sword was wielded in her defence; nor the brilliancy of his part in an event, which, in making captive an entire army, at once relieved her soil from the weight which oppressed it, and proved the harbinger of a peace that was the herald of liberty.

Writings of Madison, Volume 3: 1816-1828, p.472

Under the disappointment imposed on me, I am happily able to look to nearer opportunities of manifesting, as well what I owe to a friendship long cherished, as my admiration of a splendid example which is instructing and animating the votaries of liberty every where, whilst it consigns to deeper infamy the apostasies and perfidies which vainly oppose its triumphant march.

Writings of Madison, Volume 3: 1816-1828, p.472

Be pleased, gentlemen, to accept the assurance of my great respect.

To Robert Lewis.

MONTPELLIER, November 10, 1824.

Writings of Madison, Volume 3: 1816-1828, p.472

DEAR SIR,—Mr. Myers duly delivered your letter of the 8th, conveying to me the invitation of the "Joint Committee of the Common Hall and citizens of Fredericksburg" to be with them at a dinner to be given to General La Fayette.

Writings of Madison, Volume 3: 1816-1828, p.472

Uniting with the Common Hall and Citizens in all their grateful sentiments towards General La Fayette, it would afford me much pleasure to unite, also, in the proposed festive manifestation of them. Several circumstances, however, concur in putting this out of my power. I can only, therefore, return my best thanks for the mark of kind attention I have received, and enjoy the opportunities within my reach of taking part in the offerings of gratitude to a champion of Liberty and national benefactor, whom every American Citizen delights to honor.

Writings of Madison, Volume 3: 1816-1828, p.472

Be pleased to accept, sir, the acknowledgments I owe for your expressions of personal regard, and be assured of my sincere esteem and my friendly wishes.

To Richard Peters.

DECEMBER 1, 1824.

Writings of Madison, Volume 3: 1816-1828, p.473

DR SIR,—I return my thanks for the copy of the Agricultural Almanac obligingly sent me. You do not fail, I see, to dispense, through that medium, rays of instruction on a favorite subject. I hope your good constitution, good health, and good habits, may have their full effect in keeping you above the horizon for that and other enlightening services.

Writings of Madison, Volume 3: 1816-1828, p.473

I should have acknowledged your favor somewhat sooner but for the attentions due to our excellent friend, La Fayette, who gave to this quarter, and to myself particularly, an opportunity of shewing that we are behind none of our fellow-citizens in doing homage to his great worth, public and private.

To President Monroe.

MONTPELLIER, Dec. 16, 1824.

Writings of Madison, Volume 3: 1816-1828, p.473

DEAR SIR,—The last mail brought me your favor of the 13th, with a copy of your message and other documents. The message previously sent arrived by the preceding mail. It contains much excellent matter, and as the last of your periodical communications will be the more interesting.

Writings of Madison, Volume 3: 1816-1828, p.473

The U.S. are now furnishing models and lessons to all the world. A great, soon to be the most hopeful, portion of it is receiving them with a happy docility, while the great European portion is either passively or actively gaining by them. The eyes of the world being thus on our country, it is put the more on its good behaviour, and under the greater obligation, also, to do justice to the Tree of Liberty, by an exhibition of the fine fruits we gather from it. I have not yet been able to give to the other documents the reading they doubtless merit.

Writings of Madison, Volume 3: 1816-1828, p.473

The failure, if that should be the result, of the negotiations with G.B. on the subject of the slave trade is reduced in its importance, if our flag be already rescued by the efficiency of our own laws from a share in the enormity.

Writings of Madison, Volume 3: 1816-1828, p.474

Although I cannot believe that any serious or lasting impression has been made any where by the calumnies to which you allude, I do not wonder at the solicitude which prompts the course you have in view: and I need not express either my assurance of its triumphant issue, or my best wishes that, on tho other subject you mean to bring before Congress, the reimbursement and compensations allowed you may correspond with the fidelity and liberality of the services and sacrifices which have marked your public career. My recollections at the moment do not authorize me to promise any addition to the lights which will be furnished by the public archives and your explanations. Should it be found otherwise, you well know the pleasure with which I shall aid with my information.

Writings of Madison, Volume 3: 1816-1828, p.474

The effect of the delay in your receiving your outfit, in occasioning the sale of your land near Charlottesville, is a subject of peculiar regret. It is difficult to estimate the sacrifice when the price obtained is compared with the value given to the property by the subsequent establishment of the University at the spot.

Writings of Madison, Volume 3: 1816-1828, p.474

Affectionate respects.

To the Revd Frederick Beasley.

MONTPELLIER, VA., Decr 22, 1824

Writings of Madison, Volume 3: 1816-1828, p.474

REVD SIR,—I have just received your letter of the 13th, on its return from Charlottesville, and wish I could gratify you with all the information it asks. In place of it, I can only observe that the system of polity for the University of Virginia being not yet finally digested and adopted, I cannot venture to say what it will be in its precise form and details. It is probable that, instead of a President or Provost as Chief Magistrate, the superintending and executive duties, so far as not left to the individual professors over their respective classes, will be exercised by the Faculty; the professors presiding in rotation. This regulation, however, as experimental, will be at all times alterable by the Board of Visitors. The code of discipline will be prepared with the aid of all the lights that can be obtained from the most distinguished seminaries; and some of the innovations will not improbably be in the spirit of your judicious observations. As the University, being such in the full extent of the term, will not contain boys under sixteen years of age, and be chiefly filled by youths approaching to manhood, with not a few, perhaps, arrived at it, there is the better chance for self-government in the students, and for the co-operation of many in giving efficacy to a liberal and limited administration.

Writings of Madison, Volume 3: 1816-1828, p.475

The peculiarity in the Institution which excited at first most attention, and some animadversion, is the omission of a theological professorship. The public opinion seems now to have sufficiently yielded to its incompatibility with a State Institution, which necessarily excludes sectarian preferences. The best provision which occurred was that of authorizing the Visitors to open the public rooms for Religious uses, under impartial regulations, (a task that may occasionally involve some difficulties,) and admitting the establishment of Theological Seminaries by the respective sects contiguous to the precincts of the University, and within the reach of a familiar intercourse distinct from the obligatory pursuits of the students. The growing village of Charlottesville, also, is not distant more than a mile, and contains already congregations and clergymen of the sects to which the students will mostly belong.

Writings of Madison, Volume 3: 1816-1828, p.475

You have already noticed in the public prints the scientific scope of the University, and the resort to Europe for some of the Professors. The reasons for the latter step you may have also seen in print, as well as the reduction of the number of chairs in the first instance, by annexing plural functions to some of them. This was rendered necessary by the limited resources as yet granted by the Legislature, and will be varied as fast as an augmentation of these will permit, by dividing and subdividing the branches of science now in the same group. Several of the Professors remain to be appointed; among them, one for mental philosophy, including the branches to which you refer. This has always been regarded by us as claiming an important place in so comprehensive a school of science. The gentleman in prospect for the station is not yet actually engaged.

Writings of Madison, Volume 3: 1816-1828, p.476

You seem to have allotted me a greater share in this undertaking than belongs to me. I am but one of seven managers, and one of many pecuniary benefactors. Mr. Jefferson has been the great projector and the mainspring of it.

Writings of Madison, Volume 3: 1816-1828, p.476

I am sorry that I have never been able to give the volume you kindly favored me with the reading it doubtless deserves; and I fear that, however congenial the task would be with studies relished at former periods, I shall find it difficult to reconcile it with demands on my time, the decrease of which does not keep pace with the contraction of its remaining span. From several dips into the Treatise, I think myself authorized to infer that it embraces a scrutinizing and systematic view of the subject, interesting to the best informed, and particularly valuable to those who wish to be informed.

Writings of Madison, Volume 3: 1816-1828, p.476

I thank you, sir, for the friendly sentiments you have expressed, and beg [you] to accept, with my great respect, a cordial return of them.

To Thomas Jefferson.

MONTPELLIER, Decr 31, 1824.

Writings of Madison, Volume 3: 1816-1828, p.476

DEAR SIR,—I have received yours, without date, inclosing the letter of Mr. Cabell and your answer. I approve entirely the course you recommend to the friends of the University at Richmond, on the proposed removal of the College at Williamsburg. It would be fortunate if the occasion could be improved for the purpose of filling up the general plan of education, by the introduction of the grade of Seminaries between the primary schools and the University. I have little hope, however, that the College will accede to any arrangement which is to take from it a part of its funds, and subject it to the Legislative authority. And in resisting this latter innovation it will probably be supported by all the sectarian Seminaries, though to be adopted as legal establishments of the intermediate grade. It is questionable, also, whether the sectarian Seminaries would not take side with William and Mary in combating the right of the public to interfere in any manner with the property it holds. The perpetual inviolability of charters, and of donations, both public and private, for pious and charitable uses, seems to have been too deeply imprinted on the public mind to be readily given up. But the time surely cannot be distant when it must be seen by all that what is granted by the public authority for the public good, not for that of individuals, may be withdrawn and otherwise applied when the public good so requires; with an equitable saving or indemnity only in behalf of the individuals actually enjoying vested emoluments. Nor can it long be believed that, although the owner of property cannot secure its descent but for a short period, even to those who inherit his blood, he may entail it irrevocably and forever on those succeeding to his creed, however absurd or contrary to that of a more enlightened age. According to such doctrines, the Great Reformation of Ecclesiastical abuses in the 16th century was itself the greatest of abuses; and entails or other fetters attached to the descent of property by legal acts of its owners, must be as lasting as the society suffering from them.

Writings of Madison, Volume 3: 1816-1828, p.477

It may well be supposed, should William and Mary be transplanted to Richmond, that those interested in the city will unite with those partial to the College, and both be reinforced by the enemies of the University, in efforts to aggrandize the former into a rival of the latter; and that their hopes of success will rest a good deal on the advantage presented at Richmond to medical students in the better chance of anatomic subjects, and in the opportunity of Clinical lectures; and to law students in the presence of the Upper Courts. It will not surprise [me] if some of the most distinguished of the Bar and Bench should take the lecturing chair, either for profit, or to give an attractive eclât to the regenerated Institution. As the Medical and Law Departments may invite the greatest number of pupils, and of course be the most profitable to professors, the obligation on us is the greater to engage for the University conspicuous qualifications for those chairs. I trust this has been done in the medical appointment actually made, and hope we shall not be unsuccessful in making the other. In opening the door a little wider for the admission of students of the Ancient Languages, it will be found, I think, that we did well, considering the competition for students that may be encountered, and the importance of filling our Dormitories at an early period.

Writings of Madison, Volume 3: 1816-1828, p.478

I return the letter of Mr. Cabell; and, as your answer may be a fair copy for your files, I return that also.

Writings of Madison, Volume 3: 1816-1828, p.478

I write a few lines to Governor Barbour on the Virginia claim, in which the University is interested; though it is, I believe, only applying the spur to a willing steed.

1825

To Henry Lee.

MONTPELLIER, January 14, 1825.

Writings of Madison, Volume 3: 1816-1828, p.478

I have received, sir, yours of the 6th instant, and have looked over the printed sheet enclosed in it. Of the literary character of the paper I may express a laudatory opinion, without risk of contravening that of others. As a political disquisition, it embraces questions both of magnitude and of nicety, on which opinions may be various, and of which a critical review does not lie within the compass of a letter, were it permitted by leisure and favoured by the circumstances of the moment.\*

Writings of Madison, Volume 3: 1816-1828, p.478

The nature and extent of the obligation on a representative to be guided by the known will of his constituents, though an old question, seems yet to be in a controvertible state. In general, it may be said to be often a verbal controversy. That the obligation is not, in strictness, constitutional or legal, is manifest, since the vote of the representative is equally valid and operative whether obeying or violating the instruction of his constituents. It can only be a moral obligation, to be weighed by the conscience of the representative, or a prudential one, to be enforced by the penal displeasure of his constituents.

Writings of Madison, Volume 3: 1816-1828, p.479

In what degree a plurality of votes is evidence of the will of the majority of voters, must depend on circumstances more easily estimated in a given case than susceptible of general definition. The greater the number of candidates among whom the votes are divided, the more uncertain must, of course, be the inference from the plurality with respect to the majority.

Writings of Madison, Volume 3: 1816-1828, p.479

In our complex system of polity, the public will, as a source of authority, may be the will of the people as composing one nation; or the will of the States in their distinct and independent capacities; or the federal will, as viewed, for example, through the Presidential electors, representing, in a certain proportion, both the nation and the States. If, in the eventual choice of a President, the same proportional rule had been preferred, a joint ballot by the two houses of Congress would have been substituted for the mode which gives an equal vote to every State, however unequal in size. As the Constitution stands, and is regarded as the result of a compromise between the larger and smaller States, giving to the latter the advantage in selecting a President from the candidates, in consideration of the advantage possessed by the former in selecting the candidates from the people, it cannot be denied, whatever may be thought of the constitutional provision, that there is, in making the eventual choice, no other control on the votes to be given, whether by the representatives of the smaller or larger States, but their attention to the views of their respective constituents and their regard for the public good.

Writings of Madison, Volume 3: 1816-1828, p.479

You will not forget that the above remarks, being thrown out merely in consequence of your application, are for yourself, not for others. Though penned without the most remote allusion to the particular case before the public, or even a knowledge of its actual posture and aspects, they might be misconstrued by the propensity of the conjuncture to view things through that medium.

Writings of Madison, Volume 3: 1816-1828, p.479

I return the two letters inclosed in yours, which I ought not to do without expressing the high respect I entertain for both the writers; offering to yourself my wishes for your useful success in whatever line of literature you may finally determine to exercise your talents.

To Thomas Jefferson.

MONTPELLIER, Jany 15, 1825.

Writings of Madison, Volume 3: 1816-1828, p.480

DEAR SIR,—Mr. Cabell's letter makes it probable that the projected removal of William and Mary will be stifled by the covering put by its friends on the arcana of its affairs. I hope the occasion will bring into view the sound principles on which the claims of Corporations ought to be decided. It would be well, also, if it should lead to a standing law limiting all incorporating acts to a certain period; and to the practice of specifying in every case the amount of property tenable by those artificial beings.

To Henry Lee.

MONTPELLIER, Jany 31, 1825.

Writings of Madison, Volume 3: 1816-1828, p.480

SIR,—The urgency indicated in your last letter as to the request in a former one having quickened my attention to the subject, I have at length looked enough into the evidence that the movement of the Southern army from Deep River to the Santee, in the campaign of 1781, was suggested by your father, to be satisfied of the fact; the more readily admitted from the acknowledged traits of his military character. It may well be presumed, at the same time, from the comprehensive and energetic policy of the Southern commander, that, in turning to the plans of operation within his choice, such an one did not escape him; though not practically adopted till duly weighed by his responsibility, and known to accord with recommendatory opinions in which he particularly confided. The measures of wisdom are not seldom unlike its fabled Goddess; being neither matured at their birth, nor the offsprings of a single brain.

To Thomas Jefferson.

MONTPELLIER, Feby 8, 1825.

Writings of Madison, Volume 3: 1816-1828, p.481

DEAR SIR,—I have looked with attention over your intended proposal of a text-book for the Law school. It is certainly very material that the true doctrines of liberty, as exemplified in our political system, should be inculcated on those who are to sustain and may administer it. It is, at the same time, not easy to find standard books that will be both guides and guards for the purpose. Sidney and Locke are admirably calculated to impress on young minds the right of nations to establish their own Governments, and to inspire a love of free ones, but afford no aid in guarding our Republican charters against constructive violations. The Declaration of Independence, though rich in fundamental principles, and saying every thing that could be said in the same number of words, falls nearly under a like observation. The "Federalist" may fairly enough be regarded as the most authentic exposition of the text of the Federal Constitution, as understood by the Body which prepared and the authority which accepted it. Yet it did not foresee all the misconstructions which have occurred, nor prevent some that it did foresee. And what equally deserves remark, neither of the great rival parties have acquiesced in all its comments. It may, nevertheless, be admissible as a school book, if any will be that goes so much into detail. It has been actually admitted into two Universities, if not more—those of Harvard and Rhode Island; but probably at the choice of the Professors, without any injunction from the superior authority. With respect to the Virginia Document of 1799, there may be more room for hesitation. Though corresponding with the predominant sense of the nation, being of local origin, and having reference to a state of parties not yet extinct, an absolute prescription of it might excite prejudices against the University as under party banners, and induce the more bigoted to withhold from it their sons, even when destined for other than the studies of the Law School. It may be added, that the Document is not on every point satisfactory to all who belong to the same party. Are we sure that to our brethren of the Board it is so? In framing a political creed, a like difficulty occurs as in the case of religion, though the public right be very different in the two cases. If the articles be in very general terms, they do not answer the purpose; if in very particular terms, they divide and exclude where meant to unite and fortify. The best that can be done in our case seems to be to avoid the two extremes, by referring to selected standards, without requiring an unqualified conformity to them, which, indeed, might not in every instance be possible. The selection would give them authority with the students, and might controul or counteract deviations of the Professor. I have, for your consideration, sketched a modification of the operative passage in your draught, with a view to relax the absoluteness of its injunction, and added to your list of documents the Inaugural Speech and the Farewell Address of President Washington. They may help down what might be less readily swallowed, and contain nothing which is not good; unless it be the laudatory reference in the Address to the Treaty of 1795 with G. Britain, which ought not to weigh against the sound sentiments characterizing it.

Writings of Madison, Volume 3: 1816-1828, p.482

After all, the most effectual safeguard against heretical intrusions into the school of politics will be an able and orthodox Professor, whose course of instruction will be an example to his successors, and may carry with it a sanction from the Visitors.

Sketch.

Writings of Madison, Volume 3: 1816-1828, p.482

And on the distinctive principles of the Government of our own State, and of that of the United States, the best guides are to be found in—1. The Declaration of Independence, as the fundamental act of Union of these States. 2. The book known by the title of the "Federalist," being an authority to which appeal is habitually made by all, and rarely declined or denied by any, as evidence of the general opinion of those who framed and those who accepted the Constitution of the United States on questions as to its genuine meaning. 3. The Resolutions of the General Assembly of Virginia in 1799, on the subject of the Alien and Sedition laws, which appeared to accord with the predominant sense of the people of the United States. 4. The Inaugural Speech and Farewell Address of President Washington, as conveying political lessons of peculiar value; and that in the branch of the school of law, which is to treat on the subject of Government, these shall be used as the text and documents of the school.

To Thomas Jefferson.

MONTPELLIER, Feby 17, 1825.

Writings of Madison, Volume 3: 1816-1828, p.483

DEAR SIR,—I received yesterday your letters of the 12th and 15th. It seems strange, but it is a certain fact, that there are several instances of distinguished politicians who reject the general heresies of Federalism, most decidedly the amalgamating magic of the terms "General welfare," who yet admit the authority of Congress as to roads and canals, which they squeeze out of the enumerated articles. In truth, the great temptation of "utility," brought home to local feelings, is the most dangerous snare for Constitutional orthodoxy; and I am not sure that the Judiciary branch of the Government is not a safer expositor of the power of Congress than Congress will be when backed, and even pushed on, by their constituents, as in the canal and the Missouri cases. Were the unauthorized schemes of internal improvement as disagreeable to [a] majority of the people and of the States as they are deemed advantageous, who can doubt the different reasonings and result that would be observed within the walls of Congress? The will of the nation being omnipotent for right, is so for wrong also; and the will of the nation being in the majority, the minority must submit to that danger of oppression as an evil infinitely less than the danger to the whole nation from a will independent of it. I consider the question as to canals, &c., as decided, therefore, because sanctioned by the nation under the permanent influence of benefit to the major part of it; and if not carried into practice, will owe its failure to other than Constitutional obstacles.

To Daniel Webster.

FEBY 25, 1825.

Writings of Madison, Volume 3: 1816-1828, p.484

DR SIR,—I must not let the session of Congress close without returning my thanks for the printed documents, for which I was indebted, as appeared, to your friendly politeness. Though they find their way to me through the daily vehicles, there is an advantage in possessing them in a more compleat as well as less perishable form. Among the characteristic attributes of our Government is its frankness in giving publicity to proceedings elsewhere locked up as arcana of State. And it will always be happy when they will so well bear the light; or, rather, so much contribute to the reputation of our country and the edification of others.

To Mr. Monroe.

MONTPELLIER, March 20, 1825.

Writings of Madison, Volume 3: 1816-1828, p.484

DEAR SIR,—Yours of February 23 was not received before the last mail, though having the Aldie post-mark on the day of its date. Whether it was not duly forwarded, or was so long overlooked at the office here, is not known. The latter was probably the case.

Writings of Madison, Volume 3: 1816-1828, p.484

We hope the agreeable information you gave of Mrs. Monroe's convalescence has been justified by her entire recovery.

Writings of Madison, Volume 3: 1816-1828, p.484

I need not now say that I received at the same time with you the notification given of my electoral nomination. It appears, as we foresaw, that the delay is a theme for party animadversions.

Writings of Madison, Volume 3: 1816-1828, p.484

You will, no doubt, have received the circular notice of our reappointment as Visitors of the University, and that the Executive has named the first Monday in April for a meeting of the Board. But it was understood, as I suppose you are aware, that this was a formal compliance with the law only; and that we are not in fact to meet till the stated time in July.

Writings of Madison, Volume 3: 1816-1828, p.484

Nothing has been definitively done toward filling the chair of Natural Philosophy. The turn which the negotiation with Dr. Jones took was thought to leave the choice unfettered; and it remains to be ascertained whether Mr. Renwick can be obtained. There is an enquiry on foot, also, in England, instituted by Mr. Gallatin, and bequeathed to Mr. Lawrence, for a fit Professor for that chair, with an understanding that there is to be no commitment interfering with an intermediate appointment here. In the mean time, Mr. Bonnycastle's patience has worn out; and a discontinuance of two lectures on Natural Philosophy, alleged to be unavoidable, has produced a state of things at the University not a little unpleasant. Some of the students in that school are going off, and puzzling the Proctor in settling their expenses under the enactment on that subject. The occurrence is unfortunate, as it seems to admit of no instant remedy.

Writings of Madison, Volume 3: 1816-1828, p.485

No final answer is yet received to our attempt to obtain from the London University its consent to the prolonged stay of Professor Long with us.

Writings of Madison, Volume 3: 1816-1828, p.485

Health and every other happiness.

To H. Wheaton.

MONTPELLIER, April 1, 1825.

Writings of Madison, Volume 3: 1816-1828, p.485

DEAR SIR,—I received lately, through President Monroe, a return of the letters of Mr. Pinkney, accompanied by yours of Feby 27.

Writings of Madison, Volume 3: 1816-1828, p.485

I find that copies of a part only of my letters to Mr. Pinkney were retained, and parts of these scarcely, if at all, legible. Such as they are, I commit them to your discretion, for which you may find some exercise in separating what may throw light on Mr. Pinkney's side of the correspondence, or on the real scope of the American policy during a critical period, from what it might be at least unseasonable to hand to the public. You will consider how far this restriction be applicable to the foreign names and domestic designations harshly referred to in some of the letters.

Writings of Madison, Volume 3: 1816-1828, p.485

Being unwilling to risk the packet by the mail, I shall not send it off till I can avail myself of a private conveyance to Mr. R. Cutts, who will probably be able to obtain a like one from Washington to N. York. Perhaps you can refer him to some passing friend who will take charge of it.

Writings of Madison, Volume 3: 1816-1828, p.486

I need not say that a return of the letters, as soon as you have done with them, will be agreeable; your past punctuality being a sufficient pledge to that effect.

To George Ticknor.

MONTPELLIER, Apl 6th, 1825.

Writings of Madison, Volume 3: 1816-1828, p.486

DEAR SIR,—Your letter of March 29, with a copy of the engraving of General La Fayette, have just come safe to hand. The memoir of him you were so good as to add was purloined on the way, the empty cover alone appearing.

Writings of Madison, Volume 3: 1816-1828, p.486

Mrs. M. is greatly obliged by the excellent portrait of the Hero of Liberty and humanity, so dear to us all. It cannot be permitted, however, to enter into the account where you have made it an item, that being self-balanced, at least, by the pleasure experienced on our side from your visit. The valuable favor creates, therefore, a debt, very imperfectly discharged by the many thanks which are returned for it.

Writings of Madison, Volume 3: 1816-1828, p.486

Our University has been opened with six or seven professors, and a limited but daily-increasing number of students. I shall take a pleasure in complying with your request of such information as may explain its progress. In compiling a code of regulations the University has had the benefit of that of Harvard, which was kindly transmitted. Of all exchanges, that of useful lights ought to be the freest, as doubling the stock on both sides without cost on either. Our University is, as you observe, somewhat of an experimental institution. Such, however, is the nature of our federative system, itself not a little experimental, that it not only excites emulation, without enmity, but admits local experiments of every sort, which, if failing, are but a partial and temporary evil; if successful, may become a common and lasting improvement.

To R. B. Lee.

MONTPELLIER, Apl 20, 1825.

Writings of Madison, Volume 3: 1816-1828, p.487

DEAR SIR,—I have received your letter of the 15th. Having ever entertained for you the respect and friendly wishes to which it recurs, I shall not fail to drop a few lines to Judges Duvall and Todd on the subject of it; though, in so doing, I make an exception to the rule I am anxious to maintain, of retiring altogether from such interpositions, and can probably add little to their knowledge of the grounds on which a favorable estimate of your views is hoped for. Mrs. Madison desires to be remembered to Mrs. Lee, with an assurance of her continued affection, and of the lively interest she feels in whatever may relate to the happiness of her early and highly-valued friend. Be pleased to offer, at the same time, my particular respects, and to accept for yourself my esteem and cordial regards.

To Edward Everett.

MONTPELLIER, Apl 22, 1825.

Writings of Madison, Volume 3: 1816-1828, p.487

DEAR SIR,—I have received your letter informing me that I have been elected an honorary member of the Bunker-Hill Monument Association. The event which is to receive the monumental commemoration holds so distinguished a place in our Revolutionary History, itself so distinguished in the annals of liberty, that the object of the Association cannot be too highly commended, nor the honorary relation to it offered me be otherwise regarded than as a claim to my particular acknowledgments.

To T. L. McKenney.

MONTPELLIER, May 2d, 1825.

Writings of Madison, Volume 3: 1816-1828, p.487

DR SIR,—I have received your favor enclosing the printed animadversions on an article in the English "Quarterly Review."

Writings of Madison, Volume 3: 1816-1828, p.488

Whatever may be the difficulty or the result of efforts to impart to the Indians the blessings of civilized life, as it is due to humanity to make them, it is due, also, to our Government to repel the unfounded charges brought against it. For this purpose your publication is well adapted, its statements being uncontrovertible, and the tone of them such as to invite a candid attention every where.

Writings of Madison, Volume 3: 1816-1828, p.488

In few instances has the American and British conduct towards the Indians exhibited a contrast more honorable to the American than that repeatedly pursued by the two Governments during the late war. With us, every persuasive endeav-our was tried to keep the Indians from joining either party, and at peace among themselves. Compare with this example the policy and practice of the other belligerent.

Writings of Madison, Volume 3: 1816-1828, p.488

The perusal of your remarks brought to my recollection the language held at the commencement of the war to deputations from a number of tribes to the seat of Government. As the "Talk" was not, I believe, ever deposited in the War Department, and it may be proper that the document should be officially preserved as one proof of the spirit and policy of the Administration in relation to the Indians, I avail myself of the occasion to forward a copy, with a request that you will have it put on the proper files.

To Professor Ticknor.

MONTPELLIER, May 2, 1825.

Writings of Madison, Volume 3: 1816-1828, p.488

DEAR SIR,—I have duly received the copy of the "Life of General Lafayette," kindly supplying the miscarriage of that first sent, of which nothing has been heard. I return my thanks, sir, for this valuable and seasonable tribute to illustrious merit. I have read it with great pleasure, and with a wish that it could be universally read by our fellow-citizens. It could not but strengthen, by enlightening, their opinions of their beloved guest, and elevate as well as animate their feelings towards him.

Writings of Madison, Volume 3: 1816-1828, p.489

I inclose a copy of the incipient code of regulations for our University, of which I pray your acceptance, with that of my cordial esteem and respect.

To William Johnson.

MONTPELLIER, May 6th, 1825.

Writings of Madison, Volume 3: 1816-1828, p.489

DR SIR,—I received a few days ago from Richmond, through Mr. Stevenson, the copy of your "Life of Major Gen. Greene, &c.," for which I perceive that I am indebted to your friendly politeness.

Writings of Madison, Volume 3: 1816-1828, p.489

I had previously availed myself of an opportunity of glancing over the work, and hope, late in the day as it is with me, that I may be able to do it more justice by a more adequate perusal.

Writings of Madison, Volume 3: 1816-1828, p.489

The mass of information which it has brought into view, more especially with respect to the great Southern section of the Revolutionary war, must be acceptable to all who justly appreciate the signal importance of its operations, and the splendid career of the patriotic Hero who conducted them; whilst a rich contribution is made by the work to the funds of the general historian of the Revolutionary period.

Writings of Madison, Volume 3: 1816-1828, p.489

If errors of any sort have found their way into its pages, and be made to appear, your preface, which anticipates the possibility of them, pledges only, what would be ensured by your love of truth, that they will be turned to the proper account of improving the text of a future edition.

Writings of Madison, Volume 3: 1816-1828, p.489

I pray you, sir, to accept, with the thanks I owe you, assurances of my high respect and friendly wishes.

To Mathew Carey.

MONTPELLIER, May 12th, 1825.

Writings of Madison, Volume 3: 1816-1828, p.489

DR SIR,—I have received your favor of April 22d, with the several printed sheets sent with it.

Writings of Madison, Volume 3: 1816-1828, p.489

It is very gratifying to observe the prospect of internal improvements expanding, as it is, under the emulating auspices of the several States, and the co-operating patriotism of enlightened citizens. No Country more than ours admits of improvement by artificial roads and canals; nor can it be doubted, either, that the cost of them, in their fullest extent, is within the compass of the public resources, or that it will be incalculably overbalanced in the account of profit and loss; not to speak of the happy tendency of such works to strengthen the bond of our Union, or of the lustre reflected on our free institutions by such specimens of the fruits they produce.

Writings of Madison, Volume 3: 1816-1828, p.490

Your monitory remarks on the cotton trade were very opportune, and could not fail to be useful.

Writings of Madison, Volume 3: 1816-1828, p.490

Should any examples worthy of a place in the "Annals of beneficence" come to my knowledge, or occur to my recollection, I shall feel a pleasure in complying with your request on that head.

To T. L. McKenney.

MONTPELLIER, May 14, 1825.

Writings of Madison, Volume 3: 1816-1828, p.490

DR SIR,—I have duly received yours of the 10th instant. Although the Talk to the Indians was sent with a view only to its being officially filed, not to its publication, the tone of it in relation to a foreign power being better suited to the then state of war than to the present state of amity, no sufficient objection can lie against the use made of it in vindicating our Government from charges as unprovoked as they are unfounded. The only criticism to be made on the remarks from yourself is, that they do more than justice to the paper which led to them.

To George Thomson.

JUNE 30, 1825.

Writings of Madison, Volume 3: 1816-1828, p.490

I have received, my dear sir, your very friendly letter of the 3d instant. It has afforded me much pleasure, both as an expression of your continued regard for your old friends in your native State, and as a proof of the blessings you enjoy in your adopted one. You are particularly happy in combining with the ample gifts of fortune, what is so rare, a grateful acquiescence in their sufficiency; and in having in an estimable son, with a fine family, a prospect so precious to the evening of your life. A trip to Virginia would have found in your old friends a full reciprocity of the feelings with which you would meet them; and I express, I am sure, their, as well as my regret, that time has put an end to the chance of such a gratification.

Writings of Madison, Volume 3: 1816-1828, p.491

You give a sad picture of the condition of Kentucky. It might be rash, at such a distance, and without a more thorough knowledge of circumstances, to arraign the policy which seems to have had the sanction of names heretofore so much respected; and I ought, perhaps, to feel some additional restraint from the consideration, that having been myself injuriously affected by it, my judgment might be thought not unbiassed in the case. I cannot carry my scruples so far, however, as to hesitate in saying that no doctrine can be sound that releases a Legislature from the controul of a Constitution. The latter is as much a law to the former as the acts of the former are to individuals; and although always liable to be altered by the people who formed it, is not alterable by any other authority; certainly not by those chosen by the people to carry it into effect. This is so vital a principle, and has been so justly the pride of our popular Governments, that a denial of it cannot possibly last long, or spread far. If there be any, therefore, of the Republican faith who have been surprised into such an error, time and reflection cannot fail to rescue them from it. I can express myself thus frankly to you, without being willing to be brought before the public on the occasion.

Writings of Madison, Volume 3: 1816-1828, p.491

Virginia, like Kentucky, fell into the snares spread by numerous Banks giving diffusive credits. The people have been greatly distressed by debts, and the incident difficulties, aggravated, as these have been, by short crops and low prices. Time and patience, with occasional sacrifices, are, however, bringing relief, without the irregularities to which Kentucky has resorted. I can readily imagine the joy with which you met your old acquaintance, La Fayette, under circumstances so gratifying to all who admire his extraordinary worth and witness the unexampled manner in which it is rewarded. The spectacle is as honorable to the U. States as it is just to him; and will be among the powerful impulses to the progress of political truths and national reforms every where. We are very glad to learn from you, as from other sources, that Judge Todd is recovering from his tedious illness. It is impossible to know his character without esteeming it; or to know him personally without loving him. Your old friend, Mr. Jefferson, still lives, and will close his illustrious career by bequeathing to his Country a magnificent Institute for the advancement and diffusion of knowledge; which is the only Guardian of true liberty, the great cause to which his life has been devoted.

To Benjamin Waterhouse.

MONTPELLIER, July 13, 1825.

Writings of Madison, Volume 3: 1816-1828, p.492

DR SIR,—I have received your friendly letter of June 30, and congratulate you on your safe return from so long a journey. The fact you confirm with respect to General Hull furnishes the best apology for the imbecility which occasioned his down-fal; and his friends would show more discretion in availing themselves of it, than in attempts to decorate him with artificial laurels. I am truly sorry for the injury sustained by our friend, General Dearborn, whose character forms such a contrast to that of the Mock Hero of Detroit. I hope, as I am sure you wish, that your ominous inferences may be followed by a proof that his case is an exception to the general rule which suggested them.

Writings of Madison, Volume 3: 1816-1828, p.492

You ask whether you are too old or too deficient in political information for public service abroad. To the latter question, none, I presume, would say no; and, judging from what I have seen, I could not give a different answer to the former. If there be precedents of an adverse sort, there are so many on the favorable side, that every individual case ought, at least, to be decided on its own merits. In such an appeal, you will doubtless find better testimony than mine, in those more free from a suspicion of chronological sympathies with three score and ten.

To Edward Everett.

JULY 19th, 1825.

Writings of Madison, Volume 3: 1816-1828, p.493

DEAR SIR,—I have duly received the copy of your Oration at Concord on the 19th of April last; and have derived much pleasure from the excellent ideas with which it abounds, and the elegant language in which they are conveyed. You have given it particular value by making it a record of interesting details, which might otherwise have passed into oblivion.

To Charles Caldwell.

MONTPELLIER, July 22d, 1825.

Writings of Madison, Volume 3: 1816-1828, p.493

DEAR SIR,—Your letter from Charlottesville came duly to hand, and an earlier answer would have been given to it, but for hope, which has not been fulfilled, that a little delay might enlarge the compliance with its request.

Writings of Madison, Volume 3: 1816-1828, p.493

The instances of longevity which you wish me to repeat on paper as within the limits of my farm, on which there are about 70 persons of every age and description, and among my neighbors, are: 1. Of my mother, now in her 94th year, and enjoying comfortable health. 2. A negro woman of the same age, and with the same advantage. 3. Another negro woman of the age of ninety, with a probability of reaching a greater age than either. 4. Two other negroes, a man and woman, whose ages are not precisely known, but certainly of not less than eighty, and with constitutions having no appearance of early failure. 5. Within the last four or five years have died on the farm: 1. One negro man whose age could be ascertained to be within a few years of a hundred. 2. Another at the age of ninety. 3. A negro man and woman, each aged eighty at least; and the life of the former evidently shortened by the excessive use of ardent spirits. Among my present neighbors, one of the two nearest is in his ninetieth year, and the other beyond his eightieth; both enjoying good health. Within a few years past died an adjoining neighbor at the age of eighty-four; and another very near, though not adjoining, whose death at eighty-two was promoted by an increased use of ardent spirits. And within the present year died, in his ninetieth year, the father of the present Secretary of War, who, till very lately, was one of my near neighbours. All the individuals I have referred to were natives of Virginia.

Writings of Madison, Volume 3: 1816-1828, p.494

Among the instances of superior height with well-proportioned frames, I could name three in neighbouring families of at least six feet four inches. Examples of six feet are not so rare as to have been particularly noticed.

Writings of Madison, Volume 3: 1816-1828, p.494

The case of the survivors of the Revolutionary army, most of them doubtless natives, is very striking. Perhaps one not less so would be the average height and weight of the members of our legislative bodies, general and local. The height would be the better criterion of the popular average of size; the weight being more influenced by habits of living, distinguishing the former from the labouring classes.

To Henry Colman.

MONTPELLIER, August 25th, 1825.

Writings of Madison, Volume 3: 1816-1828, p.494

DR SIR,—I have read with pleasure the copy of your oration on the 4th of July, obligingly sent me, and for which I beg you to accept my thanks.

Writings of Madison, Volume 3: 1816-1828, p.494

With the merits which I have found in the oration, may I be permitted to notice a passage, which, though according with a language often held on the subject, I cannot but regard as at variance with reality?

Writings of Madison, Volume 3: 1816-1828, p.494

In doing justice to the virtue and valour of the Revolutionary army, you add, as a signal proof of the former, their readiness in laying down their arms at the triumphant close of the war, "when they had the liberties of their country within their grasp."

Writings of Madison, Volume 3: 1816-1828, p.495

Is it a fact that they had the liberties of their country within their grasp? that the troops then in command, even if led on by their illustrious chief, and backed by the apostates from the revolutionary cause, could have brought under the yoke the great body of their fellow-citizens, most of them with arms in their hands, no inconsiderable part fresh from the use of them, all inspired with rage at the fratricidal attempt, and not only guided by the federal head, but organized and animated by their local Governments, possessing the means of appealing to their interests as well as other motives, should such an appeal be required?

Writings of Madison, Volume 3: 1816-1828, p.495

I have always believed that if General Washington had yielded to a usurping ambition, he would have found an insuperable obstacle in the incorruptibility of a sufficient portion of those under his command, and that the exalted praise due to him and them was derived, not from a forbearance to effect a revolution within their power, but from a love of liberty and of country, which there was abundant reason to believe no facility of success could have seduced. I am not less sure that General Washington would have spurned a sceptre, if within his grasp, than I am that it was out of his reach if he had secretly sighed for it. It must be recollected, also, that the practicability of a successful usurpation by the army cannot well be admitted, without implying a folly or pusillanimity reproachful to the American character, and without casting some shade on the vital principle of popular Government itself.

To Miss Frances Wright.

MONTPELLIER, Sepr 1, 1825.

Writings of Madison, Volume 3: 1816-1828, p.495

DEAR MADAM,—Your letter to Mrs. Madison, containing observations addressed to my attention also, came duly to hand, as you will learn from her, with a printed copy of your plan for the gradual abolition of slavery in the United States.

Writings of Madison, Volume 3: 1816-1828, p.495

The magnitude of this evil among us is so deeply felt, and so universally acknowledged, that no merit could be greater than that of devising a satisfactory remedy for it. Unfortunately, the task, not easy under other circumstances, is vastly augmented by the physical peculiarities\* of those held in bondage, which preclude their incorporation with the white population; and by the blank in the general field of labour to be occasioned by their exile; a blank into which there would not be an influx of white labourers, successively taking the place of the exiles, and which, without such an influx, would have an effect distressing in prospect to the proprietors of the soil.

Writings of Madison, Volume 3: 1816-1828, p.496

The remedy for the evil which you have planned is certainly recommended to favorable attention by the two characteristics: 1. That it requires the voluntary concurrence of the holders of the slaves, with or without pecuniary compensation. 2. That it contemplates the removal of those emancipated, either to a foreign or distant region. And it will still further obviate objections, if the experimental establishments should avoid the neighbourhood of settlements where there are slaves.

Writings of Madison, Volume 3: 1816-1828, p.496

Supposing these conditions to be duly provided for, particularly the removal of the emancipated blacks, the remaining questions relate to the aptitude and adequacy of the process by which the slaves are at the same time to earn the funds, entire or supplemental, required for their emancipation and removal; and to be sufficiently educated for a life of freedom and of social order.

Writings of Madison, Volume 3: 1816-1828, p.496

With respect to a proper course of education, no serious difficulties present themselves. And as they are to continue in a state of bondage during the preparatory period, and to be within the jurisdiction of States recognizing ample authority over them, a competent discipline cannot be impracticable. The degree in which this discipline will enforce the needed labour, and in which a voluntary industry will supply the defect of compulsory labour, are vital points, on which it may not be safe to be very positive without some light from actual experiment.

Writings of Madison, Volume 3: 1816-1828, p.497

Considering the probable composition of the labourers, and the known fact that, where the labour is compulsory, the greater the number of labourers brought together (unless, indeed, where co-operation of many hands is rendered essential by a particular kind of work, or of machinery) the less are the proportional profits, it may be doubted whether the surplus from that source merely, beyond the support of the establishment, would sufficiently accumulate in five, or even more years, for the objects in view. And candor obliges me to say that I am not satisfied either that the prospect of emancipation at a future day will sufficiently overcome the natural and habitual repugnance to labour, or that there is such an advantage of united over individual labour as is taken for granted.

Writings of Madison, Volume 3: 1816-1828, p.497

In cases where portions of time have been allotted to slaves, as among the Spaniards, with a view to their working out their freedom, it is believed that but few have availed themselves of the opportunity by a voluntary industry; and such a result could be less relied on in a case where each individual would feel that the fruit of his exertions would be shared by others, whether equally or unequally making them, and that the exertions of others would equally avail him, notwithstanding a deficiency in his own. Skilful arrangements might palliate this tendency, but it would be difficult to counteract it effectually.

Writings of Madison, Volume 3: 1816-1828, p.497

The examples of the Moravians, the Harmonites, and the Shakers, in which the united labours of many for a common object have been successful, have, no doubt, an imposing character. But it must be recollected that in all these establishments there is a religious impulse in the members, and a religious authority in the head, for which there will be no substitutes of equivalent efficacy in the emancipating establishment. The code of rules by which Mr. Rapp manages his conscientious and devoted flock, and enriches a common treasury, must be little applicable to the dissimilar assemblage in question. His experience may afford valuable aid in its general organization, and in the distribution and details of the work to be performed. But an efficient administration must, as is judiciously proposed, be in hands practically acquainted with the propensities and habits of the members of the new community.

Writings of Madison, Volume 3: 1816-1828, p.498

With a reference to this dissimilarity, and to the doubt as to the advantages of associated labour, it may deserve consideration whether the experiment would not be better commenced on a scale smaller than that assumed in the prospectus. A less expensive outfit would suffice; labourers in the proper proportions of sex and age would be more attainable; the necessary discipline and the direction of their labour would be more simple and manageable; and but little time would be lost; or, perhaps, time gained; as success, for which the chance would, according to my calculation, be increased, would give an encouraging aspect to the plan, and probably suggest improvements better qualifying it for the larger scale proposed.

Writings of Madison, Volume 3: 1816-1828, p.498

Such, Madam, are the general ideas suggested by your interesting communication. If they do not coincide with yours, and imply less of confidence than may be due to the plan you have formed, I hope you will not question either my admiration of the generous philanthropy which dictated it, or my sense of the special regard it evinces for the honor and welfare of our expanding, and, I trust, rising Republic.

Writings of Madison, Volume 3: 1816-1828, p.498

As it is not certain what construction would be put on the view I have taken of the subject, I leave it with your discretion to withhold it altogether, or to disclose it within the limits you allude to; intimating only that it will be most agreeable to me, on all occasions, not to be brought before the public where there is no obvious call for it.

Writings of Madison, Volume 3: 1816-1828, p.498

General Lafayette took his final leave of us a few days ago, expecting to embark about this time in the new frigate, with an appropriate name. He carries with him the unanimous blessings of the free nation which has adopted him. If equal honours have not been his portion in that in which he had his birth, it is not because he did not deserve them. This Hemisphere, at least, and posterity in the other, will award what is due to the nobleness of his mind and the grandeur of his career.

To John Brannan.

MONTPELLIER, Septr 7, 1825.

Writings of Madison, Volume 3: 1816-1828, p.499

I have received, sir, your letter of August 31, communicating your intention to publish a translation of the travels of the Marquis de Chastellux in the United States during several years of the Revolutionary war. You are welcome to my name on the list of your subscribers, which I wish may become sufficient for your object. I cannot venture to promise much addition to it in this particular quarter.

Writings of Madison, Volume 3: 1816-1828, p.499

My recollections of the work, as it appeared in the original language, do not authorize me to speak particularly of its value. From the known talents of the author, the period of his tour, and the advantages under which it was made, he cannot have failed to record many facts and observations which will have an interest with different classes of readers. Before he came to this Country, he had published a work on [Public Happiness,] denoting learned research, and a cast of mind at once philosophic and philanthropic.

Writings of Madison, Volume 3: 1816-1828, p.499

I suspect that you have confounded my name with that of the late President of William and Mary, who was much more intimately known to the Marquis than myself. You have fallen in one error, at least, in regarding him as my father. We were closely connected by friendship and affection, but were not nearer in blood than the degree of second cousins; our grandfathers being brothers.

To Timothy Pickering.

MONTPELLIER, Septr 17, 1825.

Writings of Madison, Volume 3: 1816-1828, p.499

I have received, sir, your letter of the 7th instant, inclosing the V and VI Nos. of the New England Farmer.

Writings of Madison, Volume 3: 1816-1828, p.499

I have not now the title which you supposed to this mark of attention. Finding that I could not attend the meetings of the Agricultural Society of Albemarle, held at a considerable distance from me, I made way, by resignation, for a successor to the presiding office, who might do more justice to it. I have not, however, ceased to feel a due interest in the success of such Institutions, nor lost my relish for instructive publications on subjects embraced by them. But I am compelled by other demands on my time, among them other reading tasks in which I am in arrears, to abridge very much the portion allotted for works on husbandry. Hence, my slight acquaintance with what has latterly appeared in that of Mr. Skinner, notwithstanding the merit of its author, and the value of its contents. The papers to which you refer as from yourself and Mr. Powell I had not looked into, and cannot, therefore, say more on the question between you, than that, from the tenor of your letter and the pieces inclosed in it, Mr. Powell has been defective in his extracts, as well as hasty in some of his conclusions. Regarding you both as able and strenuous patrons of a valuable object in our husbandry, I cannot but partake of the regret which must be felt at the collision which has taken place, and the wish that it may be terminated by satisfactory explanations.

Writings of Madison, Volume 3: 1816-1828, p.500

I congratulate you, sir, on the vigorous health you enjoy at so advanced an age, and in which you give your country an interest, by a persevering application of it to the improvement of our rural economy.

To John Brannan.

SEPTR 26, 1825.

Writings of Madison, Volume 3: 1816-1828, p.500

DR SIR,—I have received your letter of the 16th instant, from which I find that I have but imperfectly corrected the errors relating to the late Bishop Madison, into which [you] have been led by the author of the work you are preparing for the press. The Bishop had no son who was ever a member either of Congress or of the Legislature of Virginia. He had not, indeed, at the period referred to, been married more than 8 or 9 years, nor reached himself the age of more than 35, 6, or 7. It is true, that an act was passed by the Virginia Legislature, such as you quote, on the subject of slaves, being one of many composing a "Revised Code," digested and reported by Mr. Jefferson, Mr. Wythe, and Mr. Pendleton, and that I bore a part in the discussion of it. But I have no recollection that a proposition was made by any member for a general emancipation of slaves.\*

To Doctor Caldwell.

MONTPELLIER, September 28th, 1825.

Writings of Madison, Volume 3: 1816-1828, p.501

DEAR SIR,—I have been long in debt to your politeness for the copy of your "Elements of Phrenology," put into the hands of Mr. Slaughter, from whom I have but just learned that he was the channel through which it came. My acknowledgments would not have been thus delayed, but from my ignorance, till very lately, that your movements had terminated in your return to Lexington.

Writings of Madison, Volume 3: 1816-1828, p.501

Phrenology is a subject which has engaged little of my attention. Your pamphlet has certainly obviated some of the most popular prejudices against the science, and enabled the uninformed like myself to take an instructive view of it.

Writings of Madison, Volume 3: 1816-1828, p.501

It being conceded on all sides, that mind and matter constitute the human being, and that the brain is the part of matter through which, in the state of union, the mind exerts itself, the question to be decided is, whether this exertion takes place through the entire brain, or any particular portion of it as a simple organ; or through specific compartments of the brain corresponding with specific functions of the mind.

Writings of Madison, Volume 3: 1816-1828, p.501

There can be nothing repulsive in this last supposition, if it be not in itself the more probable one. But turning, as it does, on facts and comparisons, these must be sufficiently verified and multiplied before the doctrine can claim a decided assent. From the talents and industry which appear to be employed in the investigation, and the progress already made in it, a solution of the problem may not be very distant. And your little volume is a proof of your adequacy to a liberal participation in the task.

Writings of Madison, Volume 3: 1816-1828, p.502

I thank you for the information it has afforded me, with a tender of my esteem, and my friendly wishes.

To Jacob Engelbrecht.

MONTPELLIER, October 20, 1825.

Writings of Madison, Volume 3: 1816-1828, p.502

DEAR SIR,—Your letter of September 5th was received several weeks ago; but particular engagements have prevented an earlier attention to it. Though the request it makes is a little singular, a compliance with it seems duc to the motives which prompted it.

Writings of Madison, Volume 3: 1816-1828, p.502

As your object is to preserve for public view, at a posthumous day, the letter you wish me to write, it ought to contain something worthy of such a purpose. To give it more of this character than it might otherwise have, I transcribe a page in the handwriting of Doctor Franklin, prefixed to a copy of John Bartram's Travels to the Lakes, published in 1751, which was purchased many years ago in a bundle of pamphlets sold at auction. This little poetic effusion does not probably exist elsewhere; and it merits preservation, as well on account of its author, as of its moral improvement on the original ode.

Given By the Author to His Friend, B. Franklin.

Horace, Ode 22, Lib. 1.—Integer vitæ, &c.

IMITATED.

Whose life is upright, innocent, and harmless,

Needs not a Bartram arm himself with weapons;

Useless to him, the sword, the venomed shaft, or

Murderous musket.

Thus, when thou'rt journeying towards wild Onondago

O'er pathless mountains, Nature's works exploring,

Or thro' vast plains where rolls his mighty waters,

Famed Mississippi.

Should the fierce she Bear, or the famished Wildcat,

Or yet more fierce and wild, the savage Indian,

Meet thee, God praising, and his works adoring,

Instant they'd fly thee.

Tho' now to piercing frosts, now scorching sunbeams,

Now to unwholsome fogs, tho' thou'rt exposed,

Thy Guardian Angel, Innocence, shall keep thee

Safe from danger.\*

To C. J. Ingersoll.

NOVR 12, 1825.

Writings of Madison, Volume 3: 1816-1828, p.503

DR SIR,—I have received the copy, kindly sent me, of your "Discourse" before the Penn Society.

Writings of Madison, Volume 3: 1816-1828, p.503

It is to be wished that all the concurring occasions may be equally fruitful of interesting topics and views. Should the other States take the like course of instituting periodical commemorations of their origin and founders, and the models you have furnished on this and other occasions receive the attention due to it, the progress of our Country will be accompanied by accumulating materials for enriching its History, and improving the Text-Book of Political Philosophy.

To the Revd F. Beasley.

MONTPELLIER, Novr 20, 1825.

Writings of Madison, Volume 3: 1816-1828, p.503

DEAR SIR,—I have duly received the copy of your little tract on the proofs of the Being and attributes of God. To do full justice to it would require not only a more critical attention than I have been able to bestow on it, but a resort to the celebrated work of Dr. Clarke, which I read fifty years ago only, and to that of Doctor Waterland also, which I never read.

Writings of Madison, Volume 3: 1816-1828, p.503

The reasoning that could satisfy such a mind as that of Clarke ought certainly not to be slighted in the discussion. And the belief in a God, all powerful, wise, and good, is so essential to the moral order of the world, and to the happiness of man, that arguments which enforce it cannot be drawn from too many sources, nor adapted with too much solicitude to the different characters and capacities to be impressed with it.

Writings of Madison, Volume 3: 1816-1828, p.504

But whatever effect may be produced on some minds by the more abstract train of ideas which you so strongly support, it will probably always be found that the course of reasoning, from the effect to the cause, "from nature to nature's God," will be the more universal and more persuasive application.

Writings of Madison, Volume 3: 1816-1828, p.504

The finiteness of the human understanding betrays itself on all subjects, but more especially when it contemplates such as involve infinity. What may safely be said seems to be, that the infinity of time and space forces itself on our conception, a limitation of either being inconceivable; that the mind prefers at once the idea of a self-existing cause to that of an infinite series of cause and effect, which augments, instead of avoiding the difficulty; and that it finds more facility in assenting to the self-existence of an invisible cause, possessing infinite power, wisdom, and goodness, than to the self-existence of the universe, visibly destitute of those attributes, and which may be the effect of them. In this comparative facility of conception and belief, all philosophical reasoning on the subject must, perhaps, terminate. But that I may not get farther beyond my depth, and without the resources which bear you up in fathoming efforts, I hasten to thank you for the favor which has made me your debtor, and to assure you of my esteem and my respectful regards.

To Doctor C. Caldwell.

MONTPELLIER, NOVr —d, 1825.

Writings of Madison, Volume 3: 1816-1828, p.504

DEAR SIR,—Your favor of October 11th came duly to hand, and at a later day a memoir referred to in it. You speak of two memoirs. If more than N° 1 was sent, there has been a miscarriage.

Writings of Madison, Volume 3: 1816-1828, p.504

I am sorry that the claims on my decreasing remnant of time do not permit me to enlarge on the profound subjects embraced in the memoir. I must not omit saying, however, that they are profoundly treated, and that I concur with you at once in rejecting the idea maintained by some divines, of more zeal than discretion, that there is no road from nature up to nature's God, and that all the knowledge of Iris existence and attributes which preceded the written revelation of them was derived from oral tradition. The doctrine is the more extraordinary, as it so directly contradicts the declarations you have cited from the written authority itself. To my thanks for the memoir, I must add those due for your kind references to the best sources of information on the subject of phrenology. At an earlier stage of life, I might be tempted to avail myself of them. In that which it has reached, I must narrow, instead of widening, the scope of my researches. Wishing that the longer period before you may be successfully employed in such as will be at the same time gratifying to yourself, and useful to science and humanity, &c., &c.

To Henry Lee.

MONTPELLIER, Novr 29, 1825.

Writings of Madison, Volume 3: 1816-1828, p.505

I have received, sir, yours of the 19th instant. I need not repeat my commendation of your purpose to devote your talents to literary pursuits. And the tasks you now mark out for your pen will doubtless inspire your efforts. The campaign of Niagara in 1814, and the naval achievements in the Mediterranean, are both of them distinguished by their patriotic and historic attractions; and you are very justly solicitous to procure from authentic sources all the information that can give lasting value to your undertaking.

Writings of Madison, Volume 3: 1816-1828, p.505

You are very fortunate in those already opened to you, and in prospect, with respect to proceedings in the Cabinet and correspondences between the President and its subordinate members, not in the public archives, and remaining in iris and their hands; a part, though a small one, may involve particularities more proper for oblivion than worthy of the pages of history; and there may be other parts less proper for present than future publications. A knowledge of the contributions received from others would enable me to understand how far my files could make them, in any instances, more compleat and satisfactory; and without a superfluous labour, much to be avoided, in transcribing selections and extracts.

To Professor Ticknor.

MONTPELLIER, Decr 1, 1825.

Writings of Madison, Volume 3: 1816-1828, p.506

DR SIR,—I have received your favor of Novr 21, inclosing a copy of your "Remarks concerning Harvard University." I have found in them much edifying to other Institutions, as well as a triumphant vindication of reforms and improvements in that one. With my thanks for your polite attention, I pray you to be assured of my great esteem and my friendly respects.

To Thomas Ritchie.

MONTPELLIER, Dec. 18, 1825.

Writings of Madison, Volume 3: 1816-1828, p.506

DEAR SIR,—Yours of the 10th instant was received a few days ago, and I give it the earliest answer which circumstances have permitted.

Writings of Madison, Volume 3: 1816-1828, p.506

It has been impossible not to observe the license of construction applied to the Constitution of the United States, and that the premises from which powers are inferred often cover more ground than inferences themselves.

Writings of Madison, Volume 3: 1816-1828, p.506

In seeking a remedy for these aberrations, we must not lose sight of the essential distinction, too little heeded, between assumptions of power by the General Government, in opposition to the will of the constituent body, and assumptions by the constituent body through the Government as the organ of its will. In the first case, nothing is necessary but to rouse the attention of the people, and a remedy ensues through the forms of the Constitution. This was seen when the Constitution was violated by the alien and sedition acts. In the second case, the appeal can only be made to the recollections, the reason, and the conciliatory spirit of the majority of the people against their own errors, with a persevering hope of success, and an eventual acquiescence in disappointment, unless, indeed, oppression should reach an extremity overruling all other considerations. This second case is illustrated by the apparent call of a majority of the States and of the people for national roads and canals; with respect to the latter of which, it is remarkable that Mr. Hamilton himself, on an occasion when he was giving to the text of the Constitution its utmost ductility, [see his report on the Bank,] was constrained to admit that they exceeded the authority of Congress.

Writings of Madison, Volume 3: 1816-1828, p.507

All power in human hands is liable to be abused. In Governments independent of the people, the rights and interests of the whole may be sacrificed to the views of the Government. In Republics, where the people govern themselves, and where, of course, the majority govern, a danger to the minority arises from opportunties tempting a sacrifice of their rights to the interests, real or supposed, of the majority. No form of government, therefore, can be a perfect guard against the abuse of power. The recommendation of the republican form is, that the danger of abuse is less than in any other; and the superior recommendation of the federo-republican system is, that while it provides more effectually against external danger, it involves a greater security to the minority against the hasty formation of oppressive majorities.

Writings of Madison, Volume 3: 1816-1828, p.507

These general observations lead to the several questions you ask as to the course which, in the present state of things, it becomes Virginia to pursue.

Writings of Madison, Volume 3: 1816-1828, p.507

1. "Ought an amendment of the Constitution, giving to Congress a power as to roads and canals, to be proposed on her part; and what part taken by her if proposed from any other quarter?"

Writings of Madison, Volume 3: 1816-1828, p.507

Those who think the power a proper one, and that it does not exist, must espouse such an amendment; and those who think the power neither existing nor proper, may prefer a specific grant, forming a restrictive precedent, to a moral certainty of an exercise of the power, furnishing a contrary precedent. Of the individual ways of thinking on this point, you can probably make a better estimate than I can.

Writings of Madison, Volume 3: 1816-1828, p.508

2. "Ought a proposed amendment to comprise a particular guard against the sweeping misconstruction of the terms, 'common defence and general welfare?'"

Writings of Madison, Volume 3: 1816-1828, p.508

The wish for such a guard is natural. But the fallacious inferences from a failure, however happening, would seem to require for the experiment a very flattering prospect of success. As yet, the unlimited power expressed by the terms, if disjoined from the explanatory specifications, seems to have been claimed for Congress rather incidentally and unimpressively, than under circumstances indicating a dangerous prevalence of the heresy. Governor Van Ness alone appears to have officially adopted it, and possibly with some unexpressed qualification. Has not the Supreme Court of the United States on some occasion disclaimed the import of the naked terms as the measure of Congressional authority? In general, the advocates of the road and canal powers have rested the claim on deductions from some one or more of the enumerated grants.

Writings of Madison, Volume 3: 1816-1828, p.508

The doctrine presenting the most serious aspect is that which limits the claim to the mere "appropriation of money" for the general welfare. However untenable or artificial the distinction may be, its seducing tendencies, and the progress made in giving it a practical sanction, render it pretty certain that a constitutional prohibition is not at present attainable; while an abortive attempt would but give to the innovation a greater stability. Should a specific amendment take place on the subject of roads and canals, the zeal for this appropriating power would be cooled by the provision for the primary and popular object of it; at the same time that the implied necessity of the amendment would have a salutary influence on other points of construction.

Writings of Madison, Volume 3: 1816-1828, p.508

3. "Ought Virginia to protest against the power of internal improvement by roads and canals, with an avowal of readiness to acquiesce in a decision against her by three-fourths of her sister States?"

Writings of Madison, Volume 3: 1816-1828, p.509

By such a decision is understood a mere expression of concurrent opinions by three-fourths of the State Legislatures. However conciliatory the motives to such a proposition might be, it could not fail to be criticised as requiring a surrender of the constitutional rights of the majority in expounding the Constitution to an extra-constitutional project of a protesting State. May it not be added, that such a test, if acceded to, would, in the present state of public opinion, end in a riveting decision against Virginia?

Writings of Madison, Volume 3: 1816-1828, p.509

Virginia has, doubtless, a right to manifest her sense of the Constitution, and of proceedings under it, either by protest or other equivalent modes. Perhaps the mode as well suited as any to the present occasion, if the occasion itself be a suitable one, would be that of instructions to her Representatives in Congress to oppose measures violating her constructions of the instrument, with a preamble appealing for the truth of her constructions to the contemporary expositions by those best acquainted with the intentions of the Convention which framed the Constitution; to the debates and proceedings of the State Conventions which ratified it; to the universal understanding that the Government of the Union was a limited, not an unlimited one; to the inevitable tendency of the latitude of construction in behalf of internal improvements to break down the barriers of unlimited power, it being obvious that the ingenuity which deduces the authority for such measures could readily find it for any others whatever; and particularly to the inconclusiveness of the reasoning from the sovereign character of the powers vested in Congress, and the great utility of particular measures, to the rightful exercise of the powers required for such measures; a reasoning which, however applicable to the case of a single Government charged with the whole powers of government, loses its force in the case of a compound Government like that of the United States, where the delegated sovereignty is divided between the General and the State Governments; where one sovereignty loses what the other gains; and where particular powers and duties may have been withheld from one, because deemed more proper to be left with the other.

Writings of Madison, Volume 3: 1816-1828, p.510

I have thrown out these hasty remarks more in compliance with your request than from a belief that they offer anything new on the beaten subject. Should the topics touched on be thought worthy on any account of being publicly developed, they will be in hands very competent to the task. My views of the constitutional questions before the public are already known, as far as they can be entitled to notice, and I find myself every day more indisposed, and, as may be presumed, less fit, for reappearance on the political arena.

To Edward Livingston.

MONTPELLIER, Decr 27, 1825.

Writings of Madison, Volume 3: 1816-1828, p.510

DEAR SIR,—Your favor of March 13 came duly to hand, with a copy of the executed part of your penal code for Louisiana. With every disposition to comply with your request in the full extent of it, the reflection could not escape me that I ought not to obtrude any suggestions affecting the essentials of your work, if any such should occur; and that a critical examination of its details and definitions was a task belonging [to] others of your friends having a greater surplus of time, and better qualified, also, by their professional studies and experience.

Writings of Madison, Volume 3: 1816-1828, p.510

Of the great object of your undertaking, that of simplifying and humanizing the penal code, so much in need of both, I could not express more praise than is due; and however great the merit of the portion now brought into view, it will but fulfil the expectations authorized by the ability shewn in the "Introductory Report."

Writings of Madison, Volume 3: 1816-1828, p.510

It cannot be doubted, I think, that a legal code may be digested and reduced to writing, with the great advantage of ascertaining the law when doubtful, of explaining it where obscure, of reforming it where wrong in its principles, and of rendering it at once more systematic and more concise. But I cannot overcome the doubts expressed in a former letter of the practicability, however desirable, of written enumerations and definitions so full and so precise as to supersede altogether a resort to the explanatory aids of unwritten or traditional law; and I am still impressed, for the reasons there given, with the hazard of substituting for compound technical terms new ones, whatever be the skill in chusing and explaining them.

Writings of Madison, Volume 3: 1816-1828, p.511

None of these doubts, however, can restrain me from joining not only in the tribute due to your enlightened and philanthropic labours, but in the sincere wish that the result of them may receive the sanction and the experiment for which it is prepared. As a whole, it must be an incalculable improvement of the existing system; and if any of the innovations so pleasing in theory should prove exceptionable in practice, the inconvenience must be limited in its space, and may be made so in its duration.

Writings of Madison, Volume 3: 1816-1828, p.511

From the tenor of some of the above remarks, you will probably concur with me in thinking that a publication of them would not avail the purpose for which you seemed to desire it.

Writings of Madison, Volume 3: 1816-1828, p.511

I sympathized very sincerely in the loss of your papers by the accident of fire. Besides the difficulty of recalling to mind their exact contents, there is a nausea in the efforts well understood by all who have ever had occasion to make them.

Writings of Madison, Volume 3: 1816-1828, p.511

I must offer an apology for the long delay in making my acknowledgments for your polite and friendly communication. For a considerable time it was not known where a letter would find you. And since your arrival at Washington, particular engagements have engrossed my attention; to which I might add, that I have been at no time unaware of the little importance of what must be the purport of a letter. With this explanation, I pray you to accept assurances of my high esteem and my best wishes.

To Thomas Jefferson.

MONTPELLIER, Decr 28, 1825.

Writings of Madison, Volume 3: 1816-1828, p.511

DEAR SIR,—I received yesterday evening yours of the 24th instant, inclosing a paper drawn up with a view to the question of "Roads and Canals," and to the course of proceeding most expedient for the Legislature of Virginia, now in session.

Writings of Madison, Volume 3: 1816-1828, p.512

In my retired position it is difficult to scan the precise tendency of measures addressed to the opinions and feelings of the States and of their Representatives; these being imperfectly understood, and continually undergoing, also, more or less of modifications. In general, I have doubted the policy of any attempt by Virginia to take the lead, or the appearance of it, in opposing the obnoxious career of Congress, or, rather, of their constituents, considering the prejudices which seem to have been excited of late against her. And the doubt is now strengthened by the diversity of opinion apparently taking place among her opponents, which, if not checked by interpositions on her part, may break the phalanx with which she has to deal. Hitherto the encroachments of Congress have not proceeded far enough to rouse the full attention of some of the States; who, though not opposing the limited expense of Surveying Engineers, or the productive subscriptions to projected improvements by particular States, will unite with Virginia in combating the exercise of powers which must not only interfere with their local jurisdictions, but expend vast sums of money, from which their share of benefit would not be proportioned to their share of the burden. To this consideration I refer the recent proposition of Mr. Bailey. It may have had, in part, the motives you allude to. But it can be explained by the local calculations under its surface. The members of Congress from New England have never been entirely united on the subject of National Canals, &c.; and, although sundry projects of that sort have lately appeared in that quarter, as elsewhere, it is probable that most of them will be found either impracticable, or threatening changes in the channels of trade, causing them to be abandoned. It is pretty certain that the progress made by New England in her internal improvements reduces her interest in the prosecution of them with the national revenue below her contributions to it, or her portion of a dividend from it. the remark is applicable to the weighty State of New York, where the power assumed by Congress has always been viewed with a degree of jealousy, and where, I believe, a decided opposition would be made against a claim that would touch her soil or introduce a jurisdiction over it, without the express consent of the State. Her Senator, Van Buren, it appears, has already taken up the subject, and no doubt with a purpose of controuling the assumed power. The progress made by other States in like improvements, under their own authority, may be expected to enlist some of them on the same side of the question. Were Congress, indeed, possessed of the undisputed power in the case, it would be a problem whether it would not be paralysed by the difficulty of adapting a system of Roads and Canals to the diversified situations of the States, and of making a satisfactory apportionment of the benefits and burdens among them. As this is a view of the subject, however, not likely to quiet the apprehensions which prevail, and might yield to fuller information with regard to it, I should suppose Virginia would find an eligible compromise in Mr. Bailey's project; notwithstanding the bearing it may have in favor of a prolonged tariff, as the nurse of the manufacturing system. It may be well, at least, to know the weakness of the proposition, in and out of Congress, before any irrevocable decision be had at Richmond.

Writings of Madison, Volume 3: 1816-1828, p.513

Should any strong interposition there be ultimately required, your paper will be a valuable resort. But I must submit to your consideration, whether the expedient with which it closes, of enacting statutes of Congress into Virginia statutes, would not be an anomaly without any operative character, besides the objection to a lumping and anticipating enactment. As the acts in question would not be executed by the ordinary functionaries of Virginia, and she could not convert the federal into State functionaries, the whole proceeding would be as exclusively under the federal authority as if the Legislative interference of Virginia had not taken place; her interference amounting to nothing more than a recommendation to her citizens to acquiesce in the exercise of the power assumed by Congress, for which there is no apparent necessity or obligation.

Writings of Madison, Volume 3: 1816-1828, p.513

Previous to the receipt of your communication, a letter from Mr. Ritchie, marked with all his warm feelings on the occasion, made a pressing call for my opinions and advice. I inclose it with my answer, in which you will see the course which occurred to me as most eligible or least questionable; Bailey's proposition being at the time unknown. I was apprehensive that encouragement to a stronger course, in the present stage of the business and temper of the Assembly, might lead to a stile and tone irritating, rather than subduing prejudices, instead of the true policy as well as dignity of mingling as much of molliter in modo as would be consistent with the fortiter in re. Whilst Congress feel themselves backed by a majority of their constituents, menace or defiance will never deter them from their purposes; particularly when such language proceeds from the section of the Union to which there is a habit of alluding as distinguished by causes of internal weakness.

Writings of Madison, Volume 3: 1816-1828, p.514

You asked an early answer, and I have hurried one, at the risk of crudeness in some of its views of the subject. If there be errors, they can do no harm when under your controul.

1826

To Thomas J. Rogers.

MONTPELLIER, Jany 16, 1826.

Writings of Madison, Volume 3: 1816-1828, p.514

DR SIR,—I have received your favor of the 5th instant, with a copy of the 3d edition of your Biographical Remembrancer. I observe that you have increased its value by lengthening the roll of deceased worthies selected for its pages. You justly regard such a task as saving from oblivion merits and memories to which posterity ought to be enabled to do justice. It is, indeed, from such materials that some of the most instructive lessons, as well as most attractive ornaments, are to be woven into the History of our Revolution.

Remarks on an Extract from Hamilton's report,

published in the Richmond Enquirer.

Writings of Madison, Volume 3: 1816-1828, p.515

In the Richmond Enquirer of the 21st is an extract from the Report of Secretary Hamilton on the constitutionality of the Bank, in which he opposes a resort, in expounding the Constitution, to the rejection of a proposition in the Convention, or to any evidence extrinsic to the text. Did he not advise, if not draw up, the message refusing to the House of Representatives the papers relating to Jay's treaty, in which President Washington combats the right of their call by appealing to his personal knowledge of the intention of the Convention, having been himself a member of it, to the authority of a rejected proposition appearing on the journals of the Convention, and to the opinions entertained in the State Conventions? (Wait's State Papers, Vol. 2, p. 102-5.) Unfortunately, the President had forgotten his sanction to the Bank, which disregarded a rejected proposition on that subject. This case, too, was far more in point than the proposition in that of the Treaty papers. Whatever may be the degree of force in some of the remarks of the Secretary, he pushes them too far. But the contradictions between the Report and the message are palpable.

JANUARY 25, 1826.

To Thomas L. McKenney.

MONTPELLIER, Feby 10, 1826.

Writings of Madison, Volume 3: 1816-1828, p.515

DEAR SIR,—I have received your letter of the 4th instant, and in compliance with its request inclose a few lines to Secretary Barbour. I have declined troubling the President directly on the subject.

Writings of Madison, Volume 3: 1816-1828, p.515

The article in the North American Review concerning the Indians is evidently from one who, with opportunities the most favorable for his purpose, has made the best use of them; and who has given, moreover, to his publication, the advantage of a literary dress, rendering it the more attractive. I wish, as doubtless he does, that your comments on his distrust of the means adopted for new-modelling the Indian character may be sanctioned by their success. If I am less sanguine of such a result than you are, I do not despair, and join in applauding the philanthropy and zeal that labour and hope for it. Next to the case of the black race within our bosom, that of the red on our borders is the problem most baffling to the policy of our country.

Writings of Madison, Volume 3: 1816-1828, p.516

In estimating the susceptibilities of the Indian character, and devising the treatment best suited to it, it might be well to know more than we do of what relates to the red race in the regions south of us. Examples have there been furnished of gradations from the most savage state to the advanced one in Mexico and Peru. The descendants of these last, though retaining their physical features, are understood to constitute an integral part of the organized population. But we have not sufficiently extended our researches to their precise condition, political, legal, social, intellectual, and moral; and with respect to the inferior tribes adjoining a white population, or comprehended within its limits, their actual condition, and the policy influencing it, is still less known to us. More light on the subject could not but be acceptable where a single ray might not be without its use.

To Thomas Jefferson.

MONTPELLIER, Feby 24, 1826.

Writings of Madison, Volume 3: 1816-1828, p.516

DEAR SIR,—Yours of the 17th was duly received. The awkward state of the law professorship is truly distressing, but seems to be without immediate remedy. Considering the hopeless condition of Mr. Gilmer, a temporary appointment, if an acceptable successor were at hand, whilst not indelicate towards the worthy moribund incumbent, might be regarded as equivalent to a permanent one. And if the hesitation of our colleagues at Richmond has no reference to Mr. Terril, but is merely tenderness towards Mr. Gilmer, I see no objection to a communication to Mr. T. that would bring him to Virginia at once, and thus abridge the loss of time. The hard-heartedness of the Legislature towards what ought to be the favorite offspring of the State, is as reproachful as deplorable. Let us hope that the reflections of another year will produce a more parental sensibility.

Writings of Madison, Volume 3: 1816-1828, p.517

I had noticed the disclosures at Richmond with feelings which I am sure I need not express, any more than the alleviation of them by the sequel. I had not been without fears that the causes you enumerate were undermining your estate. But they did not reach the extent of the evil. Some of these causes were, indeed, forced on my attention by my own experience. Since my return to private life, (and the case was worse during my absence in public,) such have been the unkind seasons, and the ravages of insects, that I have made but one tolerable crop of tobacco, and but one of wheat; the proceeds of both of which were greatly curtailed by mishaps in the sale of them. And having no resources but in the earth I cultivate, I have been living very much throughout on borrowed means. As a necessary consequence, my debts have swelled to an amount which, if called for at the present conjuncture, would give to my situation a degree of analogy to yours. Fortunately, I am not threatened with any rigid pressure, and have the chance of better crops and prices, with the prospect of a more leisurely disposal of the property, which must be a final resort.

Writings of Madison, Volume 3: 1816-1828, p.517

You do not overrate the interest I feel in the University, as the temple through which alone lies the road to that of Liberty. But you entirely do my aptitude to be your successor in watching over its prosperity. It would be the pretension of a mere worshipper, "remplacer," the Tutelary Genius of the sanctuary. The best hope is in the continuance of your cares, till they can be replaced by the stability and self-growth of the Institution. Little reliance can be put even on the fellowship of my services. The past year has given me sufficient intimation of the infirmities in wait for me. In calculating the probabilities of survivorship, the inferiority of my constitution forms an equation, at least, with the seniority of yours.

Writings of Madison, Volume 3: 1816-1828, p.517

It would seem that some interposition is meditated at Richmond against the assumed powers of internal improvement, and in the mode recommended by Governor Pleasants, in which my letter to Mr. Ritchie concurred, of Instructions to the Senators in Congress. No better mode can, perhaps, be taken, if an interposition be likely to do good; a point on which the opinion of the Virginia members at Washington ought to have much weight. They can best judge of the tendency of such a measure at the present moment. The public mind is certainly more divided on the subject than it lately was. And it is not improbable that the question, whether the powers exist, will more and more give way to the question, how far they ought to be granted.

Writings of Madison, Volume 3: 1816-1828, p.518

You cannot look back to the long period of our private friendship and political harmony with more affecting recollections than I do. If they are a source of pleasure to you, what ought they not [to] be to me? We cannot be deprived of the happy consciousness of the pure devotion to the public good with which we discharged the trusts committed to us. And I indulge a confidence that sufficient evidence will find its way to another generation, to ensure, after we are gone, whatever of justice may be withheld whilst we are here. The political horizon is already yielding, in your case at least, the surest auguries of it. Wishing and hoping that you may yet live to increase the debt which our Country owes you, and to witness the increasing gratitude which alone can pay it, I offer you the fullest return of affectionate assurances.

To Converse Sherman.

MONTPELLIER, March 10, 1826.

Writings of Madison, Volume 3: 1816-1828, p.518

SIR,—I have received your letter of the 3d instant, inclosing a manuscript copy of Mr. Webster's prospectus of his Dictionary, with a printed specimen of the execution of the work; and I comply with your request of an early answer.

Writings of Madison, Volume 3: 1816-1828, p.518

The plan embraces so many commendable objects beyond the ordinary scope of such works, that its successful execution must be a substantial improvement on them. The specimen, though too scanty to authorize any definitive judgment, certainly [evinces?] learned research, elaborate discrimination, and a taste for careful definition, such as might be expected from the known ability, studies, and useful industry of the author. Confiding as I do in these qualifications, I am prepared to find in the fruit of his long and laborious application to a favorite pursuit all the value ascribed to it. Whilst few things are more difficult, few are more desirable than a standard work, explaining, and as far as possible fixing, the meaning of words and phrases. All languages, written as well as oral, though much less than oral, are liable to changes, from causes, some of them inseparable from the nature of man and the progress of society. A perfect remedy for the evil must, therefore, be unattainable. But as far as it may be attainable, the attempt is laudable; and next to compleat success, is that of recording with admitted fidelity the state of a language at the epoch of the record. In the exposition of laws, and even of Constitutions, how many important errors may be produced by mere innovations in the use of words and phrases, if not controulable by a recurrence to the original and authentic meaning attached to them!

Writings of Madison, Volume 3: 1816-1828, p.519

With a sincere wish that the enterprising task of Mr. Webster may obtain all the public approbation anticipated by his friends, and have every other remunerating result, I tender you the expression of my friendly respects.

To G. W. Featherstonhaugh.

MONTPELLIER, March 11, 1826.

Writings of Madison, Volume 3: 1816-1828, p.519

DR SIR,—I have duly received your note of the 25th instant, and the volume of Agricultural Memoirs forwarded with it. You have been very kind in repeating such a favour, notwithstanding the failure on my part of any compensating returns for preceding ones. The Albemarle Society has not yet published any similar collection of papers. And as for myself, time is fast stealing from me, what I hope you will long retain, the activity necessary for agricultural pursuits. This consideration, added to the distance of the meeting place of the Society, has obliged me to withdraw from the presiding office, with which I had been honored, that it might be filled with a more competent successor.

Writings of Madison, Volume 3: 1816-1828, p.520

On casting an eye over the memoirs, enough of useful matter presents itself to excite regret that they are the last offering to be expected from the same source. I observe in them a proof that on the question so much agitated concerning the rival breeds of cattle, you continue to side with the patrons of the short-horns; and for reasons which appear very cogent. With us there are no opportunities of making the proper comparisons, owing partly to the inferiority of our climate for grazing husbandry; much, also, to a general backwardness in rural improvements. Being myself an advocate for putting the ox as much as possible in place of the horse, and even the mule, for draught service, I feel a great esteem for the breed most fitted for it.

Writings of Madison, Volume 3: 1816-1828, p.520

Repeating my acknowledgments for the obligations you have laid me under, I beg leave to renew, at the same time, assurances of my cordial esteem and my best wishes.

To Andrew Stevenson.

MONTPELLIER, March 25, 1826.

Writings of Madison, Volume 3: 1816-1828, p.520

DEAR SIR,—I have received the copy of your late speech, kindly forwarded by you. I cannot say that I concur in all your views of the subject it discusses. But I take pleasure in doing justice to the ability with which those are maintained in which I do not concur.

Writings of Madison, Volume 3: 1816-1828, p.520

Will you pardon me for pointing out an error of fact into which you have fallen, as others have done, by supposing that the term national, applied to the contemplated government in the early stage of the Convention, particularly in the propositions of Mr. Randolph, was equivalent to unlimited or consolidated? This was not the case. The term was used, not in contradistinction to a limited, but to a federal government. As the latter operated within the extent of its authority through requisitions on the confederated States, and rested on the sanction of State Legislatures, the government to take its place was to operate within the extent of its powers directly and co-ercively on individuals, and to receive the higher sanction of the people of the States; and there being no technical or appropriate denomination applicable to the new and unique system, the term national was used, with confidence that it would not be taken in a wrong sense, especially as a right one could be readily suggested, if not sufficiently implied, by some of the propositions themselves. Certain it is, that not more than two or three members of the body, and they rather theoretically than practically, were in favor of an unlimited government, rounded on a consolidation of the States; and that neither Mr. Randolph, nor any one of his colleagues, was of the number. His propositions were the result of a meeting of the whole deputation, and concurred or acquiesced in unanimously, merely as a general introduction of the business; such as might be expected from the part Virginia had borne in bringing about the Convention, and as might be detailed and defined in the progress of the work. The journal shews that this was done.

Writings of Madison, Volume 3: 1816-1828, p.521

I am not sure that I understand your allusions to the origin of the Convention of 1787. If I do, you have overlooked steps antecedent to the interposition of the old Congress. That Convention grew out of the Convention at Annapolis, in August, 1786, recommended by Virginia in the preceding winter. It had for its objects certain provisions only, relating to commerce and revenue. The Deputies who met, inferring from an interchange of information as to the state of the public mind that it had made a great advance, subsequent even to the act of Virginia, towards maturity for a thorough reform of the federal system, took the decisive step of recommending a Convention, with adequate powers for the purpose. The Legislature of Virginia, being the first that assembled, set the example of compliance, and endeavored to strengthen it by putting General Washington at the head of her Deputation.

Writings of Madison, Volume 3: 1816-1828, p.521

I cannot but highly approve the industry with which you have searched for a key to the sense of the Constitution, where alone the true one can be found, in the proceedings of the Convention, the cotemporary expositions, and, above all, in the ratifying conventions of the States. If the instrument be interpreted by criticisms which lose sight of the intention of the parties to it, in the fascinating pursuit of objects of public advantage or convenience, the purest motives can be no security against innovations materially changing the features of the government.

Writings of Madison, Volume 3: 1816-1828, p.522

Mrs. M. charges me with her warmest affection for Mrs. Stevenson, with which I beg leave to mingle mine. She joins, also, in the assurances of cordial esteem and regard which are tendered to yourself.

To T. L. McKenney.

MARCH 27, 1826.

Writings of Madison, Volume 3: 1816-1828, p.522

DR SIR,—I have received your favor of the 18th, with a supplemental Document relating to the civilization of the Indians; a subject highly interesting under all its aspects. The literary "characters" devised by the Indian "Guess," are the offspring of an ingenious mind. But if I understand them, they are rather Stenographic than "Alphabetic;" a species of writing facilitated, doubtless, by the scantiness of the language.

Writings of Madison, Volume 3: 1816-1828, p.522

I had noticed the Report of the Secretary published in the newspapers much commended, as it deserved, for its moral as intellectual merit.

To Littleton Dennis Teackle.

MONTPELLIER, Mar. 29, 1826.

Writings of Madison, Volume 3: 1816-1828, p.522

DR SIR,—I have received your letter of the 22d instant, in-closing a copy of the law providing for primary schools throughout your State. I congratulate you on the foundation thus laid for a general system of education, and hope that it presages a superstructure worthy of the patriotic forecast which has commenced the work. The best service that can be rendered to a country, next to that of giving it liberty, is in diffusing the mental improvement equally essential to the preservation and the enjoyment of the blessing.

To M. Van Buren.

MONTPELLIER, April 28, 1826.

Writings of Madison, Volume 3: 1816-1828, p.523

DEAR SIR,—I have received your favor of the 22d, and at the same time, under another cover, the paper containing your observations on the depending modification of the Federal courts.

Writings of Madison, Volume 3: 1816-1828, p.523

The judicial department is evidently not a little difficult to be accommodated to the territorial extent to which the legislative and executive may be carried on the Federal principle. To prevent the gradual departure from uniformity in the legal code, which must be the effect of sectional courts with final jurisdiction, an appellate tribunal is indispensable; and the arduousness of the task of distributing a desirable attendance of its members throughout the community, without encroaching too much on their useful leisure, or on the time essential for the discharge of their central duties, and without exacting itinerary fatigues beyond the physical activity to be looked for in a certain portion of them, is sufficiently observable in the past deliberations. Were three, at least, of the present judges assigned to the more remote parts of the Union, their ages alone would be serious, if not insuperable, obstacles to the fulfilment of their compound services; and the remote parts will, if not in the first instance, soon have their share of the aged class. The views you have taken of the subject are very interesting and instructive. But if it be understood that the expanding population will at no distant day render the circuit functions of the appellate judges impracticable, it is an important question whether a change of the system, so far as local feelings are to be encountered, will become more or less embarrassing; whether, if the necessity be more pressing on one hand, habit and other opposing considerations will or will not keep pace with it on the other. These are questions, however, for your, not my, decision.

Writings of Madison, Volume 3: 1816-1828, p.524

With esteem, &c.,

To R. Riker, —— Agnew, Jr., and —— Bolton, Committee of the Corporation of New York.

MONTPELLIER, May 31, 1826.

Writings of Madison, Volume 3: 1816-1828, p.524

GENTLEMEN,—I have duly received your letter of April 28, and with it, a medal of gold, commemorating the completion of the Erie canal, presented in the name of the City of New York by order of the Common Council; the medal being accompanied by a box made of maple brought from the Lake in the first canal boat, the Seneca Chief.

Writings of Madison, Volume 3: 1816-1828, p.524

I beg the Corporation to be assured that I feel, in its full extent, the value of this testimonial of its kind respect; and that no one can offer a more cordial tribute of congratulation than myself on the commemorated event; an event the more splendid when viewed in its contrast with occasions to which such emblems have been often dedicated.

Writings of Madison, Volume 3: 1816-1828, p.524

As a monument of public spirit conducted by enlightened counsels; as an example to other States worthy of emulating enterprise; and as itself a precious contribution to the happy result to our country of facilitated communications and intermingled interests, bringing nearer, and binding faster, the multiplying parts of the expanding whole; the canal which unites the great Western Lakes with the Atlantic ocean is an achievement of which the State of New York may at all times be proud, and which well merited the homage so aptly paid to it by her great commercial metropolis.

Writings of Madison, Volume 3: 1816-1828, p.524

Be pleased to accept, gentlemen, individually, the expression of my high respect and my best wishes.

To N. P. Trist.

MONTPELLIER, July 6th, 1826.

Writings of Madison, Volume 3: 1816-1828, p.525

DEAR SIR,—I have just received yours of the 4th. A few lines from Dr. Dunglison had prepared me for such a communication; and I never doubted that the last scene of our illustrious friend\* would be worthy of the life which it closed. Long as this has been spared to his Country and to those who loved him, a few years more were to have been desired for the sake of both. But we are more than consoled for the loss by the gain to him; and by the assurance that he lives and will live in the memory and gratitude of the wise and good as a luminary of science, as a votary of liberty, as a model of patriotism, and as a benefactor of human kind. In these characters I have known him, and not less in the virtues and charms of social life, for a period of fifty years, during which there has not been an interruption or diminution of mutual confidence and cordial friendship for a single moment, in a single instance. What I feel, therefore, now, need not, I should say, cannot, be expressed. If there be any possible way in which I can usefully give evidence of it, do not fail to afford me an opportunity. I indulge a hope that the unforeseen event will not be permitted to impair any of the beneficial measures which were in progress or in project. It cannot be unknown that the anxieties of the deceased were for others, not for himself.

To George Mason.

JULY 14, 1826.

Writings of Madison, Volume 3: 1816-1828, p.525

I have received, sir, your letter of the 6th instant, requesting such information as I may be able to give as to the origin of the document,\* a copy of which was inclosed in it.

Writings of Madison, Volume 3: 1816-1828, p.525

The motive and manner of the request would entitle it to respect, if less easily complied with than by the following statement:

Writings of Madison, Volume 3: 1816-1828, p.526

During the session of the General Assembly, 1784-5, a bill was introduced into the House of Delegates providing for the legal support of the teachers of the Christian religion, and being patronized by the most popular talents in the House, seemed likely to obtain a majority of votes. In order to arrest its progress, it was insisted, with success, that the bill should be postponed till the ensuing session, and in the mean time printed for public consideration, that the sense of the people might be the better called forth. Your highly-distinguished ancestor, Col. Geo. Mason, Col. Geo. Nicholas also possessing much public weight, and some others, thought it advisable that a remonstrance against the bill should be prepared for general circulation and signature, and imposed on me the task of drawing up such a paper. This draught having received their sanction, a large number of printed copies were distributed, and so extensively signed by the people of every religious denomination, that at the ensuing session the projected measure was entirely frustrated; and under the influence of the public sentiment thus manifested, the celebrated bill "establishing religious freedom" enacted into [?] a permanent barrier against future attempts on the rights of conscience, as declared in the great charter pre-fixed to the Constitution of the State.

To Governor Tyler.

MONTPELLIER, August 4, 1826.

Writings of Madison, Volume 3: 1816-1828, p.526

DEAR SIR,—I have received your favor of the 31 ult., inclosing a copy of your Oration on the death of Mr. Jefferson, in which you so eloquently express what is felt by all, as a just tribute to his exalted name, and a grateful commemoration of his invaluable services to his Country and to his fellow-men.

Writings of Madison, Volume 3: 1816-1828, p.526

Be pleased to accept, sir, my thanks for your polite attention, with assurances of my high and cordial esteem.

To R. Peters.

SEPTEMBER 8th, 1826.

Writings of Madison, Volume 3: 1816-1828, p.527

I have received, my dear friend, with great pleasure, your letter of the 1st instant, so full of kind feelings, and with it a copy of Agricultural Memoirs, for which I return my thanks. I have not lost my relish for the subject of them, but do not retain the activity that could spare from other claims on my time the portion required for that. Though not counting quite as many years as you do, I am not confident that I have as many before me as are promised by the excellent stuff of which your constitution appears to have been made. But, whatever be the span of life remaining to either, we have both had the happiness of passing through a period glorious for our country, and, more than any preceding one, likely to improve the social condition of man. The lights and lessons afforded by our Revolution, on all the subjects most interesting to that condition, are already diffusing themselves in every direction, and form a source of peculiar gratification to those who had any part in the great event. Fortunately, we are not excluded from the number. If we cannot associate our names with the two luminaries who have just sunk below the horizon, leaving inextinguishable traces behind,\* we have at least a place in the galaxy of faithful citizens who did their best for their country when it most needed their services.

Writings of Madison, Volume 3: 1816-1828, p.527

Wishing you every blessing that can smooth and lengthen the path you have yet to tread, I pray you to be assured of the continued and affectionate esteem of one who laboured with you in the worst of times, and has lived to rejoice with you in the best that have fallen to the lot of any nation.

To M. Van Buren.

MONTPELLIER, September 20, 1826.

Writings of Madison, Volume 3: 1816-1828, p.528

DEAR SIR,—Your letter of August 30 has been longer unanswered than I could have wished; but the delay has been unavoidable. And I am sensible now that the subject invited more of development than successive occurrences calling off my attention have permitted. The brief view taken of it will at least be a proof of my disposition to comply with your request, which I regard as a private one, as you will be pleased to regard the answer to it.

Writings of Madison, Volume 3: 1816-1828, p.528

I should certainly feel both gratification and obligation in giving any aid in my power towards making the Constitution more appropriate to its objects and more satisfactory to the nation. But I feel, also, the arduousness of such a task, arising as well from the difficulty of partitioning and defining legislative powers as from the existing diversity of opinions concerning the proper arrangement of the power in question over internal improvements.

Writings of Madison, Volume 3: 1816-1828, p.528

Give the power to the General Government, as possessing the means most adequate, and the objections are: 1. The danger of abuses in the application of the means to objects so distant from the eye of a government, itself so distant from the eye of the people. 2. The danger, from an increase of the patronage and peculiar transactions of the General Government, that the equilibrium between that and the State governments may not be preserved.

Writings of Madison, Volume 3: 1816-1828, p.528

Leave the power exclusively with the States, and the objections are: 1. That, being deprived by the Constitution, and even by their local relations, (as was generally experienced before the present Constitution was established,) of the most convenient source of revenue, the impost on commerce, improvements might not be made even in cases wholly within their own limits. 2. That, in cases where roads and canals ought to pass through contiguous States, the necessary co-operation might fail from a difficulty in adjusting conditions and details, from a want of interest in one of them, or, possibly, from some jealousy or rivalship in one towards the other. 3. That, where roads and canals ought to pass through a number of States, particular views of a single State might prevent improvements deeply interesting to the whole nation.

Writings of Madison, Volume 3: 1816-1828, p.529

This embarrassing alternative has suggested the expedient, which you seem to have contemplated, of dividing the power between the General and State Governments, by allotting the appropriating branch to the former, and reserving the jurisdiction to the latter. The expedient has, doubtless, a captivating aspect. But to say nothing of the difficulty of defining such a division and maintaining it in practice, will the nation be at the expense of constructing roads and canals without such a jurisdiction over them as will ensure their constant subservience to national purposes? Will not the utility and popularity of these improvements lead to a constructive assumption of the jurisdiction by Congress, with the same sanction of their constituents as we see given to the exercise of the appropriating power, already stretching itself beyond the appropriating limit?

Writings of Madison, Volume 3: 1816-1828, p.529

It seems, indeed, to be understood that the policy and advantage of roads and canals have taken such extensive and permanent hold of the public will, that the constructive authority of Congress to make them will not be relinquished, either by that or the constituent body. It becomes a serious question, therefore, whether the better course be not to obviate the unconstitutional precedent by an amendatory article expressly granting the power. Should it be found, as is very possible, that no effective system can be agreed on by Congress, the amendment will be a recorded precedent against constructive enlargements of power; and, in the contrary event, the exercise of the power will no longer be a precedent in favour of them.

Writings of Madison, Volume 3: 1816-1828, p.529

In all these cases it need not be remarked, I am sure, that it is necessary to keep in mind the distinction between a usurpation of power by Congress against the will, and an assumption of power with the approbation, of their constituents. When the former occurs, as in the enactment of the alien and sedition laws, the appeal to their constituents sets everything to rights. In the latter case, the appeal can only be made to argument and conciliation, with an acquiescence, when not an extreme case, in an unsuccessful result.

Writings of Madison, Volume 3: 1816-1828, p.530

If the sole object be to obtain the aid of the Federal Treasury for internal improvements by roads and canals, without interfering with the jurisdiction of the States, an amendment need only say, "Congress may make appropriations of moneys for roads and canals, to be applied to such purposes by the Legislatures of the States within their respective limits, the jurisdiction of the States remaining unimpaired."

Writings of Madison, Volume 3: 1816-1828, p.530

If it be thought best to make a constitutional grant of the entire power, either as proper in itself or made so by the moral certainty that it will be constructively assumed with the sanction of the national will, and operate as an injurious precedent, the amendment cannot say less than that "Congress may make roads and canals, with such jurisdiction as the cases may require."

Writings of Madison, Volume 3: 1816-1828, p.530

But while the terms "common defence and general welfare" remain in the Constitution, unguarded against the construction which has been contended for, a fund of power, inexhaustible and wholly subversive of the equilibrium between the General and the State Governments, is within the reach of the former. Why, then, not precede all other amendments by one expunging the phrase, which is not required for any harmless meaning, or making it harmless by annexing to it the terms, "in the cases required by this Constitution?"

Writings of Madison, Volume 3: 1816-1828, p.530

With this sketch of ideas, which I am aware may not coincide altogether with yours, I tender renewed assurances of my esteem and friendly wishes.

To M. Van Buren.

MONTPELLIER, October 15, 1826.

Writings of Madison, Volume 3: 1816-1828, p.530

DEAR SIR,—Since mine of September 20, answering yours of August 30, I have received that of September 28, with a copy of the Report of the Committee on Roads and Canals. I have not been able to read more of it than the part which you notice. The committee have transcended all preceding advocates of the doctrine they espouse in appealing to the old Articles of Confederation for its support. Whatever might have been the practice under those articles, it would be difficult to show that it was always kept within the prescribed limits. The revolutionary Congress was the offspring of the great crisis, and the exercise of its powers prior to the final ratification of the Articles governed by the law of necessity or palpable expediency. And after that event there seems to have been often more regard to the former latitude of proceeding than to the text of the instrument; assumptions of power, apparently useful, being considered little dangerous in a body so feeble and so completely dependent on the authority of the States. There is no evidence, however, that the old Congress ever assumed such a construction of the terms "common defence and general welfare" as is claimed for the new. Nor is it probable that General Washington, in the sentiments quoted from or for him, had more in view than the great importance of measures beyond the reach of individual States, and, if to be exerted at all, calling for the general authority of the Union. Such modes of deducing power may be fairly answered by the question, what is the power that may not be grasped with the aid of them?

Writings of Madison, Volume 3: 1816-1828, p.531

Be pleased, sir, to accept the renewed expression of my esteem and friendly wishes.

To Samuel H. Smith.

MONTPELLIER, NOVr 4, 1826.

Writings of Madison, Volume 3: 1816-1828, p.531

DEAR SIR,—I have received your letter of October 25th, requesting from me any information which could assist you in preparing a Memoir of Mr. Jefferson for the Columbian Institute. Few things would give me more pleasure than to contribute to such a task, and the pleasure would certainly be increased by that of proving my respect for your wishes. I am afraid, however, I can do little more than refer you to other sources, most of them probably already known to you.

Writings of Madison, Volume 3: 1816-1828, p.532

It may be proper to remark that Mr. Thomas Jefferson Randolph, legatee of the manuscripts of Mr. Jefferson, is about to publish forthwith a Memoir left by his grandfather, in his own handwriting, and if not in every part intended by him for the press, is thought to be throughout in a state well fitted for it. The early parts are, I believe, purely, and, in some instances, minutely biographical; and the sequel, embracing a variety of matter, some of it peculiarly valuable, is continued to his acceptance of the Secretaryship of State under the present Constitution of the United States. Should this work appear in time, it would doubtless furnish your pencil with some of the best materials for your portrait.

Writings of Madison, Volume 3: 1816-1828, p.532

The period between his leaving Congress in 1776, and his mission to France, was filled chiefly by his labours on the Revised Code, by the preparation of his "Notes on Virginia," an obiter performance, his Governorship of that State, and his services as a member of Congress, and of the Committee of the States at Annapolis.

Writings of Madison, Volume 3: 1816-1828, p.532

The Revised Code, in which he had a masterly share, exacted, perhaps, the most severe of his public labours. It consisted of 126 bills, comprising and recasting the whole Statutory Code, British and Colonial, then admitted to be in force, or proper to be adopted, and some of the most important articles of the unwritten law, with original laws on particular subjects; the whole adapted to the Independent and Republican form of Government. The work, though not enacted in the mass, as was contemplated, has been a mine of Legislative wealth; and a model, also, of statutory composition, containing not a single superfluous word, and preferring always words and phrases of a meaning fixed as much as possible by oracular treatises or solemn adjudications. His "Notes on Virginia" speak for themselves.

Writings of Madison, Volume 3: 1816-1828, p.532

For his administration of the Government of Virginia, the latter chapters of the 4th Volume of Burk's history, continued by Girardin, may be consulted. They were written with the advantage of Mr. Jefferson's papers opened fully by himself to the author. To this may now be added the letter just published, from Mr. Jefferson to Major H. Lee, which deserves particular notice, as an exposure and correction of historical errors and rumored falsehoods, assailing his reputation.

Writings of Madison, Volume 3: 1816-1828, p.533

His services at Annapolis will appear in the Journal of Congress of that date. The answer of Congress to the Resignation of the Commander-in-Chief, an important document, attracts attention by the shining traces of his pen.

Writings of Madison, Volume 3: 1816-1828, p.533

His diplomatic agencies in Europe are to be found in the unpublished archives at Washington, or in his private correspondences, as yet under the seal of confidence. The memoir in the hands of his grandson will probably throw acceptable lights on this part of his history.

Writings of Madison, Volume 3: 1816-1828, p.533

The University of Virginia, as a temple dedicated to science and liberty, was, after his retirement from the political sphere, the object nearest his heart, and so continued to the close of his life. His devotion to it was intense, and his exertions unceasing. It bears the stamp of his genius, and will be a noble monument of his fame. His general view was to make it a nursery of Republican patriots, as well as genuine scholars. You will be able to form some idea of the progress and scope of the Institution from the two inclosed Reports from the Rector for the Legislature of the State, (the intermediate Report is not at hand,) which, as they belong to official sets, you will be so good as to send back at your entire leisure. I may refer, also, to a very graphic and comprehensive Exposè of the present state of the University, lately published in the National Intelligencer, which will have fallen under your eye.

Writings of Madison, Volume 3: 1816-1828, p.533-p.534

Your request includes "his general habits of study." With the exception of an intercourse in a session of the Virginia Legislature in 1776, rendered slight by the disparities between us, I did not become acquainted with Mr. Jefferson till 1779, when, being a member of the Executive Council, and he the Governor, an intimacy took place. From that date we were for the most part separated by different walks in public and private life till the present Government of the U. States brought us together; first, when he was Secretary of State and I a member of the House of Representatives, and next, after an interval of some years, when we entered in another relation the service of the U. States in 1801. Of his earlier habits of study, therefore, I cannot particularly speak. It is understood that whilst at College [William and Mary] he distinguished himself in all the branches of knowledge taught there, and it is known that he never after ceased to cultivate them. The French language he had learned when very young, and became very familiar with it, as he did with the literary treasures which it contains. He read, and at one time spoke, the Italian, also, with a competent knowledge of the Spanish; adding to both the Anglo-Saxon, as a root of the English and an element in legal philology. The law itself he studied to the bottom, and in its greatest breadth, of which proofs were given at the Bar, which he attended for a number of years, and occasionally throughout his career. For all the fine arts he had a more than common taste; and in that of architecture, which he studied both in its useful and its ornamental characters, he made himself an adept; and [as?] the variety of orders and styles executed according to his plan, rounded on the Grecian and Roman models, and under his superintendence, in the buildings of the University, fully exemplify. Over and above these acquirements, his miscellaneous reading was truly remarkable; for which he derived leisure from the methodical and indefatigable application of the time required for indispensable objects, and particularly from his rule of never letting the sun rise before him. His relish for books never forsook him, not even in his infirm years; and in his devoted attention to the rearing of the University, which led him often to express his regret that he was so much deprived of that luxury by the epistolary tasks which fell upon him, and which consumed his health as well as his time. He was certainly one of the most learned men of the age. It may be said of him, as has been said of others, that he was a walking library; and, what can be said but of few of such prodigies, that the genius of philosophy ever walked hand in hand with him.

Writings of Madison, Volume 3: 1816-1828, p.535

I wish, sir, I could have made you a communication less imperfect. All that I can say beyond it is, that if, in the progress of your pen, any particular point should occur on which it may be supposed I could add any thing to your information from other sources, I shall cheerfully obey a call as far as may be in my power.

Writings of Madison, Volume 3: 1816-1828, p.535

The subject of this letter reminds me of the "History of the Administration of Mr. Jefferson," my copy of which, with other things, disappeared from my collection during my absence from the care of them. It would be agreeable to me now to possess a copy; and if you can conveniently favor me with one, I shall be greatly obliged.

To Thomas J. Wharton.

MONTPELLIER, Nov. 14, 1826.

Writings of Madison, Volume 3: 1816-1828, p.535

I have received, sir, under cover of the 6th, your discourse, obligingly sent me, on the "Landing of Wm Penn." The occasion, interesting in itself, is made the more so by the judicious and impressive views with which you have surrounded it. Such a tribute was well due to that renowned Lawgiver, and to the State which has made so good a use of his bold and benevolent innovations. The principles and institutions of Penn have long been the admiration of philosophical politicians. They are now recommended to the world by a fair test of their value in practice; and the world is becoming more prepared to regard the lessons they offer. Your discourse, as far as its circulation may be extended, must contribute to attract the attention which these merit. I thank you, sir, for the pleasure its perusal has afforded me, with a tender of my particular respects.

To Major General Gaines.

MONTPELLIER, Novr 15, 1826.

Writings of Madison, Volume 3: 1816-1828, p.536

DR SIR,—I have received your letter of October 16, inclosing a copy of one to the Adjutant General of the United States. I have read them both with every wish for such recollections as would enable me to speak particularly to the points stated; but without being surprised at the inadequacy of them. At my ad-vanced age, after a lapse of so many years, with so many cotemporary attentions to official duties, and with private occupations since, calculated to efface remote incidents, without any necessary recurrence to them, it may well be supposed that those to which you refer have left but imperfect traces on my memory.

Writings of Madison, Volume 3: 1816-1828, p.536

What I can safely say on the subject, and which I feel a pleasure in saying, is, that I sufficiently remember your call on me in the winter of 1816; that I availed myself of the occasion to express my deep sense of the gallant and brilliant services you had rendered on the military theatre; the gratitude which your country owed for them; and that which was especially due from myself, who, in the station I held, could not but feel every obligation to those who had made the war glorious in its deeds, and in its results so happy for the nation. Of what may have passed at the interview in reference to the court-martial, my recollection is too faint to allow me to say more than that I was under the impression, which I probably expressed, that whatever regrets might be involved in the case, its issue would tend to fix you the more firmly on the high ground to which your merits had elevated you. If allusion was made to Col. Tremble, as I think there was, I infer, from the impression I had of his character; that my observation must have been, that no error into which he might have fallen ought to cast a vail over the meritorious traits it had exhibited.

Writings of Madison, Volume 3: 1816-1828, p.536

As to "the application of the accuser for a Court of Enquiry, the subsequent charges, the appointment of the General Court-Martial, and the trial," I know not that I could add any thing to the information otherwise attainable. I may say, however, that no inference ought to be drawn from the course which the proceeding took that any issue was presumed that would be a stain on your reputation. And I should be unjust not to say, that I recollect nothing that could discredit the views of any who were associated with me in the administrative trust.

Writings of Madison, Volume 3: 1816-1828, p.537

Your purpose of authenticating and presenting truths that may shield your military talents and conspicuous services against the risk of traditional injustice, if any such there be, is very commendable. It may have the good effect, at the same time, of contributing materials for the annals of the war, which, with like contributions from others whose pens may record their knowledge of illustrious scenes in which they bore a part, will be of peculiar importance to that portion of the history of our country.

Writings of Madison, Volume 3: 1816-1828, p.537

With respect to the allowable use to be made of any thing in this answer to your letter, I might have less of hesitation, if I had more reliance on the memory which has furnished it. With a knowledge of my bias against being brought before the public in any case not materially requiring it, your friendly discretion must be the guide.

Writings of Madison, Volume 3: 1816-1828, p.537

The value I set on the friendly sentiments you have expressed will not permit me to conclude without a tender of my particular acknowledgments, with assurances of my great esteem and good wishes.

To Robert Walsh.

MONTPELLIER, NOVr 23, 1826.

Writings of Madison, Volume 3: 1816-1828, p.537

DEAR SIR,—I have received your letter of the 16th, referring to the prospectus of "The American Quarterly Review." I learn, with pleasure, that our Literary resources have suggested a periodical work, which, under the conducting hand obtained for it, must extend whilst it employs them. Few things would coincide more with my inclination than to be a productive correspondent. But at my now advanced stage of life, and with claims on my time which happen not to decrease as the remnant of that does, I dare not promise more than the best wishes that the success of the undertaking may equal its merits and its prospects. I am not even at present aware that my files contain any thing of a character and form adapted at once to the Epoch, and to the plan and objects of the Review. On a contrary supposition, the motives not to withhold it would be strengthened by that of evincing the personal confidence and great esteem of which I pray you to be always assured.

To General Lafayette.

MONTPELLIER, Novr, 1826.

Writings of Madison, Volume 3: 1816-1828, p.538-p.539

DEAR FRIEND,—I received some days ago your letter of August 28. If I did not invite an earlier one by my example it was because I often heard of you, and was unwilling to add a feather to the oppressive weight of correspondence which I well know to be your unavoidable lot. You will never doubt that your happiness is very dear to me; and I feel the sentiment growing stronger as the loss of others dear to us both shortens the list to which we belong. That which we have lately sustained at Monticello is irreparable, but was attended with every circumstance that could soothe us under it. I wish I was not obliged to add, "with one affecting exception." His family, so long in the lap of all the best enjoyments of life, is threatened with the contrast of pinching poverty. The expenses of his numerous household, his extensive hospitalities, and a series of short crops and low markets, to which are to be added old debts contracted in public service abroad, and new ones for which private friendship had made him responsible; all these causes together had produced a situation of which he seems not to have been fully aware, till it was brought home to his reflections by the calls of creditors, (themselves pressed by the difficulties of the times,) and by the impossibility of satisfying them without a complete sacrifice of his property, perhaps not even by that, at such a crisis. In this posture of things, he acquiesced in an appeal to the Legislature for the privilege of a lottery. This was granted, and arrangements made which promised relief, with a residuary competence for his beloved daughter and her children. The general sensation produced by the resort to a lottery, and by the occasion for it, unfortunately led some of his most enthusiastic admirers to check the progress of the measure by attempting to substitute patriotic subscriptions, which they were so sanguine as to rely on, till the sad event on the 4th of July benumbed, as it ought not to have done, the generous experiment; with a like effect, which ought still less to have happened, on the lottery itself. And it is now found that the subscriptions do not exceed ten or twelve thousand dollars, and the tickets but a very inconsiderable number, whilst the debts are not much short of one hundred thousand dollars; an amount which a forced sale, under existing circumstances, of the whole estate, (negroes included,) would not perhaps reach. Faint hopes exist that renewed efforts may yet effectuate such a sale of tickets as may save something for the family; and fainter ones, that the Legislature of the State may interpose a saving hand. God grant it! But we are all aware of the difficulties to be encountered there. I well know, my dear sir, the pain which this melancholy picture will give you, by what I feel at the necessity of presenting it. I have duly adverted to the generous hint as to the East Florida location. But for any immediate purpose, it is, in any form whatever, a resource perfectly dormant, and must continue so too long for the purpose in question. Your allusion to it is, nevertheless, a proof of the goodness which dwells in your heart, and whenever known, will be so regarded. The urgency of particular demands has induced the executor, Thomas Jefferson Randolph, who is the legatee of the manuscripts, to undertake an immediate publication of a memoir, partly biographical, partly political and miscellaneous, left in the handwriting of his grandfather, the proceeds of which he hopes will be of critical use; and if prompt and extensive opportunities be given for subscriptions, there may be no disappointment. The work will recommend itself not only by personal details interwoven into it, but by Debates in Congress on the question of Independence, and other very important subjects coeval with its Declaration, as the debates were taken down and preserved by the illustrious member. The memoir will contain, also, very interesting views of the origin of the French Revolution, and its progress and phenomena, during his diplomatic residence at Paris, with reflections on its tendencies and consequences. A trial will probably be made to secure the copyright of the publication both in England and in France. In the latter case, your friendly counsel will of course be resorted to; and I mention it that you may, in the mean time, be turning the subject in your thoughts. The manuscripts of which the memoir makes a part are great in extent, and doubtless rich in matter; and discreet extracts may, perhaps, prove a further pecuniary resource, from time to time; but how soon, and in what degree, I have not the means of judging. Mrs. Randolph, with her two youngest children, left Montpel-lier some days ago on her way to pass the winter with Mrs. Coolidge. Such a change of scene had become essential to her health, as well as to her feelings. She has made up her mind for the worst results; a merit which quickens the sympathy otherwise so intense. She was accompanied by her son, Thomas J. Randolph, who will endeavour to make arrangements with the Northern printers for the volume to be published. It will be an octavo of about three hundred pages.

Writings of Madison, Volume 3: 1816-1828, p.540

Your sketch of European prospects is valuable for its facts, and especially for its authenticity. The contents of the foreign Gazettes find their way to us through our own, but do not convey every thing as ours do to you. You will have seen the mortifying scenes produced in Congress by the Panama mission. The fever of party spirit was an endemic which drew into it every ill humour, till the whole body was infected. The malady, however, was far less malignant out of doors than within; and I hope our South American friends will make allowances till a development of the real feelings here shall be seen. The Congress at Panama, after a partial execution of its business, has adjourned to Mexico. One of our envoys, Mr. Anderson, died on his way there, and Mr. Sergeant, the other, is still here. Who is to be his associate in the place of Mr. Anderson is not known; nor is it known when he or they are to set out. Bolivar appears to have given a Constitution to the new State in Peru, of a countenance not altogether belonging to the American family. I have not yet seen its details; whether it shews him an apostate, or the people there, in his view, too benighted as yet for self-government, may possibly be a question.

Writings of Madison, Volume 3: 1816-1828, p.541

Another mortifying topic is the Greek equipment at N. York. It appears the ample fund for two frigates at an early day has procured but one, which has but recently sailed. The indignation of the public is highly excited; and a regular investigation of the lamentable abuse is going on. In the mean time, Greece is bleeding in consequence of it, as is every heart that sympathizes with her noble cause. You will see by our Gazettes, also, that the community is drawn into a premature ferment by the partisans of the Presidential candidates, the actual incumbent, and General Jackson, in whose favor all the opponents of the other are at present concentrating all their efforts. The race, according to appearances, is likely to be a close one. But there is time enough for the political vicissitudes which often occur.

Writings of Madison, Volume 3: 1816-1828, p.541

You possess, notwithstanding your distance, better information concerning Miss Wright, and her experiment, than we do here. We learn only that she has chosen for it a remote spot in the western part of Tennessee, and has commenced her enterprise; but with what prospects we know not. Her plan contemplated a provision for the expatriation of her Elèves, but without specifying it; from which I infer the difficulty felt in devising a satisfactory one. Could this part of the plan be ensured, the other essential part would come about of itself. Manumissions now more than keep pace with the outlets provided, and the increase of them is checked only by their remaining in the Country. This obstacle removed, and all others would yield to the emancipating disposition. To say nothing of partial modes, what would be more simple, with the requisite grant of power to Congress, than to purchase all female infants at their birth, leaving them in the service of the holder to a reasonable age, on condition of their receiving an elementary education? The annual number of female births may be stated at twenty thousand, and the cost at less than one hundred dollars each, at the most; a sum which would not be felt by the nation, and be even within the compass of State resources. But no such effort would be listened to, whilst the impression remains, and it seems to be indelible, that the two races cannot co-exist, both being free and equal. The great sine qua non, therefore, is some external asylum for the coloured race. In the mean time, the taunts to which this misfortune exposes us in Europe are the more to be deplored, because it impairs the influence of our political example; though they come with an ill grace from the quarter most lavish of them, the quarter which obtruded the evil, and which has but lately become a penitent, under suspicious appearances.

Writings of Madison, Volume 3: 1816-1828, p.542

I inclose a copy of the "Report" you ask for. I should have sent you one long ago, but a copy was not to be had. It has just been re-published, with some documents annexed relating to the same subject, and I lost no time in procuring one for you. As I have been charged with inconsistency, in not putting a veto on the last act of Congress establishing a Bank, a power to do which was denied in the Report, a word of explanation may not be improper. My construction of the Constitution on this point is not changed; but I regarded the reiterated sanctions given to the power by the exercise of it through a long period of time, in every variety of form, and in some form or other under every administration preceding mine, with the general concurrence of the State authorities, and acquiescence of the people at large, and without a glimpse of change in the public opinion, but evidently with a growing confirmation of it; all this I regarded as a construction put on the Constitution by the nation, which, having made it, had the supreme right to declare its meaning; and regarding, moreover, the establishment of a Bank, under the existing circumstances, as the only expedient for substituting a sound currency in place of the vitiated one then working so much mischief, I did not feel myself, as a public man, at liberty to sacrifice all these public considerations to my private opinion.

Writings of Madison, Volume 3: 1816-1828, p.542

Will you accept another document, on another subject, which happens to have been just reprinted, at the instance, it seems, of a grandson of George Mason, who sent me the copy, with a request of information as to the origin and occasion of the paper. I repeat the explanation given to him. The Anglican hierarchy existing in Virginia prior to the Revolution was abolished by an early act of the Independent Legislature. In the year 1785, a bill was introduced under the auspices of Mr. Henry, imposing a general tax for the support of "Teachers of the Christian Religion." It made a progress, threatening a majority in its favor. As an expedient to defeat it, we proposed that it should be postponed to another session, and printed in the mean time for public consideration. Such an appeal in a case so important and so unforeseen could not be resisted. With a view to arouse the people, it was thought proper that a memorial should be drawn up, the task being assigned to me, to be printed and circulated through the State for a general signature. The experiment succeeded. The memorial was so extensively signed by the various religious sects, including a considerable portion of the old hierarchy, that the projected innovation was crushed, and under the influence of the popular sentiment thus called forth, the well-known Bill prepared by Mr. Jefferson, for "Establishing Religious freedom," passed into a law, as it now stands in our code of statutes.

Writings of Madison, Volume 3: 1816-1828, p.543

Return the respects and good wishes of us all to your amiable family circle; and be assured that my heart is, as it always has been, devoted to your happiness. Mrs. M. has the same feelings. My mother, now touching her ninety-sixth year, received your kind remembrance with much sensibility. She forgets many things, she says, but shall never forget General La Fayette, the great and good friend of her country.

To Jonathan Elliott.

MONTPELLIER, NOVr 25, 1826.

Writings of Madison, Volume 3: 1816-1828, p.544

DEAR SIR,—I have received yours of the 21st. The proceedings of the State Conventions, on the Constitution of the United States, in my possession, are—lst. Of Massachusetts, in a thick pamphlet. 2. New York; also a thick pamphlet. 3. Pennsylvania; a thin volume in boards, containing the speeches of Mr. Wilson and Mr. McKean, both in favor of the Constitution. The speeches of other members were not published at the same time and in the same form. It is possible they may have been published at a late day in some other form. 4. Virginia. There were 3 thin volumes in boards, of which the first has disappeared from my set. I believe there has been a subsequent edition in a single volume. 5. N. Carolina; a vol. in boards, containing the proceedings of the first Convention, which disagreed to the Constitution. Those of the second, which adopted it, if printed, have never come into my hands. The proceedings of the Conventions of the other States may have been printed either in books, pamphlets, or newspapers; but I do not possess them, nor recollect to have understood this to have been the case. It might be worth while, as opportunities offer, to search into the cotemporary publications of every description. Some of them may furnish lights on the subject, in letters or essays from persons concerned in public affairs.

Writings of Madison, Volume 3: 1816-1828, p.544

I send you the New York pamphlet, the only one not mentioned as in the Library at Washington; and I will send any or all of the others if you desire it and give me the intimation.

To Doctor Thomas Cooper.

MONTPELLIER, December 26, 1826.

Writings of Madison, Volume 3: 1816-1828, p.544

DEAR SIR,—The two copies of your lectures on political economy, forwarded with your letter of November 15, were duly received. That for Mr. Eppes was delivered to Mr. Trist, of the Monticello family, who said he would send it on forthwith by a safe conveyance. For the other, addressed to myself, I offer my thanks. Before I had time to look into the volume, I had an opportunity of handing it over to Professor Tucker, of our University, now charged with that branch of instruction, who wished to see it, as I did that he should, not doubting that it well merited his perusal.

Writings of Madison, Volume 3: 1816-1828, p.545

Have you ever adverted to the alleged minuteness of the Roman farms, and the impossibility of accounting for their support of a family? All the ancient authors, agricultural and historical, speak of the ordinary size as not exceeding duo jugera, equal, according to the ascertained measure, to about one and a quarter of our acres; and none of the modern writers I have met with question the statement. Neither Hume nor Wallace, though led to a critical investigation of it in comparing the populousness of ancient and modern nations, notice the difficulty. Dickson, too, in his elaborate researches into ancient husbandry, if I do not misrecollect, starts no doubt on the subject. Now, is it possible that a family, say of six persons, could procure from such a speck of earth, by any known mode of culture, a supply of food such as then used, with the materials for clothing, or a surplus from the soil that would purchase it, to say nothing of fuel, and the wood necessary for the other wants of the farm? We hear much, also, of the plough and the oxen on the Roman farm. How were these fed? A yoke would devour more than the whole product. Cincinnatus himself is reported to have owned but eight jugera, if I mistake not, one-half of which he lost by a securityship. Even that aristocratic allowance is not free from the remarks here made. The subject is curious, and involves three questions: 1. Whether the size of the farm, though never called in question, has been rightly stated? 2. If rightly stated, and no extraneous resources existed, how were the families subsisted? 3. If there were extraneous resources, what were they? We read of no pastures or forests in common; and their warlike expeditions, though in the neighbourhood, as it were, and carried on by the farmers themselves, could yield no adequate supplies to solve the problem.

Writings of Madison, Volume 3: 1816-1828, p.546

The mail has furnished me with a copy of your Lectures on Civil Government and on the Constitution of the United States. I find in them much in which to concur; parts on which I might say non liquet; and others from which I should dissent; but in none of which interesting views are not presented. What alone I mean to notice, is a passage in which you have been misled by the authorities before you, and by a misunderstanding of the term "national," used in the early proceedings of the convention of 1787. Both Mr. Yates and Mr. Martin brought to the convention predispositions against its object: the one from Maryland representing the party of Mr. Chase, opposed to Federal restraints on the State legislation; the other from New York, the party unwilling to lose the power over trade, through which the State levied a tribute on the consumption of its neigh-hours. Both of them left the convention long before it completed its work; and appear to have reported in angry terms what they had observed with jaundiced eyes. Mr. Martin is said to have recanted at a later day, and Mr. Yates to have changed his politics, and joined the party adverse to that which sent him to the convention.

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With respect to the term "national," as contradistinguished from the term "federal," it was not meant to express the extent of power, but the mode of its operation, which was to be, not like the power of the old confederation, operating on States, but like that of ordinary governments, operating on individuals; and the substitution of "United States" for "national," noted in the journal, was not designed to change the meaning of the latter, but to guard against a mistake or misrepresentation of what was intended. The term "national" was used in the original propositions offered on the part of the Virginia deputies, not one of whom attached to it any other meaning than that here explained. Mr. Randolph himself, the organ of the deputation on the occasion, was a strenuous advocate for the federal quality of limited and specified powers; and finally refused to sign the Constitution because its powers were not sufficiently limited and defined.

Writings of Madison, Volume 3: 1816-1828, p.546

We feel great pleasure in inferring from your communication that your health, so severely assailed at Richmond, has been effectually restored. With the best wishes for its continuance, and the addition of all other blessings, I renew to you the expression of my great esteem and friendly regards.

1827

To Joseph C. Cabell.

MONTPELLIER, Jany 13th, 1827.

Writings of Madison, Volume 3: 1816-1828, p.547

MY DEAR SIR,—A delay has occurred in forwarding the Report from the last meeting of the Visitors of the University, which occasions a regret in which you will largely share. But it has been unavoidable. A primary object, as you know, was to lay before the Legislature the latter enactments, which were to be digested into a printed copy of the entire Code. The work was duly prepared for the press by the Secretary, aided by Mr. Lomax, when the intensity of the first [?] arrested the publication. The change of weather has, I hope, had the proper effect; and the Report, signed by the Rector, has been sent to the Secretary, to go on directly to Richmond the moment a copy of the Code can be obtained from the printer. It may be well to let the cause of disappointment be understood by those who advert to it.

Writings of Madison, Volume 3: 1816-1828, p.547

It has given me particular concern that the case of the bust, &c., contained in Mr. Jefferson Randolph's letter, will not have been presented to the Assembly before the general sale, from which it is not excepted. I had been somewhat relieved by the intimation of Mr. Ritchie, that the pictures, busts, &c., were to be sent for sale elsewhere, and of course that the opportunity for Legislative interposition would not be lost. It now appears, from an advertisement of the 6th instant in the last Central Gazette, that those articles are continued on the list for sale the day after to-morrow. I still indulge a hope that there is some understanding in the case that will save the bust, at least, from profanation, and enable the Legislature to do in that, as in other respects, what becomes it, and what the world expects from it.

Writings of Madison, Volume 3: 1816-1828, p.548

I find by the letters from Judge Tucker that his collection of old Documents contains none of the Journals of the General Assembly for the years in which mine is deficient. Ought not legal provision to be made for a republication, that will guard against the extinction with which that important portion of the public history is threatened? As far as I have been able to learn, there does not exist an entire copy except at Richmond, and but one even there. There was, I understand, a republication, some years ago, of the proceedings of the Convention of 1776. The same precaution ought evidently to be taken with respect to the Journals of both Houses down to some late date, and in a convenient form, to which the annual publications in future should correspond. Much praise has been given to Virginia for the edition of her laws, comprising the dead as well as the living ones. The work suggested would add to that merit, and she had better set an example of it than to have to follow that which other States have or will soon set. The expense ought not to be regarded, especially as it would be diminished by the purchases of individuals. To render the provision for the object as effectual and as useful as possible, a few copies might be deposited in each of the chartered Seminaries of Learning, where, besides the advantage of preservation, they would be accessible at all times for literary purposes.

Writings of Madison, Volume 3: 1816-1828, p.548

Pardon this intrusion on your attention, which I well know must be much occupied otherwise, and be assured of my great esteem and cordial regard.

To Thomas Law.

Writings of Madison, Volume 3: 1816-1828, p.548

MONTPELLIER, Jany 27.

Writings of Madison, Volume 3: 1816-1828, p.548

DEAR SIR,—The copy of your Address before the Columbian Institute, kindly sent me, was duly received. I find that further reflection has confirmed you in your favorite plan of a paper currency, and that you have added a corroboration from names of high authority on such subjects. The practicability of a paper emission, equal in value to specie, cannot, I think, be doubted; provided its circulating quantity be adapted to the demands for it, and it be freed from all apprehension of undue augmentations. If made to answer all the purposes of specie, and receivable, moreover, in particular payments, in exclusion of specie, it would even rise above the value of specie when not in requisition for foreign purposes.

Writings of Madison, Volume 3: 1816-1828, p.549

I cannot return my thanks for your polite attention without adding a hope that you have not forgotten the promise you made on the eve of your departure for Europe. Mrs. M. joins me in assuring you of the pleasure its fulfilment will afford us, and of the continuance of our cordial esteem and good wishes.

To Samuel H. Smith.

MONTPELLIER, February 2d, 1827.

Writings of Madison, Volume 3: 1816-1828, p.549

DEAR SIR,—I have received, with your favor of January 24, a copy of your biographical memoir of Thomas Jefferson, delivered before the Columbian Institute; and I cannot return my thanks without congratulating the Institute on its choice of the hand to which the preparation of the memoir was assigned. The subject was worthy of the scientific and patriotic body which espoused it, and the manner in which it has been treated worthy of the subject. The only blemishes to be noted on the face of the memoir, are the specks in which the partiality of a friend betrays itself towards one of the names occasionally mentioned.

Writings of Madison, Volume 3: 1816-1828, p.549

I have great respect for your suggestion with respect to the season for making public what I have preserved of the proceedings of the Revolutionary Congress, and of the General Convention of 1787. But I have not yet ceased to think that a publication of them, posthumous as to others as well as myself, may be most delicate, and most useful also, if to be so at all. As no personal or party views can then be imputed, they will be read with less of personal or party feelings, and, consequently, with whatever profit may be promised by them. It is true, also, that after a certain date, the older such things grow the more they are relished as new; the distance of time, like that of space, from which they are received, giving them that attractive character.

Writings of Madison, Volume 3: 1816-1828, p.550

It cannot be very long, however, before the living obstacles to the forthcomings in question will be removed. Of the members of Congress during the period embraced, the lamps of all are extinct, with the exception, I believe, of two, Richard Peters and myself; and of the signers of the Constitution, of all but three, R. King, William Few, and myself; and of the lamps still burning, none can now be far from the socket.

Writings of Madison, Volume 3: 1816-1828, p.550

It will be long before this can be said of yours, or of that which pairs it; and I pray you both to be assured of the sincere wish, in which Mrs. M. joins me, that in the mean time every happiness may await you.

To Joseph C. Cabell.

FEBY 7, 1827.

Writings of Madison, Volume 3: 1816-1828, p.550

MY DEAR SIR,—Your favor of January 24 came duly to hand, and relieved me very agreeably from the anxiety produced by the delay of the report of the Visitors. The improvements made in our code could not fail to have the good effect you mention on the public dispositions towards the University. I had hoped for a greater effect than yet appears on the liberality of the Legislature. You can judge better than I can of the modification of the finances most likely to facilitate the aids we need.

Writings of Madison, Volume 3: 1816-1828, p.550

In conformity to the opinion of the Visitors assembled at Richmond, I gave notice to the Proctor that the two discontinued hotels were to be put again under the charge of their former keepers. It is to be hoped that the change in the relations between all of them and the students will produce a change for the better on both sides. If it should not on that of the hotel-keepers, a remedy is provided; but will it not be well to make it more prompt and efficacious than the late enactment on that subject authorizes?

Writings of Madison, Volume 3: 1816-1828, p.551

I observe that the Governor has taken up the case of the Journals in a very proper message to the General Assembly. It seems that the necessity was even greater than I was aware. I had understood that the set at Richmond was compleat, whilst there is a chasm of three sessions. From the abortive enquiries which I have made in order to fill the greater one in my set, and which extended even to Kentucky, making formerly a part of Virginia, I apprehend there is some uncertainty whether the time has not already passed for replacing the losses. If you can readily obtain a note of the missing copies in the public set, be so good as to mention them; and if they exist in my broken set, I will hold them ready for the use in question.

to. N. P. Trist.

MONTPELLIER, Feby 7th, 1827.

Writings of Madison, Volume 3: 1816-1828, p.551

DEAR SIR,—The task in which the Legislature at Richmond is engaging will form, in some measure, a crisis for the standing of Virginia in the Union. I hope her counsellors will enter no labyrinth without a clew that cannot fail them. They cannot keep too carefully in view the distinction between cases where the General Government opposes the will of its constituents, as happened when the alien and sedition laws passed, and where the Government has the States and the people on its side, as it has thus far had on the question of internal improvements; and again, between the exercise of unconstitutional powers and the abuse of constitutional powers. I am afraid the political atmosphere is too turbid every where for distinct views of any subject of a political complexion.

To Jonathan Elliot.

MONTPELLIER, Feb'y 14, 1827.

Writings of Madison, Volume 3: 1816-1828, p.552

DEAR SIR,—I have just received your letter of the 12th instant, and with it a copy of the first volume of the debates, &c., of the State Conventions which decided on the Constitution of the United States. The volume appears a favorable specimen of the manner in which the work is to be executed.

Writings of Madison, Volume 3: 1816-1828, p.552

The proceedings of those Assemblies, however defective they may be in some respects, and inaccurate in others, being highly interesting in a political as well as historical view, a rescue of them from the increasing difficulty of procuring copies, and the possibility of their disappearance altogether, is among the cares which may reasonably be expected from the existing generation by those which are to follow. The obvious provision in the case is that of multiplying copies in individual hands and in public depositories; and I wish you may find due encouragement in a task which will provide the means for both these safeguards.

Writings of Madison, Volume 3: 1816-1828, p.552

I send you a copy as you request, of what was published, and is in my possession, of the Debates in the Pennsylvania Convention. These being on one side only, it may be proper to search for the cotemporary publications on the other. I send, also, the proceedings of the first of the two North Carolina Conventions. If those of the second were ever published, no copy of them has come into my hands.

To Roberts Vaux.

MONTPELLIER, Feby 21, 1827.

Writings of Madison, Volume 3: 1816-1828, p.552

I thank you, sir, for the copy of your interesting discourse before the Historical Society of Pennsylvania. The tribute it pays to her great Founder and first settlers was due to the memorable example they gave of justice and humanity to the aboriginal inhabitants of the country. The example was in true harmony with that of their inviolable respect for the rights of conscience in all men. These merits are not only fruitful themes for panegyrical eloquence, but will furnish for the pages of history some of its most precious lessons.

Writings of Madison, Volume 3: 1816-1828, p.553

To my thanks, allow me to add the expression of my great respect and my friendly wishes.

To Henry Wheaton.

MONTPELLIER, Feby 26, 1827.

Writings of Madison, Volume 3: 1816-1828, p.553

DR SIR,—Since I answered your letter of —— it has occurred that I should not show a respect for your wishes, if I failed to fulfil them, by suggesting for your consideration the following topics, as far as they may fall within the range of your enlarged edition of the "Life of Mr. Pinkney."

Writings of Madison, Volume 3: 1816-1828, p.553

Without discussing the general character of the Treaty with G. Britain in 1794, or wishing to revive animosities which time has soothed to rest, it may be recollected that among the great merits claimed for the Treaty, were the indemnity for spoliations on our commerce, and the privilege of trading with British India.

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On the first plea of merit, it may be remarked, that such was the structure of the article stipulating indemnity, that but for the powerful exertions of our Commissioners, particularly Mr. Pinkney, and finally, the turn of the die that gave them the choice of the umpire, the Treaty would have failed on that great point. It may be said, therefore, to have provided for one-half only of what was obtained, the chance being equal of losing or gaining the whole.

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On the other plea it is to be remarked, that the value of the privileged trade with India depended very materially on its being open to indirect as well as direct voyages to India. Yet in a case turning on this point, which was carried before the Court of Kings' Bench, the Chief Justice, although he decided in our favour, declared at the same time his belief that the real intention of the negotiators was otherwise, and his regret that the article happened to be so worded that the legal rules of interpretation constrained him to decide as he did. The twelve Judges confirmed the decision, presumably, perhaps avowedly, with the same impressions. My memory cannot refer to the source of my information on the subject. The whole case, if not already known to you, will doubtless be within your reach. Thus, had fortune or the fairness of the British Courts failed us, the Treaty would have lost much of its favour with not a few of its warmest partisans.

Writings of Madison, Volume 3: 1816-1828, p.554

In none of the comments on the Declaration of the last war has the more immediate impulse to it been sufficiently brought into view. This was the letter from Castlereagh to Foster, which, according to the authority given, the latter put into the hands of the Secretary of State, to be read by him, and by the President also. In that letter it was distinctly and emphatically stated that the Orders in Council, to which we had declared we would not submit, would not be repealed, without a repeal of internal measures of France, which, not violating any neutral right of the United States, they had no right to call on France to repeal, and which, of course, could give to G. Britain no imaginable right against the United States.\* With this formal notice, no Choice remained but between war and degradation; a degradation inviting fresh provocations, and rendering war sooner or later inevitable.

Writings of Madison, Volume 3: 1816-1828, p.554

It is worthy of particular remark that, notwithstanding the peremptory declaration of the British Cabinet in the letter of Castlereagh, such was the distress of the British manufacturers produced by our prohibitory and restrictive laws, as pressed on the House of Commons by Mr. Brougham and others, that the Orders in Council were soon after repealed, but not in time to prevent the effect of the declaration that they would not be repealed. The cause of the war lay, therefore, entirely on the British side. Had the repeal of the orders been substituted for the declaration that they would not be repealed, or had they been repealed but a few weeks sooner, our declaration of war as proceeding from that cause would have been stayed, and negotiations on the subject of impressments, the other great cause, would have been pursued with fresh vigor and hopes, under the auspices of success in the case of the orders in Council.

Writings of Madison, Volume 3: 1816-1828, p.555

The Declaration of war has been charged by G. Britain and her partisans with being made in subserviency to the views of Napoleon. The charge is as foolish as it is false. If the war coincided with the views of the enemy of G. Britain, and was favored by his operations against her, that assuredly could be no sound objection to the time chosen for extorting justice from her. On the contrary, the coincidence, though it happened not to be the moving consideration, would have been a rational one; especially as it is not pretended that the United States acted in concert with that chief, or precluded themselves from making peace without any understanding with him; or even from making war on France, in the event of peace with her enemy, and her continued violation of our neutral rights. It was a fair calculation, indeed, when war became unavoidable, or rather after it had commenced, that Napoleon, whether successful or not against Russia, would find full employment for her and her associates, G. Britain included; and that it would be required of G. Britain, by all the powers with whom she was leagued, that she should not divert any part of her resources from the common defence to a war with the United States, having no adequate object, or, rather, objects adverse to the maritime doctrines and interests of every nation combined with her. Had the French Emperor not been broken down, as he was, to a degree at variance with all probability, and which no human sagacity could anticipate, can it be doubted that G. Britain would have been constrained, by her own situation and the demands of her allies, to listen to our reasonable terms of reconciliation? The moment chosen for the war would, therefore, have been well chosen, if chosen with a reference to the French expedition against Russia; and although not so chosen, the coincidence between the war and the expedition promised at the time to be as favorable as it was fortuitous.

Writings of Madison, Volume 3: 1816-1828, p.556

But the war was commenced without due preparation: this is another charge. Preparations in all such cases are comparative. The question to be decided is, whether the adversary was better prepared than we were; whether delay on our side, after the approach of war would be foreseen on the other, would have made the comparative preparations better for us. As the main theatre of the war was to be in our neighbourhood, and the augmented preparations of the enemy were to be beyond the Atlantic, promptitude of attack was the evident policy of the United States. It was, in fact, not the suddenness of the war as an Executive policy, but the tardiness of the legislative provisions, which gave whatever colour existed for the charge in question. The recommendations of military preparations went from the Executive on the 5th day of November; and so impressed was that department of the Government with the advantage of despatch in the measures to be adopted by Congress, that the recommendation, as was known, contemplated a force of a kind and extent only which it was presumed might be made ready within the requisite period. Unfortunately, this consideration had not its desired effect on the proceedings in Congress. The laws passed on the subject were delayed, that for filling up the peace establishment till December 24, and that for the new army to be raised till January 14, and such were the extent and conditions prescribed for the latter, that it could scarcely, under any circumstances, and by no possibility under the circumstances existing, be forthcoming within the critical season. It may be safely affirmed that the force contemplated by the Executive, if brought into the field as soon as it might have been, would have been far more adequate to its object than that enacted by the Legislature could have been, if brought into the field at the later day required for the purpose. When the time arrived for appointing such a catalogue of officers, very few possessing a knowledge of military duty, and for enlisting so great a number of men for the repulsive term of five years, and without the possibility of a prompt distribution, in the midst of winter, throughout the Union, of the necessary equipments, and the usual attractions to the recruiting standards, the difference between the course recommended and that pursued was felt in its distressing force.

Writings of Madison, Volume 3: 1816-1828, p.557

The Journals of Congress will shew that the bills which passed into laws were not even reported till the —— of ——, by a committee which was appointed on the —— of ——; a tardiness as strange in its appearance as it was painful in its consequences.

Writings of Madison, Volume 3: 1816-1828, p.557

Yet, with all the disadvantages under which hostilities were commenced, their progress would have been very different under a proper conduct of the initiative expedition into Upper Canada. The individual at the head of it had been pointed out for the service by very obvious considerations. He had acquired during the war of the Revolution the reputation of a brave and valuable officer; he was, of course, an experienced one. He had been long the chief magistrate in the quarter contiguous to the theatre of his projected operations; with the best opportunities of being acquainted with the population and localities on the hostile as well as his own side of the dividing straight. He had also been the superintendent of our affairs with the Indian tribes holding intercourse with that district of country; a trust which afforded him all the ordinary means of understanding, conciliating, and managing their dispositions. With such qualifications and advantages, which seemed to give him a claim, above all others, to the station assigned to him, he sunk before obstacles at which not an officer near him would have paused, and threw away an entire army, in the moment of entering a career of success, which would have made the war as prosperous in its early stages and promising in its subsequent course, as it was rendered by that disaster oppressive to our resources and flattering to the hopes of the enemy. By the surrender of General Hull, the people of Canada, not indisposed to favour us, were turned against us; the Indians were thrown into the service of the enemy; the expense and delay of a new armament were incurred; the Western militia and volunteers were withheld from offensive co-operation with the troops elsewhere by the necessity of defending their own frontier and families against incursions of the savages; and a general damp spread over the face of our affairs. What a contrast would the success, so easy at the outset of the war, [have] presented! A triumphant army would have seized on Upper Canada, and hastened to join the armies at the points below; the important command of Lake Erie would have fallen to us of course; the Indians would have been neutral or submissive to our will; the general spirit of the country would have been kindled into enthusiasm; enlistments would have been accelerated; volunteers would have stepped forward with redoubled confidence and alacrity; the militia would have felt a like animation; and, what is not of small moment, the intrigues of the disaffected would have been smothered in their embryo state.

Writings of Madison, Volume 3: 1816-1828, p.558

But in spite of the early frowns of fortune, the war would have pressed with a small portion of its weight but for the great military revolution in Europe, the most improbable of contingencies, which turned upon us such a body of veteran troops, enured to combat and flushed with victory. Happily, this occurrence, so menacing in its aspect, led to exploits which gained for the arms of our country a reputation invaluable as a guaranty against future aggressions, or a pledge for triumphs over them.

Writings of Madison, Volume 3: 1816-1828, p.558

There is a circumstance relating to the treaty of Ghent which seems to have escaped the notice to which it is entitled. After the close of the British war on the continent of Europe, and during the negotiations for closing it with us, the question arose in the House of Commons, whether the war taxes were to cease with the European war, or to be continued on account of the war with the United States; the British Minister having given an assurance, previous to the latter, that those obnoxious taxes should be repealed on the return of peace. The question was put home to Mr. Vansittart, the Exchequer Minister, who, well knowing that the nation would not support, at that oppressive expense, a war reduced as the objects of it had become, shunned an answer, got the Parliament prorogued till the month of February, and in the mean time the treaty was concluded at Ghent. I have not the means of refreshing or correcting my memory, but believe you will find, on consulting the Parliamentary annals of that period, that what is stated is substantially true.

Writings of Madison, Volume 3: 1816-1828, p.559

Permit me to repeat, generally, that these paragraphs are in tended for your examination as well as consideration. They may be neither free from errors, nor have a sufficient; affinity to your biographical text; and if admitted into it, will need from your pen both developments and adaptations, making them your own. Whether admissible or not, they will prove the sincerity of my promise to suggest any thing that might occur to my thoughts. And that I may not be without some proof, also, that I have not forgotten the other promise of whatever might be caught by my eye, I inclose a small pamphlet published within the period of Mr. Pinkney's public life, and throwing light on the then state of parties in the U. States. It was drawn up on the pressing instances of my political friends, at the end of a fatiguing session of Congress, and under a great impatience to be with my family on the road homeward, but with rite advantage of having the whole subject fresh in my memory and familiar to my reflections. The tone pervading it will be explained, if not excused, by the epoch which gave birth to it.

To Henry Lee.

MONTPELLIER, February —, 1827.

Writings of Madison, Volume 3: 1816-1828, p.559

I received, sir, some days ago, your letter of the 2d instant, to the object of which I have not been able to give an earlier attention. With your purpose of giving a historical character to the events of a very critical period of the war of 1812, you are very properly anxious to obtain whatever information may contribute to the authenticity and accuracy of the work; and I cannot but wish for your researches every success which may have that effect. Unwilling for myself, however, to confide in recollections which the lapse of time has necessarily impaired, and separated as I am from official documents, which might extend as well as refresh them, my answer to your enquiries must be short of what might be acceptable to you.

Writings of Madison, Volume 3: 1816-1828, p.560

A successful invasion of Canada, it may be remarked, was always found difficult. It was the case in the war of 1755; in our Revolutionary war; and in a great, though less degree, in the late war. The difficulty is explained by the forests to be penetrated, the savages to be encountered, and the Lakes and other waters to be passed, in order to reach a distant theatre, where the adversary was at home, in the midst of all his resources for defence. Should another hostile occasion ever arise, the relative condition of the parties will be essentially changed. The intermediate obstacles will have been removed, and all the requisites for invasion will, in a manner, be as easily placed where wanted on our side, as those for resistence on the other.

Writings of Madison, Volume 3: 1816-1828, p.560

In the outset of the late war obvious considerations led to an invasion where success appeared to be most certain, and promised the best influence on the subsequent course of operations. The result of that enterprise shifted for a time from the enemy to ourselves the necessity of a defensive attitude. When a prospect was opened for carrying the war into the heart and strongholds of his country, the plan pursued, whether in itself the most eligible or not, has been criticised more on account of a mismanaged execution than of a misjudged formation. In comparing that for the campaign which followed its abortive issue with the arrangements deemed preferable, you will, if not possessed of the same information from other sources, be assisted by a brief sketch of the former; it being premised that a protection of the frontier on the Lakes from the consequences of a command of them by the enemy was always a primary object; that it was understood that the enemy meant to strengthen himself on the Peninsula; and that, according to the best information obtained by the War Department, the regular force in Canada consisted of 12,000 men, of which 6 or 7,000 were at and above Kingston. It was taken for granted, also, that the Peace in Europe having liberated the British armies from employment there, detachments would reinforce the troops which would be opposed to ours.

Writings of Madison, Volume 3: 1816-1828, p.560

The plan in question embraced—1. An expedition into Lake Huron, with four or five vessels and 800 or 1,000 men, to obtain possession of Mackinaw and St Josephs. 2. An expedition, with the forces under General Brown, to Burlington Heights, preparatory to further operations for reducing the Peninsula; the expedition to depend on Chauncey's getting the command of Lake Ontario, without which supplies could not be secured. 3. The building of 14 or 15 armed boats at Sackett's Harbour, so to command the St Lawrence, under the protection of posts to be supplied from Izard's command, as to intercept the communication between Montreal and Kingston. 4. The main force under Izard to make demonstrations towards Montreal, in order to divert the enemy from operations westward, and afford the chance of compelling Prevost to fight disadvantageously, or break up his connection with Lake Champlain.

Writings of Madison, Volume 3: 1816-1828, p.561

I pass to the reference you make to certain appointments, both for the army and for the Cabinet. Selections for office, always liable to error, were particularly so for military command at the commencement of the late war. The survivors of the Revolutionary band, who alone had been instructed by experience in the field, were but few; and of those several of the most distinguished were disqualified by age or infirmities, or precluded by foreknown objections in the advisory Branch of the appointing Department. This last cause deprived the army of services which would have been very acceptable to the nominating Branch. Among those who had acquired a mere disciplinary experience, no sufficient criterion of military capacity existed; and of course they had to undergo tests of another sort before they were marked out for high military trusts.

Writings of Madison, Volume 3: 1816-1828, p.561

That the appointment of Hull was unfortunate was but too soon made certain. Yet he was not only recommended from respectable quarters, but by his ostensible fitness also. He was a man of good understanding. He had served with reputation, and even some eclât, in the Revolutionary Army. He had been the Governor at Detroit, and could not but be acquainted with the population and localities on the hostile as well as on his own side of the boundary; and he had been the superintendent of our affairs with the Indians, a knowledge of which was of much importance. These advantages seemed to give him not only a preference, but an appropriateness for his trust. They were, nevertheless, fallacious; and it is not unworthy of recollection that after the disaster which proved it, some who had been most warm in his recommendation were most ready to condemn the confidence put in him.

Writings of Madison, Volume 3: 1816-1828, p.562

The appointment of General Dearborn is also very unfavorably noticed. To say nothing of his acknowledged bravery and firmness, his military experience and local knowledge acquired during the Revolutionary war had their value. And he had administered the Department of War for eight years, to the satisfaction of the President, who thought well not only of his specific qualifications, but generally of his sound and practical judgment. To these considerations were added a public standing calculated to repress jealousies in others, not easy to be guarded against in such cases, and always of the worst tendency. It may well be questioned whether any substituted appointment would at the time have been more satisfactory.

Writings of Madison, Volume 3: 1816-1828, p.562

The advanced position in the service given to General Smyth was much to be regretted. Some of the circumstances which led to it were specious, and the scale and cultivation of his understanding very respectable; but his talent for military command was equally mistaken by himself and by his friends.

Writings of Madison, Volume 3: 1816-1828, p.562

Before I advert to your review of Cabinet appointments, I must allude to the field of choice as narrowed by considerations never to be wholly disregarded. Besides the more essential requisites in the candidate, an eye must be had to his political principles and connexions, his personal temper and habits, his relations of [and?] feelings towards those with whom he is to be associated, and the quarter of the Union to which he belongs. These considerations, the last as little as any, are not to be disregarded but in cases where qualifications of a transcendent order designate individuals, and silence the patrons of competitors whilst they satisfy the public opinion. Add to the whole the necessary sanction of the Senate; and, what may also be refused, the necessary consent of the most eligible individual. You are probably very little aware of the number of refusals experienced during the period to which your observations apply.

Writings of Madison, Volume 3: 1816-1828, p.563

I must be allowed to express my surprise at the unfavorable view taken of the appointment of Mr. Jones. I do not hesitate to pronounce him the fittest Minister who had ever been charged with the Navy Department. With a strong mind, well stored with the requisite knowledge, he possessed great energy of character and indefatigable application to business. I cannot doubt that the evidence of his real capacity, his appropriate acquirements, and his effective exertions in a most arduous service and the most trying scenes, now to be found on the files of the Department, as well as my own, would reverse the opinion which seems to have been formed of him. Nor in doing him justice ought it to be omitted that he had on his hands the Treasury as well as Navy Department, at a time when both called for unusual attention, and that he did not shrink from the former, for which he proved himself qualified, till the double burden became evidently insupportable.

Writings of Madison, Volume 3: 1816-1828, p.563

Mr. Campbell was the only member of the Cabinet from the West whose claims to a representation in it were not unworthy of attention under existing circumstances. It was not, indeed, the quarter most likely to furnish fiscal qualifications; but it is certain that he had turned his thoughts that way whilst in public life more than appears to have been generally known. He was a man, moreover, of sound sense, of pure integrity, and of great application. He held the office at a period when the difficulties were of a sort scarcely manageable by the ablest hands, and when the ablest hands were least willing to encounter them. It happened, also, that soon after he entered on his task his ill health commenced, and continued to increase till it compelled him to leave the Department.

Writings of Madison, Volume 3: 1816-1828, p.563

Of Mr. Crowninshield it may be said, without claiming too much for him, that he had not only received public testimonies of respectability in a quarter of the Union feeling a deep interest in the Department to which he was called, but added to a stock of practical good sense a useful stock of nautical experience and information, and an accommodating disposition, particularly valuable in the head of that Department since the auxiliary establishment of the Navy Board, on which the labouring oar now devolves. Superior talents without such a disposition would not suit the delicacy of the legal relations between the Secretary and the Board, and the danger of collisions of very embarrassing tendency.

Writings of Madison, Volume 3: 1816-1828, p.564

As you have made no reference to Doctor Eustis, I ought, perhaps, to observe a like silence. But, having gone so far on the occasion, I am tempted to do him the justice of saying that he was an acceptable member of the Cabinet; that he possessed an accomplished mind; a useful knowledge on military subjects, derived from his connexion with the Revolutionary army, and a vigilant superintendence of subordinate agents; and that his retreat from his station proceeded from causes not inconsistent with these endowments. With the overload of duties required by military preparations on the great scale enjoined by law, and the refusal to him of assistants asked for, who were ridiculed as crutches for official infirmity, no Minister could have sustained himself, unless in the enjoyment of an implicit confidence on the part of the public, ready to account for every failure, without an impeachment of his official competency. In ordinary times, Eustis would have satisfied public expectation; and even in those he had to struggle with, the result would have been very different with organizations for the War Department equivalent to what has been found so useful in a time of peace for an army reduced to so small an establishment.

Writings of Madison, Volume 3: 1816-1828, p.564

I have written you a long letter, to which the value of its matter will not, I fear, be thought to bear a just proportion. This will be of the less moment as the letter is for yourself alone, and I hope will be received as an expression of my respects and good wishes.

Writings of Madison, Volume 3: 1816-1828, p.564

My memory does not furnish an answer to your question— who proposed the bust of Mr. Henry? The Journals, I presume, will shew. It is difficult to resist the positive testimony of Col. Taylor as to the intention of Mr. Henry to give up the contest with G. Britain. But is it not more difficult to resist the extreme improbability of the fact?

To N. P. Trist.

MONTPELLIER, March 2d, 1827.

Writings of Madison, Volume 3: 1816-1828, p.565

DEAR SIR,—I received, in due time, your favor of the 21 ult., and have looked over the lucubrations of Regulus, now returned to your files; but with an attention less close than the subject of them would require. I concur entirely in the distinction made between the authority of a Constitution and that of public opinion. The former is the record of the national will, and no evidence, however specious or true, can prevail against it. In the other cases which have occurred, particularly that to which my remarks related, the question was not between the Constitution and the public opinion, but between different interpretations of the Instrument, all admitting that to be the paramount authority, and claiming it for themselves in its true meaning. Unhappily, this must often be more or less the case. The imperfection of language, especially when terms are to be used the precise import of which has not been settled by a long course of application, is one cause. The change which the meaning of words inadvertently undergoes, examples of which are already furnished by the Constitution of the U. States, is another. And more frequent and formidable than either cause is the spirit of party or the temptations of interest. Nor is the public good, real or supposed, without occasional effect in betraying honest minds into misconstructions of the Constitutional text. These are evils which cannot be altogether avoided, but they are not to be compared with those inherent in arbitrary and undefined forms of Government. They are, too, such as time, usage, and the gradual incorporation of the vital maxims of free Government into the national sentiment, must tend to diminish.

Writings of Madison, Volume 3: 1816-1828, p.565

My suggestion as to the different course proper to be pursued in opposing measures of the Federal Government, as they have or have not the support of the States and of the people, was founded on prudential considerations only. The language of menace and defiance, when addressed to those who have force, and think they have right, also, on their side, defeats itself. It sometimes does more; it is known to excite division when proceeding from the Southern quarter, which has such peculiar reasons for distrusting its inherent strength. A defying tone should never be indulged till every other experiment has failed; nor then, but on occasions justifying the last resort, however hazardous, of an oppressed people.

To C. C. Cambreleng.

MONTPELLIER, March 8th, 1827.

Writings of Madison, Volume 3: 1816-1828, p.566

DEAR SIR,—I return my thanks for the copy of your speech on the proposed increase of the duty on wool, and the manufactures of it.

Writings of Madison, Volume 3: 1816-1828, p.566

You have done well in pressing on the attention of Congress the facility, daily increasing, of a forbidden trade with and through Canada. This consideration alone is a warning against an excessive impost, especially on light and costly articles.

Writings of Madison, Volume 3: 1816-1828, p.566

Canada is presenting serious difficulties, also, in self-denying contests with Great Britain for commercial objects. When the Province was in no degree advanced in agricultural exports, and intervening forests prevented a smuggling intercourse with the United States, the wants of the West Indies promised an easy success to a just and retaliating policy. Now that Canada is both a considerable source of supplies, and a channel also for ours, the contest takes a different character; but still leaving, I think, advantages on our side that in the end must triumph. I have always confided in the calculation that the nature of our exports, consisting so much of food and raw materials, and that of our imports, consisting so much of articles superfluous to us, but giving bread to those who prepare them, enable as well as entitle us to command a general reciprocity in our foreign commerce; and that with a reciprocity, the cheapness of our ships, the expertness of our marines, and the bulkiness of our productions, to which may be added the skill and enterprise of our merchants, will always give us more than an equality in the great article of navigation.

Writings of Madison, Volume 3: 1816-1828, p.567

It may be true that, in the ordinary freedom of commercial intercourse, the balance of advantage may be against us; the demand of our productions being limited by the limited wants they supply, whilst the supplies returned to us are, in great part, addressed to fancy and fashion, which have no such limits. But in a case to be decided by an appeal to wants of necessity, we can have nothing to apprehend, unless it be from a defect of concert and perseverance among ourselves.

Writings of Madison, Volume 3: 1816-1828, p.567

I have said that our resources for navigation ensure us more than an equal share of it in our foreign commerce. May not much more be said? When we compare the resources of the old and the new Continents for building and loading the vessels employed in the intercourse between them, and consider the growing disposition of the age to make navigation a favorite object, there is nothing rash in the prophesy that the Trident, so long and so proudly wielded on the other side of the Atlantic, will, at no very distant day, be handed over to this; where I hope it will be less a symbol of despotic abuse than it has been on the other.

To J. K. Paulding.

MONTPELLIER, March 10, 1827.

Writings of Madison, Volume 3: 1816-1828, p.567

DEAR SIR,—I have received your favor of February 28, and read the pamphlet under the same cover. It is a powerful and a piercing lesson on the subject which it exposes. I was not before aware of the abuses committed by the law-makers or the law-breakers of your State. The picture you give of both, though intended for New York alone, is a likeness, in some degree, of what has occurred elsewhere, and I wish it could be in the hands of the legislators, or, still better, of their constituents everywhere. Incorporated companies, with proper limitations and guards, may, in particular cases, be useful; but they are at best a necessary evil only. Monopolies and perpetuities are objects of just abhorrence. The former are unjust to the existing, the latter, usurpations on the right of future generations. Is it not strange that the law, which will not permit an individual to bequeath his property to the descendants of his own loins for more than a short and a strictly-defined term, should authorize an associated few to entail perpetual and indefensible appropriations, and that not only to objects visible and tangible, but to particular opinions, consisting, sometimes, of the most metaphysical niceties, as is the case with ecclesiastical corporations?

Writings of Madison, Volume 3: 1816-1828, p.568

With regard to banks, they have taken too deep and wide a root in social transactions to be got rid of altogether, if that were desirable. In providing a convenient substitute, to a certain extent, for the metallic currency, and a fund of credit which prudence may turn to good account, they have a hold on public opinion, which alone would make it expedient to aim rather at the improvement than the suppression of them. As now generally constituted, their advantages, whatever they be, are outweighed by the excesses of their paper emissions, and by the partialities and corruption with which they are administered.

Writings of Madison, Volume 3: 1816-1828, p.568

What would be the operation of a bank so modified that the subscribers should be individually liable, pro tanto and pro rata, for its obligations, and that the directors, with adequate salaries paid out of the profits of the institution, should be prohibited from holding any interest in, or having any dealings whatever with, the bank, and be bound, moreover, by the usual solemnity, to administer their trust with fidelity and impartiality? The idea of some such a modification occurred to me formerly, when the subject engaged more of my attention than it has latterly done. But there was then, as there probably is now, little prospect that such an innovation would be viewed with public favor, if thought, by better judges, to have pretensions to it.

Writings of Madison, Volume 3: 1816-1828, p.568

Mrs. M. and myself value too sincerely your kind sentiments and recollections not to be gratified by the manner in which you have expressed them. One of her own recollections is, that you promised to repeat your visit whenever you could present the proper witness that you had exchanged the galling burden of bachelorship for the easy yoke of matrimony. The amiable one who we hope will accompany you will double the pleasure we shall feel, should you snatch from your city confinement a few weeks for the excursion, at a season when our mountain ether will bear the most favorable comparison with the damp breezes from the ocean.

To M. Van Buren.

MONTPELLIER, March 13, 1827.

Writings of Madison, Volume 3: 1816-1828, p.569

DEAR SIR,—I have received your favour of the 3d instant, covering the report to the Senate on the "Georgia Business." The report is drawn with the ability which might be expected from the committee making it. The views which it presents on the subject cannot certainly be complained of by Georgia. The occurrence has been a most painful one, whether regarded in its tendency abroad or at home. And God grant that it may have a termination at once healing and preventive!

Writings of Madison, Volume 3: 1816-1828, p.569

If it be understood that our political system contains no provision for deciding questions between the Union and its members but that of negotiation, this failing, but that of war, as between separate and independent Powers, no time ought to be lost in supplying, by some mode or other, the awful omission. What has been called a Government is, on that supposition, a mere league only; a league with too many parties to be uniformly observed or effectively maintained.

Writings of Madison, Volume 3: 1816-1828, p.569

You did well, I think, in postponing the attempt to amend the phraseology of the Constitution on a point essentially affecting its operative character. The state of the political atmosphere did not promise that discussion and decision on the pure merits of such an amendment which ought to be desired.

Writings of Madison, Volume 3: 1816-1828, p.569

Be pleased to accept, with my cordial salutation, the renewed expression of my great esteem.

To Joseph C. Cabell.

MONTPELLIER, March 18th, 1827.

Writings of Madison, Volume 3: 1816-1828, p.570

MY DEAR SIR,—I received by the mail from Richmond your favor of the 12th. I was not unapprised of the melancholy cause of your absence; but your silence would have been sufficiently explained by the better use of your time there than in giving an answer to a letter so little requiring it as mine. I am truly sorry for the failure of the Legislature to do what was so much due to the character of the State, and to the merits and memory of Mr. Jefferson. The footing on which the meetings of the Visitors are put is a valuable accommodation to them, as is the loan authorized an acceptable one to the creditors of the University. One of them was with difficulty dissuaded lately from appealing to the law for his debt. I hope they will all be a little patient now.

Writings of Madison, Volume 3: 1816-1828, p.570

I should regret as much as you and our colleagues a necessity for a "Called Board," and hope it may be avoided. You will have learned that Mr. Key has finally decided on returning to England. He wishes for a little indulgence as to the time of his being out of office; being desirous of attending the examination of the students, and then of avoiding the expense of waiting for a packet to London, or of going with his family by land from Liverpool. On the first point, the indulgence is due to the change in the time fixed for the close of the Session; and on the other, to the spirit in which we wish him to leave us, and the expediency of cherishing a confidence in our liberal dispositions in a quarter where we may be obliged to seek occasional supplies for vacant professorships. His purpose will be answered by our not throwing him on his own resources till the middle of August. The question now is, how we shall fill the vacated chair. We must all turn our thoughts to the subject. Mr. Hassler will probably be brought to our attention. He is, I believe, well qualified by his mathematical powers, but of the other requisite aptitudes I have no evidence. What are the pretensions of the State Engineer, of whom I know nothing? A Mr. Nutall has been heard of as a man of science. He also may be an object for enquiry and consideration. I shall write to Mr. Gallatin to aid us with his enquiries in England, and it may be well to gather such information as the English professors at the University can give. I am afraid that we have little chance of finding a satisfactory successor to Mr. Key among the unemployed of American growth. We must all turn our thoughts to the subject, and interchange the result of them, that we may be prepared for a choice at the next meeting, or sooner, if it be found that we can sooner unite in one.

Writings of Madison, Volume 3: 1816-1828, p.571

MARCH 22d.

Writings of Madison, Volume 3: 1816-1828, p.571

I had noticed the loss of the proposed amendment to the Resolution on the subject of the Tariff, and the shaft levelled at yourself. Intemperance in politics is bad enough; intolerance has no excuse. The extreme to which the Resolution goes, in declaring the protecting duty, as it is called, unconstitutional, is deeply to be regretted. It is a ground which cannot be maintained; on which the State will probably stand alone; and which, by lessening the confidence of other States in the wisdom of its Councils, must impede the progress of its sounder doctrines. In compliance with your request, I offer a few hasty remarks on topics and sources of information which occur to me.

Writings of Madison, Volume 3: 1816-1828, p.571

1. The meaning of the power to regulate commerce is to be sought in the general use of the phrase; in other words, in the objects generally understood to be embraced by the power when it was inserted in the Constitution.

Writings of Madison, Volume 3: 1816-1828, p.571

2. The power has been applied, in the form of a tariff, to the encouraging of particular domestic occupations by every existing commercial nation.

Writings of Madison, Volume 3: 1816-1828, p.571

3. It has been so used and applied particularly and systematically by G. Britain, whose commercial vocabulary is the parent of ours.

Writings of Madison, Volume 3: 1816-1828, p.571

4. The inefficacy of the power in relation to manufactures, as well as to other objects, when exercised by the States separately, was among the arguments and inducements for revising the old Confederation, and transferring the power from the States to the Government of the U. States. Nor can it be supposed that the States actually engaged in certain branches of manufactures, and foreseeing an increase of them, would have surrendered the whole power over commerce to the General Government. Nor can it be supposed that any of the States meant to annihilate such a power, and thereby disarm the nation from protecting occupations and establishments, important to its defence and independence, against the subversive policy of foreign rivals or enemies. To say that the States may respectively encourage their own manufactures, and may therefore have looked to that resource when the Constitution was formed, is by no means satisfactory. They could not protect them by an impost if the power of collecting one had been reserved, a partial one having been found impracticable; so, also, as to a prohibitory regulation. Nor can they do it by an excise on foreign articles, for the same reason; the trade being necessarily open with other States which might not concur in the plan. They could only do it by a bounty, and that bounty procured by a direct tax; a tax unpopular for any purpose, and obviously inadmissible for that. Such a state of things could never have been in contemplation when the Constitution was formed.

Writings of Madison, Volume 3: 1816-1828, p.572

5. The printed Journal of the Convention of 1787 will probably shew, positively or negatively, that the commercial power given to Congress embraced the object in question.

Writings of Madison, Volume 3: 1816-1828, p.572

6. The proceedings of the State Conventions may also deserve attention.

Writings of Madison, Volume 3: 1816-1828, p.572

7. The proceedings and debates of the first Congress under the present Constitution will shew that the power was generally, perhaps universally, regarded as indisputable.

Writings of Madison, Volume 3: 1816-1828, p.572

8. Throughout the succeeding Congresses, till a very late date, the power over commerce has been exercised or admitted so as to bear on internal objects of utility or policy, without a reference to revenue. The University of Virginia very lately had the benefit of it in a case where revenue was relinquished; a case not questioned, if liable to be so. The Virginia Resolutions, as they have been called, which were proposed in Congress in 1793-4, and approved throughout the State, may perhaps furnish examples.

Writings of Madison, Volume 3: 1816-1828, p.573

9. Every President, from General Washington to Mr. J. Q. Adams, inclusive, has recognised the power of a tariff in favor of manufactures, without indicating a doubt, or that a doubt existed anywhere.

Writings of Madison, Volume 3: 1816-1828, p.573

10. Virginia appears to be the only State that now denies, or ever did deny, the power; nor are there, perhaps, more than a very few individuals, if a single one, in the State, who will not admit the power in favor of internal fabrics, or productions necessary for public defence on the water or the land. To bring the protecting duty in those cases within the war power, would require a greater latitude of construction than to refer them to the power of regulating trade.

Writings of Madison, Volume 3: 1816-1828, p.573

11. A construction of the Constitution practised upon or acknowledged for a period of nearly forty years, has received a national sanction not to be reversed but by an evidence at least equivalent to the national will. If every new Congress were to disregard a meaning of the instrument uniformly sustained by their predecessors for such a period, there would be less stability in that fundamental law than is required for the public good in the ordinary expositions of law. And the case of the Chancellor's foot, as a substitute for an established measure, would illustrate the greater as well as the lesser evil of uncertainty and mutability.

Writings of Madison, Volume 3: 1816-1828, p.573

12. In expounding the Constitution, it is as essential as it is obvious that the distinction should be kept in view between the usurpation and the abuse of a power. That a tariff for the encouragement of manufactures may be abused by its excess, by its partiality, or by a noxious selection of its objects, is certain. But so may the exercise of every Constitutional power; more especially that of imposing indirect taxes, though limited to the object of revenue. And the abuse cannot be regarded as a breach of the fundamental compact till it reaches a degree of oppression so iniquitous and intolerable as to justify civil war, or disunion pregnant with wars, then to be foreign ones. This distinction may be a key to the language of Mr. Jefferson, in the letter you alluded to. It is known that he felt and expressed strongly his disapprobation of the existing Tariff and its threatened increase.

Writings of Madison, Volume 3: 1816-1828, p.574

13. If mere inequality in imposing taxes, or in other Legislative acts, be synonymous with unconstitutionality, is there a State in the Union whose Constitution would be safe? Complaints of such abuses are heard in every Legislature, at every session; and where is there more of them than in Virginia, or of pretext for them than is furnished by the diversity of her local and other circumstances, to say nothing of her Constitution itself, which happens to divide so unequally the very power of making laws?

Writings of Madison, Volume 3: 1816-1828, p.574

I wish I could aid the researches to which some of the above paragraphs may lead. But it would not be in my power if I had at my command, more than I have, the means of doing it. It is a satisfaction to know that the task, if thought worth the trouble, will be in better hands.

To R, Riker.

MONTPELLIER, Mar. 26, 1827.

Writings of Madison, Volume 3: 1816-1828, p.574

SIR,—With your letter of February 26 I received the copy of Mr. Colden's memoir on the New York Canals, transmitted by order of the corporation of the city.

Writings of Madison, Volume 3: 1816-1828, p.574

The very interesting memoir, with the variety of annexed documents having relation to the signal event commemorated, form an instructive gift to the present generation, and will be a proud legacy to its descendants. I must add that the work has an attractive feature, also, in its successful specimens of the new and promising art of lithography. Nor would it be proper to overlook the handsome exterior given to the volume by the accomplished hand which executed it.

Writings of Madison, Volume 3: 1816-1828, p.574

I pray you, sir, to communicate to the corporation the acknowledgments due for this additional mark of kind attention, and to accept for yourself assurances of my particular esteem and consideration.

To George Graham.

MONTPELLIER, Apl 5th, 1827.

Writings of Madison, Volume 3: 1816-1828, p.575

DR SIR,—I have received yours of March 31, inclosing the Report of the Committee on the charges against you, and a letter from Mr. Tiffin.

Writings of Madison, Volume 3: 1816-1828, p.575

I thank you for the communication. But I must say, at the same time, that it was a very unnecessary proof of the groundlessness of the charges. I had never admitted a doubt that they would recoil on the author.

Writings of Madison, Volume 3: 1816-1828, p.575

The public attention was lately drawn to the origin of the "Constitution of Virginia," and the "Declaration of Rights," prefixed to it. Having been a member, though a young one, of the Convention which established them, I am endeavoring, with the aid of my papers and my recollections, to trace the history of both. It is said that among the papers left by Col. George Mason, is one containing "the Declaration of Rights" in his own hand. This paper may be a proper link in the chain of the proceedings. In whose hands are those papers? Or can you yourself procure me a literal copy of that particular paper, or any others throwing light on the investigation? I was about writing to General J. Mason on the subject; but calling to mind your connexion with the family, and having the pen in my hand, I take the liberty of troubling you with the application.

To N. P. Trist.

MONTPELLIER, April, 1827.

Writings of Madison, Volume 3: 1816-1828, p.575

DEAR SIR,—The Harmony Gazette has been regularly sent me; but in the crowd of printed things I receive, I had not attended to the essays to which you refer me. The present situation of Great Britain, which gave rise to them, is full of instruction, and Mr. Owen avails himself of it with address in favour of his panacea. Such diseases are, however, too deeply rooted in human society to admit of more than great palliatives.

Writings of Madison, Volume 3: 1816-1828, p.576

Every populous country is liable to contingencies that must distress a portion of its inhabitants. The chief of them are: 1. Unfruitful seasons, increasing the price of subsistence without increasing that of labour; and even reducing the price of labour by abridging the demand of those whose income depends on the fruits of the earth. 2. The sudden introduction of labour-saving machinery, taking employment from those whose labour is the only source of their subsistence. 3. The caprice of fashion, on which the many depend, who supply the wants of fancy. Take, for a sufficient illustration, a single fact: when the present King of England was Prince of Wales, he introduced the use of shoe-strings instead of shoe-buckles. The effect on the condition of the buckle-makers was such, that he received addresses from many thousands of them, praying him, as the arbiter of fashion, to save them from starving by restoring the taste for buckles in preference to strings. 4. To the preceding occurrences, to which an insulated community would be liable, must be added a loss of foreign markets to a manufacturing and commercial community, from whatever of the various causes it may happen. Among these causes may be named even the changeableness of foreign fashions. The substitution of shoestrings for shoe-buckles in the U. States had a like effect with that in England, on her buckle-makers.

Writings of Madison, Volume 3: 1816-1828, p.576

Mr. Owen's remedy for these vicissitudes implies that labour will be relished without the ordinary impulses to it; that the love of equality will supersede the desire of distinction; and that the increasing leisure, from the improvements of machinery, will promote intellectual cultivation, moral enjoyment, and innocent amusements, without any of the vicious resorts, for the ennui of idleness. Custom is properly called a second nature; Mr. Owen makes it nature herself. His enterprise is, nevertheless, an interesting one. It will throw light on the maximum to which the force of education and habit can be carried; and, like Helvetius' attempt to shew that all men come from the hand of nature perfectly equal, and owe every intellectual and moral difference to the education of circumstances, though failing of its entire object, that of proving the means to be all-sufficient, will lead to a fuller sense of their great importance.

Writings of Madison, Volume 3: 1816-1828, p.577

The state of things promising most exemption from the distress exhibited in G. Britain, would be a freedom of commerce among all nations, and especially with the addition of universal peace. The aggregate fruits of the earth, which are little varied by the seasons, would then be accessible to all. The improvements of machinery not being adopted everywhere at once, would have a diminished effect where first introduced; and there being no interruptions to foreign commerce, the vicissitudes of fashion would be limited in their sadden effect in one country, by the numerous markets abroad for the same or similar articles.

Writings of Madison, Volume 3: 1816-1828, p.577

After all, there is one indelible cause remaining, of pressure on the condition of the labouring part of mankind; and that is, the constant tendency of an increase of their number, after the increase of food has reached its term. The competition for employment then reduces wages to their minimum, and privation to its maximum; and whether the evil proceeding from this tendency be checked, as it must be, by either physical or moral causes, the checks are themselves but so many evils. With this knowledge of the impossibility of banishing evil altogether from human society, we must console ourselves with the belief that it is overbalanced by the good mixed with it, and direct our efforts to an increase of the good proportion of the mixture.

Writings of Madison, Volume 3: 1816-1828, p.577

Even Mr. Owen's scheme, with all the success he assumes for it, would not avoid the pressure in question. As it admits of marriages, and it would gain nothing by prohibiting them, I asked him, what was to be done after there should be a plenum of population for all the food his lots of ground could be made to produce. His answer was, that the earth could be made indefinitely productive by a deeper and deeper cultivation. Being easily convinced of this error, his resort was to colonizations to vacant regions. But your plan is to cover, and that rapidly, the whole earth-flourishing communities. What is then to become of the increasing population? This was too remote a consideration to require present attention—an answer prudent, if not conclusive.

To Andrew Stevenson.

MONTPELLIER, May 2d, 1827.

Writings of Madison, Volume 3: 1816-1828, p.578

DR SIR,—Your favor of April 28 was safely delivered by Aleck. Mrs. M. and myself regret that the health of Mrs. Stevenson continues so infirm. Should a visit to us not interfere with a better course for improving it, we shall be truly happy, in shewing, what I hope you both believe, the affectionate interest we take in its re-establishment. She has always been a peculiar favorite of Mrs. M., and I must be allowed to say not less so of myself. I hope you are equally assured of the pleasure which will be added by your making the visit a joint one. Among the topics of conversation, I shall not decline any in our public affairs which you may wish to introduce. Though withdrawn from the theatre of them, I cannot shut my eyes nor suppress my concern at some of the strange aspects which they present.

Writings of Madison, Volume 3: 1816-1828, p.578

I have just glanced over an attempt, which I am sorry to see made by an able pen, to vindicate the British claim to a monopoly of navigation between her colonial and foreign ports. The Claim is supported neither by the principle of the Colonial policy, nor by the practice of the other nations holding Colonies; and is at war with the rule of reciprocity, the only one admissible between Independent nations. The principle of the Colonial policy prohibits all commercial intercourse between colonial and foreign ports, and monopolizes the intercourse between ports of the Colonies and those of the parent Country. The latter being in the nature of a coasting trade, no foreign nation has a right to contest it; nor is the prohibition of Colonial intercourse with foreign countries less exempt from foreign complaint. But the moment a Colonial port is opened to a trade with a foreign port, it is a foreign trade as much as a trade from any other port of the same nation; as much, for example, from Kingston, in Jamaica, to N. York, as from Liverpool to N. York; and the right of reciprocity in the navigation is as clear in the one case as in the other. With this view of the Colonial law, as it has been called, the practice and the pretensions of the other nations holding Colonies is in strict conformity. France, Spain, &c., &c., have, in their general policy, prohibited all foreign trade from their colonial ports, and excluded all foreign vessels from the trade between the Colonies and the mother countries. And whenever it has been found expedient to permit a trade from a Colony to a foreign country, it has, according to the rule of reciprocity, been left as free to foreign as to national vessels.

Writings of Madison, Volume 3: 1816-1828, p.579

This question was fully discussed in Congress in 1794, and was one of those which divided the two political parties. The U. States ought never to claim more than a fair and effective reciprocity, nor be content with less. In their present maturity they ought not even to temporize more in this case than in the case of impressment, which would not now be thought of.

To Nicholas Biddle.

MONTPELLIER, May 17, 1827.

Writings of Madison, Volume 3: 1816-1828, p.579

DR SIR,—I thank you very sincerely for the copy of your "Eulogium on Thomas Jefferson." I have derived from it the peculiar pleasure which so happy a portraiture could not fail to afford one who intimately knew, and feelingly admired, the genius, the learning, the devotion to public liberty, and the many private virtues of the distinguished original. Ably and eloquently as the subject has been handled, all must see that it had not been exhausted; and you are, I am sure, alone in regretting that what remained for some other hand, fell into yours.

Writings of Madison, Volume 3: 1816-1828, p.579

Pardon me for remarking that you have been led into an error, in the notice you take of the Revised Code provided for by the first Independent Legislature of Virginia. The Revisors were in number not three, but five, viz: Mr. Jefferson, Mr. Pendleton, Mr. Wythe, Col. Geo. Mason, and Col. Thomas L. Lee. The last died, and Col. Mason resigned; but not before they had joined in a consultative meeting. In the distribution of the work among the others, Mr. Wythe was charged with the British Statutes, Mr. Pendleton with the Colonial laws, and Mr. Jefferson with certain parts of the common law, and the new laws called for by the new state of the country.

Writings of Madison, Volume 3: 1816-1828, p.580

The portion executed by Mr. Jefferson was, perhaps, the severest of his many intellectual labours. The entire Report, as a model of technical precision and perspicuous brevity, and particularly as comprising samples of the philosophical spirit which ennobled his Legislative policy, may, in spite of its Beccarian illusions, be worthy of a place among the collections of the society of which he was once the presiding member; and if a copy be not already there, it will be a pleasure to me to furnish one.

Writings of Madison, Volume 3: 1816-1828, p.580

In page 9th of the Eulogium, I observe an erratum with respect to the age of Mr. Jefferson, when his summary of American Rights was penned; which the reader, however, may correct, by recurring to the date of his birth, previously mentioned, or adverting to his age afterwards mentioned, when the Declaration of Independence was drawn.

To Anthony Morris.

MONTPELLIER, May 28, 1827.

Writings of Madison, Volume 3: 1816-1828, p.580

DR SIR,—I owe an apology for not sooner acknowledging your communication of the 7th instant. It happened to find me in the midst of some engagements which were prolonged to the present moment. Your favor of the 21st, since received, makes what I have to say on your Hoffivil Project very easy, by affording me the perusal of the letter to you on that subject from my old and highly valued friend, Judge Peters. The view he has taken of such an Institution in our country, conveys my ideas far better than I could do it myself, and derives from his name a weight which no one could ascribe to mine. His observations have given me the more pleasure as they prove a vigor and vivacity which cherish in his friends, and in his country, the hope that the thread of his interesting life is to be still further lengthened.

Writings of Madison, Volume 3: 1816-1828, p.581

I return his letter as desired, and with it the numbers of the "American Farmer," which would be duplicates in my set.

To W. C. Rives.

MONTPELLIER, May 29, 1827.

Writings of Madison, Volume 3: 1816-1828, p.581

DEAR SIR,—I owe an apology for not sooner thanking you for the copy of your speech in the House of Representatives on the 20th of February last.\* It came to hand when some engagements of my time, which were protracted beyond my anticipation, did not permit the attention due to it. Without expressing an unqualified concurrence in all the sentiments embraced by the range of your observations, I can, without qualification, say that the subject is argued with an ability which cannot fail to enlighten whatever constitutional or political question may call it forth.

Writings of Madison, Volume 3: 1816-1828, p.581

Having a spare copy of a pamphlet, prepared in the Department of State in 1805,\* on a subject of much interest at its date, you will oblige me by accepting it. It is possible that the controversy, in some of its forms, may recur during your public career, which I hope will be a long one; and in that event the trouble of researches into applicable authorities and illustrations may be diminished by those to which the occasion led.

To Jared Sparks.

MONTPELLIER, 30th May, 1827.

Writings of Madison, Volume 3: 1816-1828, p.582

DEAR SIR,—Your letter of the 22d has been duly received. I concur, without hesitation, in your remarks on the speech of 73 pages, and in the expediency of not including it among the papers selected for the press. Nothing but an extreme delicacy towards the author of the Draft, who, no doubt, was Col. Hum-phreys, can account for the respect shewn to so strange a production. I have not yet found either the letter of January, 1789, or any answer to it. Should this continue to be the case, a view of the former may be desirable as an aid to my recollections, which are at present very imperfect.

Writings of Madison, Volume 3: 1816-1828, p.582

I thank you, sir, for the dates of the recorded letters from General Washington to me. Of these I do not find on my files those noted in the annexed list; some of which I should be particularly glad to see, unless the answers to them should be among the letters you are forwarding, and should prove sufficient for my purpose. My files contain, besides a number of short notes asking interviews, &c., twenty odd letters from the General, which it appears, from your communication, are not in his letter book. Some of these are of an importance and delicacy which have hitherto kept them from every eye but my own; no occasion before the present having ever raised the question how far the seal might be properly removed from them. It is not easy, considering the exactness of General Washington in preserving copies of his letters, to account for such a deficiency in his Register. Was it his intention that the letters should not be preserved, or were they separately preserved without being entered in the book? and in this case, may they not yet be found? Perhaps a clue may be furnished by a circumstance noted in a letter received from Judge Washington some years ago. Wishing to supply the chasm in the retained copies of my letters to his uncle, I requested the favor of having copies from the source in his possession. In his answer, he was led to remark that "the papers sent to the Chief Justice, and which are still in Richmond, have been very extensively mutilated by rats, and otherwise much injured by damps, as he not long since informed me." It seems in every view not amiss that the condition of these papers should be adverted to, before the prolix trouble of copies from my files be incurred.

Writings of Madison, Volume 3: 1816-1828, p.583

My letters from the files of General Washington, when received and compared with those of which I have preserved copies, may shew whether the former are short of the number written to him; and thence, perhaps, throw some light on his views with respect to some parts of our correspondence, with the uncertainty nevertheless arising from the casualties at Richmond.

Writings of Madison, Volume 3: 1816-1828, p.583

I need not repeat the general disposition, expressed when I had the pleasure of your call at Montpelier, to favor, by all the proper means in my power, not only your object of doing full justice to the very interesting trust you have assumed, regarding the papers of General Washington, but your other object also, of composing an authentic history of our Revolution; the most pregnant, probably, of all political events, with beneficent influence on the social order of the world, and having, therefore, the highest of claims on the historical pen.

To N. Biddle.

MAY 31, 1827.

Writings of Madison, Volume 3: 1816-1828, p.583

Finding, by your favor of the 27th, that the Library of the Philosophical Society does not contain a copy of the Revised Code, as reported by Mr. Jefferson and his colleagues, I send for it the promised one herewith inclosed. The copies being now very scarce, I have not been able to furnish one in a less soiled condition.

To Edward Everett.

MONTPELLIER, June 3d, 1827.

Writings of Madison, Volume 3: 1816-1828, p.583

DEAR SIR,—I offer for your brother and yourself the thanks I owe for the copy of his work on "America." It well sustains the reputation for talents and learning acquired by his former work on "Europe." I have found in the volume many proofs of original as well as enlarged views, and not a few passages of glowing eloquence. With this just tribute I must be allowed to combine the remark, that my trains of thought do not accord with some of his speculations, and that the work is susceptible of improved accuracy from recesses of information which time is gradually laying open. One error into which the author has been led will, I am sure, be gladly corrected. In page 109 it is said of Washington that he "appears to have wavered for a moment in making up his mind upon the Constitution." I can testify, from my personal knowledge, that no member of the Convention appeared to sign the Instrument with more cordiality than he did, nor to be more anxious for its ratification. I have, indeed, the most thorough conviction, from the best evidence, that he never wavered in the part he took in giving it his sanction and support.

Writings of Madison, Volume 3: 1816-1828, p.584

The error may, perhaps, have arisen from his backwardness in accepting his appointment to the Convention, occasioned by peculiar considerations which may be seen in the 5th volume of his Biographer [Marshall.]

Writings of Madison, Volume 3: 1816-1828, p.584

Is there no danger that your brother may render himself an unwelcome Functionary at Madrid by his strictures on Spain, &c., &c.?

To N. P. Trist.

JUNE 12th, 1827.

Writings of Madison, Volume 3: 1816-1828, p.584

DR SIR,—In a letter to Mr. Jefferson of January 2d, 1786, a printed proposition in the House of Delegates for giving Congress power over trade is referred to as inclosed in the letter, but was not in it when returned to me. The proposition as printed is stated in the letter to have been referred to a committee of the whole, and to have received the alterations made there with the pen. This is the proposition referred to in the 1 vol. of Laws of the U. States, page 53, and printed as it was materially altered, not as originally made. It is more probable that the document was not preserved, than it was separated from the letter inclosing it, and to be found now on the files of Mr. Jefferson. Should it, however, be there, I could wish a sight of it.

To Jacob Engelbrecht.

JUNE 20, 1827.

Writings of Madison, Volume 3: 1816-1828, p.585

DR SIR,—On a critical re-examination, to which I was just led, of the appearances on which my letter of October 20, 1825, ascribed the poetic effusion copied from a page in Bartram's pamphlet, to Doctor Franklin, I find that I may have committed an error in the case, by hastily applying the word "given" to the pamphlet, when it was meant for the poetry, and by mistaking for the handwriting of the Doctor what was only a remarkable likeness of it. You will be sensible that the least uncertainty on this point ought, for obvious reasons, to have the effect of cancelling my communication to you. I must ask the favor of you, therefore, to return me the paper containing it; on receiving which, I will substitute some other communication answering the purpose of your original request. I need not add that the propriety of guarding against contingencies, suggests that of the earliest answer from you.

To H. B. Bascom.

MONTPELLIER, July 21, 1827.

Writings of Madison, Volume 3: 1816-1828, p.585

DEAR SIR,—Your favor of June 26, inclosing a copy of the charter of the College, having arrived during an absence from which I am just returned, I could not sooner acknowledge it. It gives me pleasure to find that the Trustees are about to attach to the Institution an agricultural department, an improvement well meriting a place among the practical ones which the lights of the age and the genius of our country are adding to the ordinary course of public instruction.

Writings of Madison, Volume 3: 1816-1828, p.586

I wish I could give value to my commendation by pointing out the best mode of adapting the experiment to its useful object. The task, I doubt not, will be well performed by the intelligent Councils charged with the Institution, aided as they will be by the better models of rural economy in your State than are presented in this.

Writings of Madison, Volume 3: 1816-1828, p.586

The views of this subject which occurred to the Agricultural Society in the neighbourhood of our University will be seen in a printed circular of which I inclose a copy; and with it an address to the Society, which will shew that our agricultural practice is as much behind that of your State as the latter can be short of the attainable standard. Perhaps the celebrated establishment of Fellenburg, in Switzerland, may give useful hints in combining agricultural with academic instruction, and both with the advantages of an experimental and pattern farm.

Writings of Madison, Volume 3: 1816-1828, p.586

Repeating my wishes for the prosperity and usefulness of the nascent seminary, I tender my respectful and friendly salutations.

To Thomas J. Wharton.

MONTPELLIER, Aug. —, 1827.

Writings of Madison, Volume 3: 1816-1828, p.586

DEAR SIR,—I have duly received the copy of your Oration on the 4th of July last. In making my acknowledgments, with the passage under my eye, ascribing to me "the first public proposal for the meeting of the Convention to which we are indebted for our present Constitution," it may be proper to state in a few words the part I had in bringing about that event.

Writings of Madison, Volume 3: 1816-1828, p.586

Having witnessed, as a member of the Revolutionary Congress, the inadequacy of the powers conferred by the "Articles of Confederation," and having become, after the expiration of my term of service there, a member of the Legislature of Virginia, I felt it to be my duty to spare no efforts to impress on that body the alarming condition of the U. States proceeding from that cause, and the evils threatened by delay, in applying a remedy. With this, propositions were made vesting in Congress the necessary powers to regulate trade, then suffering under the monopolizing policy abroad, and State collisions at home, and to draw from that source the convenient revenue it was capable of yielding. The propositions, though received with favorable attention, and at one moment agreed to in a crippled form, were finally frustrated, or, rather, abandoned. Such, however, were the impressions which the public discussions bad made, that an alternative proposition, which had been kept in reserve, being seasonably brought forward by a highly respected. member, who, having long served in the State councils without participating in the Federal, had more the ear of the Legislature on that account, was adopted with little opposition. The proposition invited the other States to concur with Virginia in a convention of deputies commissioned to devise and report a uniform system of commercial regulations. Commissioners on the part of the State were at the same time appointed, myself of the number. The convention proposed took place at Annapolis, in August, 1786. Being, however, very partially attended, and it appearing to the members that a rapid progress, aided by the experiment on foot, had been made in ripening the public mind for a radical reform of the Federal polity, they determined to waive the object for which they were appointed, and recommend a convention, with enlarged powers, to be held the year following, in the city of Philadelphia. The Legislature of Virginia happened to be the first that acted on the recommendation, and being a member, the only one of the attending commissioners at Annapolis who was so, my best exertions were used in promoting a compliance with it, and in giving to the example the most conciliating form, and all the weight that could be derived from a list of deputies having the name of Washington at its head.

Writings of Madison, Volume 3: 1816-1828, p.587

In what is here said of the agency of Virginia, and of myself particularly, it is to be understood that no comparison is intended that can derogate from what occurred elsewhere, and may, of course, be less known to me than what is here stated.

Writings of Madison, Volume 3: 1816-1828, p.587

I pray you, sir, to pardon this intrusive explanation, with which I tender you my respectful salutations.

To Governor Giles.

SEPTEMBER 8, 1827.

Writings of Madison, Volume 3: 1816-1828, p.588

SIR,—I have duly received your letter of the 4th instant on the subject of the Journals of the General Assembly for the sessions of May, 1779 and 1782. I should have felt particular gratification in being able to contribute to the laudable object of the Legislature; but on examining my broken set, I find that it does not include the Journals of either of those dates.

Writings of Madison, Volume 3: 1816-1828, p.588

I fear there may be some difficulty in filling the chasm in the Rolls office. Having occasion, several years ago, for a sight of the Journals for a particular period, and being desirous, at the same time, of replacing the lost part of my set, I was led to make enquiries in every promising direction, but without success. The only copies I ever obtained were two from Kentucky, preserved by delegates from that country, then a part of Virginia, neither of which happened to be what I wanted, or is of a date named in your letter. I wish that even a public invitation through the press may enable the Executive to give complete effect to the provisions of the law. May I be permitted to suggest, should the resort be found necessary, that the Library of Congress, which now contains that of Mr. Jefferson, may deserve the attention of the Executive?

To Mr. Monroe.

MONTPELLIER, Septr 22, 1827.

Writings of Madison, Volume 3: 1816-1828, p.588

DEAR SIR,—I have received a letter from H. Lee, dated Nashville, August 24, stating that he had corresponded with General Armstrong on the subject of the provisional order to General Jackson, of July 18, 1814, authorizing him, on certain conditions, to take possession of Pensacola; which order was not received by the General till on or about the 14th of March, 1815, and then open, and the envelope without postmark; and though received from the post office, was endorsed "by express;" that to enquiries as to the causes of delay, Armstrong's reply was: "The letter from me authorizing the attack on Pen- sacola, but kept back till January, was written, recorded, and, as I am assured by General Parker, regularly despatched from the office for conveyance to the General by mail. Some one having the power must have stopped it at the post office, or in the hands of one of the clerks; and unless the President of that day shall deny that he had any agency or privity in the stoppage, I shall conclude that it was a measure directed by him, of which I was to be kept unacquainted." Lee adds: "I have been further informed, though in a manner too roundabout to be yet awhile positively relied on, that Parker has asserted that the day after the letter was put into the post office, happening to go into the Department of State, he saw it lying on that Secretary's table." Much importance appears to be attached by Lee to this affair as "bearing on the salutary vigor of General J. in his unauthorized attack on Pensacola;" and he requests from me any lights I may be able to throw on it; as, also, on the Creek and Louisiana campaigns.

Writings of Madison, Volume 3: 1816-1828, p.589

I have given the answers which I thought due to the requests of Lee, and to the insinuation of Armstrong. It is very probable that you have been written to as well as myself. If you know more of the matter than I do, drop me a line. I have no recollections, if I ever had any knowledge, of the history given of the incidents to the order in question, nor can I now lay my hand on a copy of it.

Writings of Madison, Volume 3: 1816-1828, p.589

If you should be called, this autumn, by your private affairs, to Albemarle, apprize me of the time I may expect you here on your way.

To H. Lee.

MONTPELLIER, Sepr 24, 1827.

Writings of Madison, Volume 3: 1816-1828, p.589

SIR,—Your letter of August 24 was not received till a few days ago. I regret that I cannot throw a ray of light on the cause and circumstances of the delay which attended the order to General Jackson of July 18, 1814; having no recollections of other parts of the Union, agreeing with Virginia in her exposition of the Constitution on other points. In expressing these ideas, however, more respect has been felt for the patriotic sensibilities of the legislative body, and for the talents and good intentions of members, personally or otherwise known to me to be particularly entitled to it, than might be inferred from the tone of the publication. I must observe, also, that though it is true that I have spoken of the power of Congress over commerce in its enlarged sense as a primary and known object in forming the Constitution, the language of the statement is inaccurate, at least, as being susceptible of a construction embracing indefinite powers over the entire resources of the country.

Writings of Madison, Volume 3: 1816-1828, p.592

I must presume that the expressions which refer by name to the Governor of the State were not meant to be ascribed to me; being very sure that I could never have so far forgotten what I owed to myself, or to the respect due him.

Writings of Madison, Volume 3: 1816-1828, p.592

It is with much reluctance, sir, that I have had recourse to these explanatory remarks, withdrawn as I am from scenes of political agitation by my age, and pursuits more congenial with it. It is the single instance of a communication from me to the press on any subject connected with the existing state of parties.

To the Editor of the "Lynchburg Virginian."

MONTPELLIER, Oct. 14, 1827.

Writings of Madison, Volume 3: 1816-1828, p.592

SIR,—I ask the favor of you to make the following correction, omitted to be made in the paper sent you a few days ago, viz:

Writings of Madison, Volume 3: 1816-1828, p.592

Erase the words, "limit the power of Congress over trade to regulations having revenue alone for their object;" and insert, "exclude from the power of Congress over commerce regulations having for their object the protection and encouragement of domestic manufactures."

Writings of Madison, Volume 3: 1816-1828, p.593

J. Madison presents his respects to Messrs. Fletcher and Toler, [Editors of the Lynchburg Virginian,] and regrets the trouble occasioned by the delay of his letter of the 14th. The paragraph prepared by them and inserted in their paper, enclosed in their letter of the 26th, sufficiently guards against a misunderstanding of his original communication. He was led to the proposed change in it by an intimation received that the General Assembly, in excluding from the power of Congress over commerce regulations having for their object the encouragement of domestic manufactures, might not, perhaps, intend to limit the power to regulations having revenue alone for their object; there being objects of this regulating power distinct from both which might not be deemed inadmissible. It was thought best, therefore, in expressing the doctrine disapproved, to specify its application, as was done in the resolutions of the Assembly, to the case of protecting and encouraging domestic manufactures.

OCTOBER 31, 1827.

To Henry D. Gilpin.

MONTPELLIER, October 25, 1827.

Writings of Madison, Volume 3: 1816-1828, p.593

DEAR SIR,—I was duly favored with yours of the 9th instant, accompanied by your "Life of Thomas Jefferson," which I have read with the double pleasure it affords; being valuable for its historical materials as well as for its biographical portrait of the highly distinguished individual.

Writings of Madison, Volume 3: 1816-1828, p.593

I comply with your request by noting a few errors which caught my eye in turning over the pages.

Page 38 It was not at Richmond, but Williamsburg, that the Convention met.

39 Same error of place.

— It was the preamble, not the Declaration of Rights, prefixed to the Constitution of Virginia, that was prepared by Mr. Jefferson. The latter was drawn by Col. George Mason.

40 Two of the five Revisors, George Mason and Thomas L. Lee, had no part in executing the commission, except in a consultative meeting preliminary to the assignment of the respective portions of the task to the other three.

42 The Convention prisoners were placed near, not at Charlottesville.

58 The a prefixed to Mr. George Nicholas, seems to underrate his standing in the community.

99 The majority for the resolutions was not sufficiently decided. It was evidently decreasing under the influence of considerations made to bear against them; particularly the alarm of war, as likely to grow out of them. And a final rejection being foreseen, it was thought best not to push them to an issue which might strengthen the idea in G. Britain that no countervailing policy was to be apprehended, and weaken at the same time the Republican party at home.

143 Hair not red, but between yellow and red.

144 Nose rather under, certainly not above, common size. Broweris' bust in plaister, from his mode of taking it, will, probably, shew a perfect likeness.

Writings of Madison, Volume 3: 1816-1828, p.594

I know not that I could give any aid to the use made of the public materials before you, or add any particular anecdotes not to be found in some of the obituary eulogies of Mr. Jefferson. I had, myself, but a very slight acquaintance with him, till he became Governor of Virginia, in 1779, at which time I was a member of the Executive Council, and so continued for some months thereafter. Should the proposed republication of your "Sketch" not take place before the appearance of his papers understood to be in preparation for the press, they will doubtless avail you much when putting the last hand to it.

Writings of Madison, Volume 3: 1816-1828, p.594

As your researches appear to have been turned to the early proceedings of Congress under the present Constitution of the United States, I offer for your acceptance, as some return for your printed favor, a surviving copy of a small evanescent pamphlet, which reviewed the state of parties at that period. It may furnish some applicable information or references, if your pen should have been employed on any "Life," now under revision, of a signer of the Declaration of Independence, who was then a member of the National Councils, or if your attention should be otherwise led to the political transactions of that date. The pamphlet was drawn up in compliance with the earnest entreaty of several friends, at the close of a fatiguing session and under a hurrying impatience to be on the road homeward, but with the advantage of having the subject fresh in my memory and familiar to my reflections. The tincture of party spirit will be explained, if not excused, by the origin and the epoch of the publication.

Writings of Madison, Volume 3: 1816-1828, p.595

Mrs. M. joins in the respects and good wishes which I pray you to accept, and in the assurance that the balance of obligation left by the visit with which you favored us was not on your side.

To Mr. Monroe.

MONTPELLIER, October 29, 1827.

Writings of Madison, Volume 3: 1816-1828, p.595

DEAR SIR,—Yours of the 3rd inst., with the copies of your two letters to Judge White now returned, were not received till they had made a trip to Montpelier in Vermont, as happened to three letters at the same time from our co-visitors of the University. The letter to you from Mr. Ringgold, referred to as enclosed, was omitted.

Writings of Madison, Volume 3: 1816-1828, p.595

Your explanatory communications to Judge White are very important, and I hope the copies will not only get back safe, but be taken good care of afterwards. Like you, I have never read the histories of the life and campaigns of General Jackson, not expecting unknown matter, still less apprehending erroneous matter in them, and finding full employment for my time in more obligatory applications of it.

Writings of Madison, Volume 3: 1816-1828, p.596

The account given of the letter of July, 18, 1814, is not a little mysterious. If there be no decisive evidence to the contrary, I must infer that it could not, if of the character indicated, have been known to me at the time. I have no recollection of it, and the inference is strengthened by the reasons given against the seizure of Pensacola by Executive authority in my answer in October 8, 1813, to a proposal of General Armstrong, September 26, 1813, to take that step in consequence of the destruction of block houses on our side of the Perdido. Your prohibitory letter of October 23, 1814, to General Jackson, is still more in point.

Writings of Madison, Volume 3: 1816-1828, p.596

You will see that I have been dragged into the newspapers by an affirmation which seemed to make it as unavoidable as it was disagreeable. I trust it will be the last, as it was the first, sacrifice of that sort.

Writings of Madison, Volume 3: 1816-1828, p.596

I have not yet closed my correspondence with our colleagues on the case of Mr. Long. Some of them are disposed to annex conditions to the release from his engagement. Doctor Jones will probably be at once called to the vacant chair of Natural Philosophy by the concurring voice of the Visitors. There was a hope that Professor Patterson, of Philadelphia, would have accepted it. He declines, and recommends Doctor Jones.

To H. B. Bascom.

MONTPELLIER, ——, 1827.

Writings of Madison, Volume 3: 1816-1828, p.596

I have received your letter of the 19th instant, saying that the Trustees of the College recently established in Union Town have been pleased to call it by my name. Regarding every new Institution for the wholesome instruction of youth as a gain to the cause of national improvement, and to the stability and prosperity of our free system of Government, I feel that my name is greatly honored by such an association as has been made of it. Be so obliging, sir, as to express for me the acknowledgments I owe to the Trustees, with my best wishes that they may receive for their fostering care of the infant College the rewards most grateful to them, in its rapid growth and extensive usefulness. I offer you, at the same time, assurances of my particular consideration and respect.

To Revd H. B. Bascom.

MONTPELLIER, NOVr 10, 1827.

Writings of Madison, Volume 3: 1816-1828, p.597

DEAR SIR,—Your letter of October 19 was received in due time. The acknowledgment of it has been delayed by a wish to accompany it with a copy, as requested, of the Enactments of our University, which I did not obtain till two days ago.

Writings of Madison, Volume 3: 1816-1828, p.597

I congratulate you on the encouraging prospect which dawns on the infant establishment under your presiding care. A temporary deficiency in the articles of apparatus and library is generally felt in learned institutions, the offsprings of individual efforts, in a country not abounding in individual wealth. In our University, though now under State endowment, the library is on a scale little comporting as yet with that of the plan. The books are, however, systematically chosen, and form a nucleus for an excellent collection. No catalogue has been printed, or I would add a copy to that of the Enactments.

Writings of Madison, Volume 3: 1816-1828, p.597

I cannot too much commend the prudent rules by which it is proposed to manage the economic interests of the College. Experience shews the evil tendency of incurring debts beyond resources, in the case of public bodies as well as of individuals; and the Spanish adage, festina lente, conveys a lesson particularly applicable to the case of new undertakings having difficulties to overcome with a scantiness of means.

To Jonathan Elliot.

MONTPELLIER, NOVr, 1827.

Writings of Madison, Volume 3: 1816-1828, p.598

DR SIR,—I have received your letter of the 12th, in which you observe that you are committing to the press the 2d volume of Debates in the State Conventions on the question of adopting the Federal Constitution; that the volume will include the Debates of the Virginia Convention; and you request of mca correct copy of the part I bore in them.

Writings of Madison, Volume 3: 1816-1828, p.598

On turning to the several pages containing it in the 2d and 3d volumes of the original edition, (the 1st not being at hand,) I find passages, some appearing to be defective, others obscure, if not unintelligible; others again which must be more or less erroneous. These flaws in the report of my observations may doubtless have been occasioned in part by want of care in expressing them, but probably in part, also, by a feebleness of voice caused by an imperfect recovery from a fit of illness, or by a relaxed attention in the stenographer himself, incident to long and fatiguing discussions: of his general intelligence and intentional fidelity no doubt has been suggested.

Writings of Madison, Volume 3: 1816-1828, p.598

But in whatever manner the faulty passages are to be accounted for, it might not be safe, nor deemed fair, after a lapse of 40 years, lacking a few months, and without having in the meantime ever revised them, to undertake to make them what it might be believed they ought to be. If I did not confound subsequent ideas, and varied expressions, with the real ones, I might be supposed to do so.

Writings of Madison, Volume 3: 1816-1828, p.598

These considerations induce me to leave my share of those debates as they now stand in print; not doubting that marks of incorrectness on the face of them will save me from an undue degree of responsibility.

Writings of Madison, Volume 3: 1816-1828, p.598

I have never seen nor heard of any publication of the debates in the second Convention of North Carolina, and think it probable that, if taken down, they never went to the press.

Writings of Madison, Volume 3: 1816-1828, p.598

I am glad to find you are encouraged to proceed in your plan of collecting and republishing, in a convenient form, the proceedings of the State Conventions as far as they are to be obtained; and with my best wishes that you may be duly rewarded for the laudable undertaking, I tender you my friendly respects.

To Mr. Monroe.

MONTPELLIER, Nov. 16, 1827.

Writings of Madison, Volume 3: 1816-1828, p.599

DEAR SIR,—Yours of the 2nd, postmarked 6th of November, came duly to hand. I return the letters and papers enclosed in it.

Writings of Madison, Volume 3: 1816-1828, p.599

The fact stated to Mr. Ringgold by General Jesup, as to the arms in the arsenal of New Orleans at the arrival of General Jackson, does not concern only or principally the question between the General and Mr. Southard. It belongs to the history of the campaign, and of the Administration, and as such ought to be verified and preserved. The General must, of course, have been ignorant of it when he said, in his letter to the Secretary of War, December 16, (see Latour's historical Memoir, page 66,) "we have no arms here," &c. Again: in his letter to the same, of January 19, (see Appendix to the Memoir, No. ii,) he says, "I am more and more satisfied in the belief, that had the arms reached us which were destined for us, the whole British army in this quarter would, before this time, have been captured or destroyed;" from which it is to be inferred that there was no deficiency of men for the purpose. Is it understood that the General has yet become acquainted with the fact? If he has, his character is much mistaken, if he does not promptly and publicly correct the injustice unconsciously committed by him.

Writings of Madison, Volume 3: 1816-1828, p.599

The tenor of the letter of July 18, 1814, is still unrecognised by my memory. I suspect it was written in consequence of a conversation with me, without being read by me, and may, therefore, have expressed a mixture of the Secretary's ideas with mine. My remark alluded to in the letter favors the conjecture. The case stated by General Jackson is a very strong one, but does not altogether preclude questions as to the degree of immediate urgency, as to the distinction between the authority of a military officer and of the National Executive; nor if the invading act be stamped with the character of war, between the Executive and Legislative authority. The only case in which the Executive can enter on a war, undeclared by Congress, is when a state of war has "been actually" produced by the conduct of another power, and then it ought to be made known as soon as possible to the Department charged with the war power. Such a case was the war with Tripoli during the administration of Mr. Jefferson.

Writings of Madison, Volume 3: 1816-1828, p.600

If you possess a copy of the prohibitory letter to General Jackson, of October, 1814, let me, if you please, have a copy from it. I thank you for your kind intention to glance, in a letter to Mr. Mercer, at the affinity of my situation to yours. It is, indeed, made much stronger than yours by what has been drawn into the newspapers. You may have noticed a second public exhibition of me, notwithstanding the aversion to it previously and publicly expressed, and notwithstanding the assurance of the friends of Mr. Ritchie, whom you will guess, that no report of our conversation would be made to the press; it was even intimated in the outset that the enquiry would not have been made if the publication from myself, in the Lynchburg paper, had not been unknown at the time to Mr. R. My remarks, as published, have nevertheless the aspect of an original disclosure made on a special application, and become subservient to observations of a party here. I regretted the occurrence the more, as I had refused to another editor any direct and specific authority to contradict the report concerning the authorship of the Farmer's papers, regarding a compliance with such interrogatories from printers as a bad precedent, and preferring the spontaneous and incidental mode used in the communication to the Lynchburg press.

Writings of Madison, Volume 3: 1816-1828, p.600

I had the more reason to be dissatisfied with the unexpected paragraph in the Enquirer, because, in saying that I expressed astonishment at being regarded as the writer of those papers, the reason assigned for it was omitted, viz: that the reference in them to my name would, on that supposition, have been evidently indelicate. With that omission, my astonishment may be ascribed to the vanity of regarding the papers as unworthy of my superior pen, or, perhaps, to a known disapprobation of the main object of them, that of bringing about a meeting of Deputies at Richmond, of which I had never spoken a syllable. I have thought it better, however, to bear in silence what has taken place, than to risk a farther entanglement with newspapers.

To C. J. Ingersoll.

MONTPELLIER, Novr 17, 1827.

Writings of Madison, Volume 3: 1816-1828, p.601

DR SIR,—I have duly received yours of the 9th, with the printed communication inclosed. I am very sensible of my obligations for the kind feelings which dictated both; and not less so, that, in weighing my public services, the friendly hand unconsciously favored that end of the beam.

Writings of Madison, Volume 3: 1816-1828, p.601

The attempts of party zeal, when pursuing its favorite object, to break into the domain of the Constitution, cannot be too much deplored. In the case which suggests the remark, the barrier is happily too strong in the text of the Instrument, in the uniformity of official construction, and in the maturity of public opinion, to be successfully assailed. There is sound policy, and therefore true patriotism, in the wish that on questions throwing the nation into heated parties, portions of each may be so distributed or the individuals of both so intermingled as to strengthen, instead of weakening, the political fabric.

Writings of Madison, Volume 3: 1816-1828, p.601

Though it would be wrong to wish a diminution of your professional labours, whilst you choose to make a resource of them, the hope cannot be resisted that they may not altogether exclude contributions from your pen such as have occasionally added to the instruction and literary reputation of your country.

To J. Q. Adams.

MONTPELLIER, Decr 9, 1827.

Writings of Madison, Volume 3: 1816-1828, p.602

DEAR SIR,—I return my thanks for the copy of your Message to Congress on the 3d instant, politely forwarded under your cover. Its very able view of blessings which distinguish our favored country is very gratifying; and the feelings inspired by our condition find an expanded scope in the meliorations infused into that of all other people, by a progress of reason and truth, in the merit of which we may justly claim a share. With the newborn nations on the same hemisphere with ourselves, and embarked in the same great experiment of self-gov-ernment, and who are alive to what they owe to our example, as well in the origin of their career as in the forms of their institutions, our sympathies must be peculiarly strong and anxious; the more so, as their destiny must not only affect deeply the general cause of Liberty, but may be felt even by our own.

To Mr. Monroe.

MONTPELLIER, December 18, 1827.

Writings of Madison, Volume 3: 1816-1828, p.602

DEAR SIR,—I have received yours of the 10th, and return the correspondence between Col. Mercer and yourself. Your letter to him of the 10th was perfectly apropos, and cannot fail, I think, to answer my purpose as well as yours, the substance of it being applicable to both, and coinciding with the promise in Col. Mercer's letter of November 12th, to guard me, as well as you, from the threatened embarrassment. It can hardly be supposed, indeed, that either of us would be brought forward without the other, as it might seem to imply that the other was on the other side. To name either without a previous sanction from him would incur the imprudent risk of a refusal more liable to an unfavorable than favorable construction. For myself, moreover, it ought to be known, from what I have been led to say in the newspapers, that I meant to keep aloof from the political agitations of the period; and as a further safeguard, Mr. Cabell was made acquainted, in a conversation I had with him some time ago, with my determination not to be enlisted in a party service. After what had passed, I should, in permitting it, be inconsistent with myself, as well as with what was enjoined by propriety.

Writings of Madison, Volume 3: 1816-1828, p.603

Putting all these views of the subject together, I have thought it superfluous to write to Col. M., especially as my silence cannot mislead him, nothing from him to me, direct or indirect, written or oral, requiring a letter from me. I may ask of you, however, in case of any further confidential communication with him on your part, whether by letter or a common friend, that you would refer without qualification to my sentiments as concurring fully with yours.

Writings of Madison, Volume 3: 1816-1828, p.603

I have a letter from General La Fayette, in which he mourns over the spirit and style of our partisan gazettes as wounding our Republican character, and causing exultation to the foes of Liberty.

Writings of Madison, Volume 3: 1816-1828, p.603

I am just recovered from a pretty severe attack of influenza. There was, I find, no meeting of the Visitors at the time to which the adjournment was made in July.

To Robert Walsh, Jr.

MONTPELLIER, Decr 22d, 1827.

Writings of Madison, Volume 3: 1816-1828, p.603

DEAR SIR,—I have received your favor of the 10th, in which you invite from me contributions for the pages of the "American Quarterly Review."

Writings of Madison, Volume 3: 1816-1828, p.603

I have seen ample proofs in the Nos published, that my anticipation of the success of such a work, under your auspices, was not erroneous; and I should take a pleasure in offerings for its pages, were they but mites, if my age and other obstacles did not bar me from the undertaking.

Writings of Madison, Volume 3: 1816-1828, p.603

It is an error very naturally prevailing, that the retirement from public service, of which my case is an example, is a leisure for whatever pursuit might be most inviting. The truth, however, is, that I have rarely, during the period of my public life, found my time less at my disposal than since I took my leave of it; nor have I the consolation of finding, that as my powers of application necessarily decline, the demands on them proportionally decrease.

Writings of Madison, Volume 3: 1816-1828, p.604

Were it necessary to prove what is here observed, I might appeal to what continually passes to and from me through the mail; to the modes of neighbourly intercourse, unavoidable in rural situations, especially in this quarter of the Union; and to the cares incident to the perplexing species of labour and of husbandry from which alone is derived the support of a complicated establishment; to all which may now be added, the duties devolved on me since the decease of the late Rector of the University, as one of the standing Executive Committee and an organ of intercommunications among the Visitors when not in session. Nor must I omit, as a further addition, the effect of the age at which I am arrived in stiffening the fingers which use the pen, to say nothing of a concurrent effect, of which I may be less sensible, on the source which supplies the matter for it.

Writings of Madison, Volume 3: 1816-1828, p.604

My respect for your friendly disposition, and the public object you have in view, has drawn from me an explanation which I am sure you will rightly appreciate. I might enforce it by the remark, that such has been the accumulated force of the causes alluded to, that I am yet to put a final hand to the digest and arrangement of some of my papers, which may be considered as a task due from me.

Writings of Madison, Volume 3: 1816-1828, p.604

I am aware of the distinction of a communication of original papers composed for the occasion, and documents or extracts to be merely transcribed, such as would be the historical memorials to which you have pointed. But I may say to you what I have said in confidence to one or two others, that a posthumous appearance has been thought to be best suited to their character. The debates and proceedings of the Convention which formed the Constitution of the United States could not, indeed, be well published in detached parts, and are very far too voluminous to be inserted in any periodical work.

Writings of Madison, Volume 3: 1816-1828, p.604

That in declining a compliance with your particular wishes, I may give some proof of my respect for them, I have taken from my files a paper of some length, which has never been in print, and which was copied many years ago from the original, then, as it may yet be, in the Archives of the Revolutionary Congress. It was drawn up by Mr. Wilson, as was told me by himself, and intended to mature the public mind for the event of Independence, the necessity of which was seen to be approaching, and which, in fact, approached so fast as to leave the ground taken by the document in the rear of the public sentiment. The paper is made interesting by its date, Feby 13, 1776, and by its complexion and scope; but it is not, perhaps, as a literary composition, the most favorable specimen of the classic talents of its author. As soon as I can get it transcribed you shall have an opportunity of judging how far it may deserve a place and find a convenient one in a reviewing chapter. In the mean time, I tender you anew my great esteem and good wishes.

To N. P. Trist.

MONTPELLIER, Decr 24, 1827.

Writings of Madison, Volume 3: 1816-1828, p.605

DEAR SIR,—I cannot turn to the letter of Mr. Jefferson containing the severe remarks on the lying practice of the printers, which appear to be misconstrued abroad, and to be working a mischief so contrary to his principles and his intentions. If you have a ready access to the letter, I should be glad to supply the General with an antidote, as far as a just comment on it can be turned to that account. I was afraid, at the time, that the publication of the letter would be perverted abroad by the watchful and wicked enemies of free Government, and its great bulwark, a free press.

To George Mason.

MONTPELLIER, Decr 29, 1827.

Writings of Madison, Volume 3: 1816-1828, p.605

DEAR SIR,—I am much obliged by your polite attention in sending me the copies of the Remonstrance in favour of Religious liberty, which, with your letter of the 10th, came duly to hand. I had supposed they were to be procured at the office which printed them, and referred Mrs. Cutts to that source. Her failure there occasioned the trouble you so kindly assumed. I wished a few copies on account of applications now and then made to me, and I preferred the edition of which you had sent me a sample, as being in the simplest of forms; and for the further reason that the pamphlet edition had inserted in the caption the term "toleration," not in the article declaring the right. The term being of familiar use in the English Code, had been admitted into the original draught of the Declaration of Rights; but, on a suggestion from myself, was readily exchanged for the phraseology excluding it.

Writings of Madison, Volume 3: 1816-1828, p.606

The biographical tribute you meditate is justly due to the merits of your ancestor, Col. George Mason. It is to be regretted that, highly distinguished as he was, the memorials of them on record, or perhaps otherwise attainable, are more scanty than of many of his cotemporaries far inferior to him in intellectual powers and in public services. It would afford me a pleasure to be a tributary to your undertaking. But although I had the advantage of being on the list of his personal friends, and in several instances of being associated with him in public life, I can add little for the pages of your work.

Writings of Madison, Volume 3: 1816-1828, p.606

My first acquaintance with him was in the Convention of Virginia in 1776, which instructed her Delegates to propose in Congress a "Declaration of Independence," and which formed the "Declaration of Rights" and the "Constitution" for the State. Being young and inexperienced, I had of course but little agency in those proceedings. I retain, however, a perfect impression that he was a leading champion for the instruction; that he was the author of the "Declaration" as originally drawn, and with very slight variations adopted; and that he was the master builder of the Constitution, and its main expositor and supporter throughout the discussions which ended in its establishment. How far he may have approved it in all its features, as established, I am not able to say; and it is the more difficult to make the discovery now, unless the private papers left by him should give the information; as at that day no debates were taken down, and as the explanatory votes, if there were such, may have occurred in Committee of the Whole only, and of course not appear in the Journals. I have found among my papers a printed copy of the Constitution in one of its stages, which, compared with the Instrument finally agreed to, shews some of the changes it underwent; but in no instance at whose suggestion, or by whose votes.

Writings of Madison, Volume 3: 1816-1828, p.607

I have also a printed copy of a sketched Constitution, which appears to have been the primitive draft on the subject. It is so different in several respects from the Constitution finally passed, that it may be more than doubted whether it was from the pen of your grandfather. There is a tradition that it was from that of Merriwether Smith, whose surviving papers, if to be found among his descendants, might throw light on the question. I ought to be less at a loss than I am in speaking of these circumstances, having been myself an added member to the Committee. But such has been the lapse of time that, without any notes of what passed, and with the many intervening scenes absorbing my attention, my memory cannot do justice to my wishes. Your grandfather, as the Journals shew, was at a later day added to the Committee; being, doubtless, not present when it was appointed, or he never would have been overlooked.

Writings of Madison, Volume 3: 1816-1828, p.607

The public situation in which I had the best opportunity of being acquainted with the genius, the opinions, and the public labours of Col. Mason, was that of our co-service in the Convention of 1787, which formed the Constitution of the United States. The objections which led him to withhold his name from it have been explained by himself. But none who differed from him on some points will deny that he sustained throughout the proceedings of the body the high character of a powerful reasoner, a profound statesman, and a devoted Republican.

Writings of Madison, Volume 3: 1816-1828, p.607

My private intercourse with him was chiefly on occasional visits to Gunston when journeying to and from the North, in which his conversations were always a feast to me. But though in a high degree such, my recollection, after so long an interval, cannot particularize them in a form adapted to biographical use. I hope others of his friends still living, who enjoyed more of his society, will be able to do more justice to the fund of instructive observations and interesting anecdotes for which he was celebrated.

Writings of Madison, Volume 3: 1816-1828, p.608

On looking through my files for a correspondence by letter, I find on his part—1. A letter of August 2, recommending Rd Harrison for a Consulate. 2. Do. of April 3, 1781, addressed to the Virginia Delegates in Congress, advising a duty on British merchandise, for repairing the loss sustained from depredations on private property by British troops. 3. Do. of March 28, 1785, communicating the compact with Maryland on the navigation and jurisdiction of the Potowmac, &c. 4. Do. August 9 and December 7, 1785, explaining the proceedings in the above case. 5. A bill concerning titles to lands under actual surveys. All these will probably be found in copies or original drafts among the papers left by your grandfather, or in the Legislative Archives at Richmond, which were saved when those of the Executive were destroyed during the Revolutionary war. Of letters on my part, I do not find a single one; though references in his prove, as must have been the case, that some were received from me.

1828

To Jared Sparks.

MONTPELLIER, January 5th, 1828.

Writings of Madison, Volume 3: 1816-1828, p.608

DEAR SIR,—I received two days ago your favor of December 29. That of August 25 came also safe to hand. I did not acknowledge it, because I expected soon to have an occasion for doing it on the receipt of the letters since put into the hands of Col. Storrow. Having heard nothing from him on the subject, I conclude that he retains them for a better conveyance than he had found, although I am not without apprehension of some casualty to the packet on the way.

Writings of Madison, Volume 3: 1816-1828, p.608

For a reason formerly glanced at, namely, the advantage of having before me the whole of my correspondence with General Washington, in estimating his purpose as to particular portions of it, I did not make use of the suggested opportunity to Washington by my neighbour, P. P. Barbour. I shall now conform to your last suggestion, and await your return from Europe. In the mean time I thank you for your promise to send me copies of letters from General Washington to me, which are missing on my files. This I hope can be done before your departure.

Writings of Madison, Volume 3: 1816-1828, p.609

You wish me to say whether I believe, "that at the beginning of the Revolution, or at the assembling of the first Congress, the leaders of that day were resolved on Independence?" I readily express my entire belief that they were not, though I must admit that my means of information were more limited than may have been the case with others still living to answer the enquiry. My first entrance on public life was in May, 1776, when I became a member of the Convention in Virginia, which instructed her delegates in Congress to propose the Declaration of Independence. Previous to that date, I was not in sufficient communication with any under the denomination of leaders, to learn their sentiments or views on the cardinal subject. I can only say, therefore, that so far as ever came to my knowledge, no one of them ever avowed, or was understood to entertain, a pursuit of Independence at the assembling of the first Congress, or for a very considerable period thereafter. It has always been my impression that a re-establishment of the Colonial relations to the parent country previous to the controversy was the real object of every class of people, till despair of obtaining it, and the exasperating effects of the war, and the manner of conducting it, prepared the minds of all for the event declared on the 4th of July, 1776, as preferable, with all its difficulties and perils, to the alternative of submission to a claim of power, at once external, unlimited, irresponsible, and under every temptation to abuse from interest, ambition, and revenge. If there were individuals who originally aimed at Independence, their views must have been confined to their own bosoms, or to a very confidential circle.

Writings of Madison, Volume 3: 1816-1828, p.609

Allow me, sir, to express anew my best wishes for a success in your historical plan, commensurate with its extent and importance, and my disposition to contribute such mites towards it as may be in my power.

Writings of Madison, Volume 3: 1816-1828, p.610

Do me the favor to say when, and from what port, you propose to embark. May I venture to add a request of the result of your enquiry at Philadelphia on the subject of the paper in the hands of Claypole, as far as it may be proper to disclose it, and trust it to the mail?

To H. D. Gilpin.

MONTPELLIER, Jany 10, 1828.

Writings of Madison, Volume 3: 1816-1828, p.610

DEAR SIR—I have received yours of the 4th instant, and am glad to learn that my communications of October last were acceptable.

Writings of Madison, Volume 3: 1816-1828, p.610

In reference to the intimation in your last paragraph, I may only say that, feeling what is due to its motives, and judging of the work about to be re-edited by the patrons known to me, I can offer no objection to the meditated use of my name, but the deficiency of its title to such a mode of connecting it with the great occasion which furnished peculiar subjects, as well for biographical literature as for national gratitude.

To H. D. Gilpin.

JANy 14, 1828.

Writings of Madison, Volume 3: 1816-1828, p.610

DEAR SIR,—Recollecting that there must have been associates in the biographical commemoration of the Act of Independence, some of whom, at least, may not share in the partiality which suggested my name for the use proposed in your letter of the 4th instant, that consideration, added to the one conveyed in my answer, induces me to request, that if an inscription of the work going to the press be intended, some other object for such a mark of respect may be preferred.

Writings of Madison, Volume 3: 1816-1828, p.610

I beg you to be assured, sir, that in this further view of the subject, I retain, without diminution, my sense of the friendly motives for which I repeat my acknowledgments, with renewed offers of my cordial salutations.

To Thomas S. Grimke.

MONTPELLIER, Jany 15, 1828.

Writings of Madison, Volume 3: 1816-1828, p.611

I return my thanks, sir, for a copy of a Report on the question of reducing the Laws of South Carolina to the form of a Code.

Writings of Madison, Volume 3: 1816-1828, p.611

The Report presents certainly very able and interesting views of the subject, and can leave no doubt of the practicability and utility of such a digest of the statute law as would prune it of its redundancies of every sort, clear it of its obscurities, and introduce whatever changes in its provisions might improve its general character. Within a certain extent, the remark is applicable to the unwritten law also, which must be susceptible of many improvements not yet made by legislative enactments. How far a reduction of the entire body of unwritten law into a systematic text be practicable and eligible, is the only question on which doubts can be entertained. And here there seems to be no insuperable difficulty in classifying and defining every portion of that law, provided the terms employed be at once sufficiently general and sufficiently technical; the first requisite, avoiding details too voluminous; the last, avoiding new terms, always liable, more or less, till made technical by practice, to discordant interpretations. It has been observed, that in carrying into effect the several codified digests, not excepting the Napoleon, the most distinguished of them, the former resort in the tribunals has been necessarily continued to the course of precedents and other recognized authorities. What, indeed, would the Justinian Code be without the explanatory comments and decrees which make a part of the civil law?

Writings of Madison, Volume 3: 1816-1828, p.611

One of the earliest acts of the Virginia Legislature after the State became independent provided for a revisal of the laws in force, with a view to give it a systematic character accommodated to the Republican form of Government and ameliorated spirit of legislation. The task was committed to five commissioners, and executed by three of them, Mr. Jefferson, Mr. Wythe, and Mr. Pendleton. In a consultative meeting of the whole number, the question was discussed whether the common law at large, or such parts only as were to be changed, should be reduced to a text law. It was decided, by a majority, that an attempt to embrace the whole was unadvisable; and the work, as executed, was accordingly limited to the old British Statutes admitted to be in force, to the Colonial Statutes, to the penal law, in such parts as needed reform, and to such new laws as would be favorable to the intellectual and moral condition of the community. In the changes made in the penal law, the Revisors were unfortunately misled into some of the specious errors of ———, then in the zenith of his fame as a philosophical legislator.\*

Writings of Madison, Volume 3: 1816-1828, p.612

The work employed the Commissioners several years, and was reported in upwards of a hundred bills, many of which were readily, as others have been, from time to time, passed into laws, the residue being a fund still occasionally drawn on in the course of legislation. The work is thought to be particularly valuable as a model of statutory composition. It contains not a superfluous word, and invariably prefers technical terms and phrases having a settled meaning where they are applicable. The copies of the Report printed were but few, and are now very rare, or I should be happy in forwarding one in return for your politeness. I may mention, however, that many years ago, at the request of Judge H. Pendleton, of South Carolina, then engaged in revising the laws of the State, I lent him a copy, which, not having been returned, may possibly be traced to the hands into which his death threw it.

To Mr. Monroe.

MONTPELLIER, January 23, 1828.

Writings of Madison, Volume 3: 1816-1828, p.612

DEAR SIR,—I received by the mail of last evening yours of the 18th.

Writings of Madison, Volume 3: 1816-1828, p.612

You were not more surprised than I had a right to be at seeing our names on the electoral ticket. After my letter to you, which you made known to Col. Mercer, I wrote to Mr. Cabell in the most decided terms; and he informs me he made the proper use of it. I have a letter from Col. Mercer also, corresponding, doubtless, with his to you. The awkwardness thrown upon us is much increased by the delay in giving the regular notice. To anticipate it might mark an unsuitable feeling of one sort, as well as censure on the delay. To be silent too long leaves room for inferences of another sort, also to be avoided. The latter effect will, however, be corrected by our answers, which seem to be sufficiently foretold, whilst there would be no opportunity of doing away the former. As there is a resolution of the Convention connecting with the notification copies of the proceedings, which require some time for preparation, the delay of our answers ought to be accounted for by that circumstance. I hope your letter to Judge Brooke will put an end to the difficulty. Should his answer fail of doing it, be so good as to let me know it, with your view of the course proper for us. Should it become necessary not to wait for the usual mode of notification, it may be a question whether our answers requiring a nomination of others might not be most properly addressed to the Committee at Richmond which is to make it, bottoming them, in that case, on the expediency of an early notice to those who are to take our places. My answer, whenever and to whomever made, will, of course, withdraw my name from the ticket; in stating the grounds for which, I feel the delicacy of the task. A plea of neutrality is already represented as a claim of privilege belonging to no particular citizens. The particular ground taken by you cannot be altogether unsuited to my case, and will be respected by all in proportion as a sense of delicacy can controul the feelings of party.

Writings of Madison, Volume 3: 1816-1828, p.613

Health and every other happiness.

Writings of Madison, Volume 3: 1816-1828, p.613

I have received a letter from Mr. Brougham urging our release of Professor Long. I have, admitting our disposition to avoid disappointing the latter, urged the greater facility there than here, of providing a temporary substitute. I learn from the Rector that Dr Jones is expected to come on soon to the University, having relieved himself from part of his term with the Franklin Institute. The decisive information, however, is to come from General Cocke, who has been our correspondent with the Doctor.

To N. P. Trist.

MONTPELLIER, Jany 26, 1828.

Writings of Madison, Volume 3: 1816-1828, p.614

DEAR SIR,—Before I received your letter I had not adverted to the criticism in the "Advocate" on Mr. Rush, nor even read the criticism on the criticism; being diverted from it by the signature, which I ascribed to the author who has published so much under it, and whose views of every branch of the subject I thought myself sufficiently acquainted with.

Writings of Madison, Volume 3: 1816-1828, p.614

I had, indeed, read but skimmingly the Treasury Report itself. I was certainly not struck with the passage in question as a heresy, and suspect that it must have been misunderstood by those who denounce it as such.

Writings of Madison, Volume 3: 1816-1828, p.614

How far, or in what mode, it may be proper to countervail, by encouragements to manufactures, the invitations given to agriculture, by superadding to other lands in the market the vast field of cheap and fertile lands opened by Congress, is assuredly a fair subject for discussion. But that such a field is attractive to agriculture as much as an augmentation of profits is to manufactures, I conceive to be almost luce clarius. It is true that, as the enlarged sale of fertile lands may be increasing, the food and other articles in market cheapen them to the manufacturer, and so far operate, for a time at least, as an encouragement to him; but the advantage bears in this case no proportion to the effect of a redundancy of cheap and fertile lands in drawing of capital, as well as that class of population from which manufactories are to be recruited.

Writings of Madison, Volume 3: 1816-1828, p.614

The actual fall in the price of land, particularly in Virginia, may be attributed to several causes: 1. To the uncertainty and low prices of the crops. 2. To the quantity of land thrown into market by debtors and the defect of purchasers, both owing to the general condition of the people, not difficult but unnecessary to be explained. But the 3d and main cause is the low price at which fertile lands in the Western market are attainable, tempting the owners here to sell out and convert the proceeds, or as much of them as they can spare, into cheaper and better lands there.

Writings of Madison, Volume 3: 1816-1828, p.615

Nothing would be further from my wishes than to withhold, at proper prices, a fair supply of the national domain to emigrants, whether of choice or of necessity. But how can it be doubted that, in proportion as the supply should be reduced in quantity or raised in price, emigration would be checked and the price of land here augmented?

Writings of Madison, Volume 3: 1816-1828, p.615

Put the case that the dividing mountains were to become an impassable barrier to further emigrations; is it not obvious that the price of land on this side, except so far as other temporary causes might be a check, would spring up the moment the fact was known? Or take another case: that the population on the other side, instead of being there, had remained and been added to the number on this; can it be believed that the price of land on this would be as low as it is? Suppose, finally, a general reflux of the Western population into the old States; a like effect on the price of land can be still less doubted.

Writings of Madison, Volume 3: 1816-1828, p.615

That the redundancy and cheapness of land is unfavorable to manufactures, in a degree even beyond the comparative profit-ableness of the labour bestowed, is shown by experience, and is easily explained. The pride of ownership when this exists or is expected, the air of great freedom, the less of constancy and identity of application, are known to seduce to rural life the drudges in workshops. What would be the condition of Birmingham or Manchester were 40 or 50 millions of fertile acres placed at an easy distance and offered at the price of our Western lands? What a transfer of capital and difficulty of retaining or procuring operatives would ensue! And although the addition to the products of the earth, by cheapening the necessaries of life, might seem to favor manufactures, the advantage would be vastly overbalanced by the increased price of labour produced by the new demand for it, and by the superior attractiveness of the agricultural demand.

Writings of Madison, Volume 3: 1816-1828, p.616

Why do such numbers flee annually from the more populous to less populous parts of the U. States, where land is cheaper? Evidently because less labour is more competent to supply the necessaries and comforts of life. Can an instance be produced of emigrants from the soil of the West to the manufactories of Massachusetts or Pennsylvania.

Writings of Madison, Volume 3: 1816-1828, p.616

Among the effects of the transmigration from the Atlantic region to the ultra-montane, it is not to be overlooked that besides reducing the price of land in the former, by diminishing the proportion of inhabitants, it reduces it still further by reducing the value of its products in glutted markets. This is the result at which the reasoning of the "erased" [?] fairly arrived, and justifies the appeal made to the Southern farmers and planters on the question of having the same people for consumers of their vendibles, or rival producers of them.

Writings of Madison, Volume 3: 1816-1828, p.616

But whilst I do justice to the successful reasoning in the case, I take the liberty of remarking, that in comparing land with machinery or materials, an important distinction should be kept in view. Land, unlike the latter, is a co-operating self-agent, with a surface not extendible by art, as machines, and in many cases materials also may be multiplied by art. Arkwright's machine, which co-operates a thousand times as much with human agency as the earth does, being multipliable indefinitely, soon sinks in the price to the mere cost of construction. Were the surface or the fertility of the earth equally susceptible of increase, artificial and indefinite, the cases would be parallel. The earth is rather a source than an instrument or material for the supplies of manufacturing, except when used in potting and brick work.

Writings of Madison, Volume 3: 1816-1828, p.616

Having thus undertaken to criticise a criticism on a point of some amount, I will indulge the mood as to a very minute one. You use the word "doubtlessly." As you may live long, and may write much, it might be worth while to save the reiterated trouble of two supernumerary letters, if they were merely such. But if there be no higher authority than the Lexicography of Johnson, the ly is apocryphal. And if not so, the cacophony alone of the elongated word ought to banish it; doubtless being, without doubt, an adverb, as well as an adjective, and more used in the former than the latter character.

To G. C. Verplanck.

FEBY 14, 1828.

Writings of Madison, Volume 3: 1816-1828, p.617

DR SIR,—I have received your letter of the 5th, with a copy of the "Report to the High School Society of N. York," for which I return my thanks.

Writings of Madison, Volume 3: 1816-1828, p.617

No feature in the aspect of our country is more gratifying than the increase and variety of Institutions for educating the several ages and classes of the rising generation, and the meritorious patriotism which, improving on their most improved forms, extends the benefit to the sex heretofore sharing too little of it. Considered as at once the fruits of our free system of Government, and the true means of sustaining and recommending it, such establishments are entitled to the best praise that can be offered, and I congratulate you, sir, on the exemplary success of the benevolent and comprehensive one, in the patronage of which you are so prominent an associate.

To General La Fayette.

MONTPELLIER, Feby 20, 1828.

Writings of Madison, Volume 3: 1816-1828, p.617

MY DEAR FRIEND,—Your favor of October 27 has been some time on hand, though it met with delays after it got into port. My health, in which you take so kind an interest, was, as reported, interrupted by a severe, though short attack, but is now very good. I hope yours is so, without having suffered any interruption.

Writings of Madison, Volume 3: 1816-1828, p.617

I wish I could give you fuller and better accounts of the Monticello affairs. Neither Virginia, nor any other State, has added to the provision made for Mrs. Randolph by South Carolina and Louisiana; and the lottery, owing to several causes, has entirely failed. The property sold, consisting of all the items except the lands and a few pictures and other ornaments, was fortunate in the prices obtained. I know not the exact amount, but a balance of debt remains which, I fear, in the sunken value and present unsalableness of landed property, will require for its discharge a more successful use of the manuscripts proper for the press than is likely to be soon effected. A prospectus has been lately published by Mr. Jefferson Randolph, extending to 3 or 4 octavo volumes, and considerable progress is made, I understand, in selecting (a very delicate task) and transcribing (a tedious one) the materials for the edition. In this country, also, subscriptions in the extent hoped for will require time; and arrangements are yet to be made for cotemporary publications in England and France, in both of which they are, as they ought to be, contemplated. I have apprized Mr. Randolph of your friendly dispositions with respect to a French edition, &c.; for which he is very thankful, and means to profit by. From this view of the matter, we can only flatter ourselves that the result will be earlier than the promise, and prove adequate to the occasion. If the difficulties in the way of the enlarged plan of publication can be overcome, and the work have a sale corresponding with its intrinsic merits, it cannot fail to be very productive. A memoir making a part of it will be particularly attractive in France, portraying as it does the Revolutionary scenes, whilst Mr. Jefferson was in Paris. Is there not some danger that a censorship may shut the press against such a publication? I fear the translator will be obliged to skip over parts, at least; and those perhaps among the most interesting.

Writings of Madison, Volume 3: 1816-1828, p.618

Mrs. Madison has just received a letter from Mrs. Randolph, in which she manifests a fixed purpose of returning to Virginia in the month of May. Her health has been essentially improved since she left it.

Writings of Madison, Volume 3: 1816-1828, p.618

I was aware when I saw the printed letter of Mr. Jefferson, in which he animadverts on licentious printers, that if seen in Europe it would receive the misconstruction, or rather perversion, to which you allude. Certain it is that no man more than Mr. Jefferson regarded the freedom of the press as an essential safeguard to free Government, to which no man could be more devoted than he was; and that he never could, therefore, have expressed a syllable or entertained a thought unfriendly to it.

Writings of Madison, Volume 3: 1816-1828, p.619

I have not supposed it worth while to notice, at so late a day, the misprint in the "Enquirer" to which you refer, because I take for granted that a correct expression of what you said on the 4th of July will be preserved in depositories more likely to be resorted to than a newspaper.

Writings of Madison, Volume 3: 1816-1828, p.619

We learn with much gratification that the Greeks are rescued from the actual atrocities suffered, and the horrible doom threatened from the successes of their savage enemy. The disposition to be made of them by the mediating Powers is a problem full of anxiety. We hope for the best, after their escape from the worst. We are particularly gratified, also, by the turn given to the elections in France, so little expected at the date of your letter, and which must give some scope for your patriotic exertions. If the event does not mean all that we wish it to do, it marks a progress of the public sentiment in a good direction. Your speech on the tomb of Manuel is well calculated to nourish and stimulate it.

Writings of Madison, Volume 3: 1816-1828, p.619

I well knew the painful feelings with which you would observe the extravagances produced by the Presidential contest. They have found their way into the discussions of Congress and the State Legislatures, and have assumed forms that cannot be too much deplored. It happens, too, unfortunately, that the questions of Tariff and of Roads and Canals, which divide the public, on the grounds both of the Constitution and of justice, come on at the same time, are blended with and greatly increase the flame kindled by the electioneering zeal. In Georgia fuel was derived from a further source, a discontent at the tardy removal of the Indians from lands within her State limits. Resolutions of both Georgia and South Carolina have been passed and published, which abroad may be regarded as striking at the Union itself, but they are ebullitions of the moment, and so regarded here. I am sorry that Virginia has caught too much of the prevailing fever. I think that with her, at least, its symptoms are abating.

Writings of Madison, Volume 3: 1816-1828, p.620

Your answer to Mr. Clay was included in the voluminous testimony published by him, in repelling charges made against him. Your recollections could not fail to be of avail to him, and were so happily stated as to give umbrage to no party.

Writings of Madison, Volume 3: 1816-1828, p.620

In the zeal of party, a large and highly respectable meeting at Richmond, in recommending Presidential electors, were led by a misjudging policy to put on their tickets the names of Mr. Monroe and myself, not only without our sanction, but on sufficient presumptions that they would be withdrawn. In my answer to that effect, I have ventured to throw in a dehortation from the violent manner in which the contest is carried on. How it may be relished by the parties I know not.

Writings of Madison, Volume 3: 1816-1828, p.620

You sympathize too much with a country that continues its affection for you without abatement, not to be anxious to know the probable result, as well as the present state of the ardent contest. I can only say that the party for General Jackson are quite confident, and that for Mr. Adams apparently with but faint hopes. Whether any change, for which there is time, will take place in the prospect, cannot be foreseen. A good deal will depend on the vote of New York, and I see by the newspapers that the sudden death of Mr. Clinton is producing in both parties rival appeals, through obituary eulogies, to the portion of the people particularly attached to him.

Writings of Madison, Volume 3: 1816-1828, p.620

Miss F. Wright has just returned in good health, via New Orleans, to her establishment in Tennessee, and has announced a change in the plan of it, probably not unknown to you. With her rare talents, and still rarer disinterestedness, she has, I fear, created insuperable obstacles to the good fruits of which they might be productive by her disregard, or rather defiance, of the most established opinions and vivid feelings. Besides her views of amalgamating the white and black population, so universally obnoxious, she gives an eclât to her notions on the subject of religion and of marriage, the effect of which your knowledge of this country can readily estimate. Her sister, in her absence, had exchanged her celibacy for the state of wedlock—with what companion I am not informed, nor whether with the new or old ideas of the conjugal knot.

Writings of Madison, Volume 3: 1816-1828, p.621

Our University is doing, though not as well as we could wish, as well as could be reasonably expected. An early laxity of discipline had occasioned irregularities in the habits of the students which were rendering the Institution unpopular. To this evil an effectual remedy has been applied. The studious and moral conduct of the young men will now bear a comparison with the best examples in the United States. But we have been unfortunate in losing a Professor of Mathematics, who was a valuable acquisition, and are soon to lose the Professor of Ancient Languages, whose distinguished competency we can scarcely hope to replace. Both of them were from England, and though professing to be friendly to this country, and doing well in their respective stations, preferred a return to their native home; one of them seduced by an appointment in the new University in London; and the other, it is supposed, by the hope of obtaining an appointment. But the great cause which retards the growth of the Institution is the pecuniary distress of the State, the effect of scanty crops and reduced prices, with habits of expense, the effect of a better state of things. The mass of our people, as you know, consists of those who depend on their agricultural resources, and the failure of these leaves it in the power of but few parents to give the desired education to their sons, cheap as it has been made to them. We cherish the hope of a favorable change, but the immediate prospect is not flattering.

Writings of Madison, Volume 3: 1816-1828, p.621

My mother, little changed since you saw her, recd with much sensibility your kind remembrance, and charges me with the due returns. Mrs. M. joins me in assurances of every good wish for yourself, your son, and the whole household, with an extension to Mr. Le Vasseur. Most affectionately yrs.

To M. Van Buren.

FEBY 21, 1828.

Writings of Madison, Volume 3: 1816-1828, p.622

J. Madison, with his respects to Mr. Van Buren, thanks him for the copy of his speech in behalf of the surviving officers of the Revolutionary Army. They are very fortunate in having such able advocates. It is a painful reflection that, after all that can now be done, so much of the price of Independence should be left for the pages of History as a charge against the justice and gratitude of the Nation.

To Francis Brooke.

MONTPELLIER, Feby 22d, 1828.

Writings of Madison, Volume 3: 1816-1828, p.622

DEAR SIR,—The mail of last evening brought me your circular communication, by which I am informed of my being nominated by the Convention at Richmond, on the 8th of January, one of the Electors recommended for the next appointment of Chief Magistrate of the U. States.

Writings of Madison, Volume 3: 1816-1828, p.622

Whilst I express the great respect I feel to be due to my fellow-citizens composing that assembly, I must request that another name be substituted for mine on their Electoral ticket.

Writings of Madison, Volume 3: 1816-1828, p.622

After a continuance in public life, with a very brief interval, through a period of more than forty years, and at the age then attained, I considered myself as violating no duty in allotting, for what of life might remain, a retirement from scenes of political agitation and excitement. Adhering to this view of my situation, I have forborne during the existing contest, as I had done during the preceding, to participate in any measures of a party character; and the restraint imposed on myself is necessarily strengthened by an admonishing sense of increasing years. Nor with these considerations could I fail to combine a recollection of the public relations in which I had stood to the distinguished individuals now dividing the favour of their country, and the proofs given to both of the high estimation in which they were held by me.

Writings of Madison, Volume 3: 1816-1828, p.623

In offering this explanation, I hope I may be pardoned for not suppressing a wish, which must be deeply and extensively, felt, that the discussions incident to the depending contest may be conducted in a spirit and manner neither unfavorable to a dispassionate result nor unworthy of the great and advancing cause of Representative Government.

To Mr. Monroe.

FEBRUARY 26, 1828.

Writings of Madison, Volume 3: 1816-1828, p.623

DEAR SIR,—Your two letters of the 13th and 15th inst. came together by the last mail, (Sunday evening,) too late to be acknowledged by its return on Monday morning.

Writings of Madison, Volume 3: 1816-1828, p.623

I had received the printed circular of Judge Brooke, notifying our electoral nominations, on Thursday last, but in the night, and it could not be answered by the return mail, which passes our post office, between five and six miles distant, by daylight.

Writings of Madison, Volume 3: 1816-1828, p.623

The printed date on the letter was the 8th, and the post-mark the 17th, at Richmond. There was the loss of a day on the road, occasioned by high waters, and a loss of two days instead of one in my answer, occasioned by the two days intervening between the mails of Friday and Monday. An intervention of one day only occurring to the two other mails of the week, it follows that my answer will not have arrived at Richmond until this evening, (Tuesday,) unless quickened by a casual conveyance from Orange Court House, of which the postmaster there was desired to take advantage. I calculate that your answer will be at Richmond about the same time.

Writings of Madison, Volume 3: 1816-1828, p.623

The delay in giving us notice has been remarkable. The resolution of their meeting, the only plea for it, could not have required the postponement of the notice till the printed documents could accompany it. It ought rather to have been hastened, that the answers might ascertain the accepting individuals to whom the documents, when printed, might be forwarded.

Writings of Madison, Volume 3: 1816-1828, p.624

The course pursued has been misjudged, and will probably receive adversary comments proving it to be so. To us it has been particularly unpleasant from the awkward position into which it threw us before the public, and from the task, delicate as troublesome, of answering friendly letters addressed to us on the occasion. It may happen, too, that our public answers are not to escape newspaper remarks, for which neither of us has any appetite.

Writings of Madison, Volume 3: 1816-1828, p.624

We are truly concerned for the indisposition of Mrs. Monroe. Accept our best wishes for the restoration of her health, and for all happiness for you both.

To Jonathan Roberts.

FEBY 29, 1828.

Writings of Madison, Volume 3: 1816-1828, p.624

I have received, my dear sir, your friendly letter of the 15th instant, which had strayed to a wrong post office before it got to the right one. It gives me pleasure to find that you retain the sentiments which grew up between us during our cotempo-rary services in public life, and I do every justice to the motives which prompted your call on me to take an active side in the contest which excites so much angry feeling. You will probably see in print before this reaches you that I have not adopted the course which appeared to you as due to the present conjuncture, and the considerations which led me to decline it. I might, perhaps, have found an additional one in the opinion, entertained by not a few, that an active zeal in those who have been honored with the trust most exposed to public jealousy, in designating and procuring successors, is not only unbecoming, but on that very account forfeits the influence at which it aims. Nor should it be forgotten, that after passing the canonical epoch of three score and ten, few individual characters can escape successful allusions to the presumptive operation of time in dimming the intellectual vision, as well as the corporeal. But may I not ask, my good friend, how it is that whilst you plead for yourself the privilege of gray hairs, you address yourself to me as if an addition of twenty winters over my head gave me no such pretension? When you reach the period at which I find myself, you will be a better judge of the neutrality of my answer to the Richmond Committee; and if you should decide against it now, I must appeal to a review of the case when you count the years under which the answer was given.

Writings of Madison, Volume 3: 1816-1828, p.625

I concur with you in regretting the erroneous constructions of the Constitution which would throw an undue weight into the scale of the General Government; and we probably feel equal regret at the errors, not less obvious nor less certainly giving a preponderance to that of the State Governments. It will be fortunate if the struggle should end in a permanent equilibrium of powers, either by an harmonious construction, or an authoritative amendment of the Charter which defines them. It seems impossible that the lengths into which some of our politicians are running can fail to beget alarms in all friends of the Union which must arrest their career.

To G. W. Featherstonhaugh.

MONTPELLIER, March 13, 1828.

Writings of Madison, Volume 3: 1816-1828, p.625

DEAR SIR,—I have duly received your letter of Feby 28, and congratulate you on your return from your transatlantic visit, so rich in the geological spoils of a foreign region, and with the laudable purpose of gathering like tributes from your own.

Writings of Madison, Volume 3: 1816-1828, p.625

To say nothing of this continent, compared with the other, it cannot be doubted that the U. States rival in that kind of resources any equal portion of the other; and the physical features of this particular State would seem to promise its full quota. But the subject has as yet received so little of scientific attention, as far as I know, that I am quite at a loss to name to you a single correspondent who could be relied on as a productive one. Our State Engineer, Mr. Crozet, formerly of West Point, is suggested by general character as a man of science, and by his occupation and opportunities, and may not be disinclined to aid your views. I am, however, without the slightest acquaintance with him, having never even seen him.

Writings of Madison, Volume 3: 1816-1828, p.626

For myself, you are very justly aware of the disqualifying effect of time on my personal agency. However my good wishes may expand with new prospects for science, or for the new science of geology, opened by the inquisitive genius of the age, I am under the increasing necessity of narrowing the field in which a passive curiosity even can be indulged. I can only join in applauding those who avail themselves of the proper stages of life, and of their superior capacities, for enlarging the sphere of human knowledge. And this is only to be done in the geological section, more especially in the mode in which you are co-operating, that of bringing into comparative views the appropriate materials. Experiment and comparison may be regarded as the two eyes of Philosophy, and it will require, I suspect, the best use of both to reduce into a satisfactory system the irregular and intermingled phenomena to be observed on the outside and the penetrable inside of our little Globe. Whatever doubts I may have on the subject, I hope you will have none of my sincerity in the esteem and cordial respect which I pray you to accept.

To Isaac Lea.

APRIL 3d, 1828.

Writings of Madison, Volume 3: 1816-1828, p.626

DR SIR,—I have duly received your letter of March 30. No apology was necessary for the enquiry it makes. I regret only that I am unable to furnish the information wanted. In the year 1772, I was in a distant State, where I received a part of my education, and if the Expedition of Captain Wilder for the discovery of a N. W. passage came at any time to my knowledge, it has gone entirely out of my recollection; nor could I now refer to any living individual who could be consulted with a prospect of success. It is not improbable the Virginia newspapers of that period may contain some account of the undertaking in question. But I do not possess them, nor do I know where they are to be found, unless, indeed, they should have been included in the Library of Mr. Jefferson, now making part of that of Congress. Should this be the case, you will be at no loss for a friend at Washington, who would make the examination for you.

To James Maury.

MONTPELLIER, Apl 5, 1828.

Writings of Madison, Volume 3: 1816-1828, p.627

DR SIR,—Your favor of January 29-30, with the interesting Gazettes then and afterwards kindly sent, have been duly received. Your friend, Mr. Hagarty, has not yet afforded me an opportunity for the welcome I shall feel a pleasure in giving him over my threshold.

Writings of Madison, Volume 3: 1816-1828, p.627

Your advice to the tobacco planters is very good, but it will not be followed, for three reasons: 1. Because good advice is apt to be disregarded. 2. Because it is difficult to find a substitute. 3. Because the fitness of Western climates for that article, and the fall in the price of cotton, would defeat the plan of a stint cultivation in Virginia. The present hope of relief from the bad market for our agricultural products seems to be rounded on attempts at manufactories, for which several charters of incorporation are already granted by the General Assembly. The idea is, perhaps, sound enough that slave labour is well adapted to them, and the material of cotton is particularly convenient. The want of capital and managing habits are the great obstacles. Should these requisites be tempted hither from the Northern States, the experiment is not unpromising. It is much stimulated by the actual state of the market for the two staples of flour and tobacco, which are very low; the former crop also short, and the quality of the latter inferior. Unless G. Britain should favor these articles more than is probable, we must be driven to a change of some sort that will have the effect of reducing our imports from her, within our means to pay for them. It is to be regretted that two nations, having such a mutual interest in fostering liberal intercourse, should have it thwarted by a narrow policy on either side. It is, in some respects, lucky for G. Britain that her commercial rivals imitate rather than take advantage of her restrictive laws. I observe that the silk manufactures are a favorite and successful branch at present, and next in amount to the cotton. What would be the effect, if France and other competitors were to say to the United States, favor our silk fabrics in your market by reducing the duty on them below that on the silks of our rival. and we will give an equivalent encouragement to your great staples in our market? There is, probably, no regulation countervailing the British laws that would excite so little objection in the United States, silks being an article of luxury and fashion, and the use of them not materially different in the several States. The existing Treaty with G. Britain may create a difficulty in such a discrimination, but it provides for its own repeal on a year's previous notice by either party. I wish, rather than expect, that the new administration in England would fully meet the friendly and reciprocal policy of the U. States, and give an earnest of it by putting an end to the Colonial question. If they choose to prohibit all trade to their Colonies according to the monopolizing code of nations having Colonies, they have a right to do so, and we none to complain. But if, departing themselves from that code, they open Colonial ports for foreign trade, the rule of reciprocity is as applicable to the navigation in that case, as in the case of ports elsewhere, and the fact seems not to have been sufficiently noticed that the British Government is the only one that has ever attempted to monopolize the navigation, when permitted at all, between her Colonies and foreign ports. It has not been unusual for France and Spain to open their Colonial ports for supplies from the United States, but in all such cases the navigation was reciprocally free.

Writings of Madison, Volume 3: 1816-1828, p.628

Your letter of Feby 24, 1827, referring to remarks in the Liverpool Mercury, came to hand in due time, and it was my intention to have answered it, but, unluckily, the newspapers were taken away and not recovered. You were very safe, I have no doubt, in the ground you took in vindication of Virginia as to the slave trade.

Writings of Madison, Volume 3: 1816-1828, p.629

I do not touch on our political agitations. The Presidential canvass and the tariff policy, the two chief causes of them, find their way to you through newspapers, which I take for granted you have abundant opportunities of looking into.

Writings of Madison, Volume 3: 1816-1828, p.629

I am sorry I cannot give you a satisfactory account of the prospects for the Monticello family. The examples of South Carolina and Louisiana have been followed by no other States, not even by Virginia. The scheme of a lottery fell through entirely. The personal estate, except a few articles of ornamental furniture, was sold better than was expected; leaving, however, a balance of debts, which a sale of the landed at this time would probably not meet. It is proposed to publish, at an early day, three or four volumes of Mr. Jefferson's manuscripts, which may prove a considerable resource, if circumstances should do justice to their intrinsic value.

Writings of Madison, Volume 3: 1816-1828, p.629

I congratulate you on the vigour of your health at the advanced age you hail from. But if you select a precedent for your longevity, I recommend, instead of Mr. Carroll's, that of your old friend my mother, now in her ninety-seventh year, which allows you, therefore, a certainty of fifteen years to come, with a promise of still more; her health, at present, being quite good. She always receives with pleasure, and directs a return of, your kind recollections. With that, accept every wish for your happiness from Mrs. Madison and myself.

To N. P. Trist.

MONTPELLIER, April 23d, 1828.

Writings of Madison, Volume 3: 1816-1828, p.629

DEAR SIR,—I have received your favor of the 17th, and thank you for the copy of Mr. Jefferson's letter to Mr. Norvell, on the deceptive and licentious character of the press. My answer to the letter of General La Fayette, referring to the abuse abroad of that of Mr. Jefferson, in decrying the liberty of the press, appealed for an antidote to the known attachment of Mr. Jefferson to a free press, as a necessary guardian of free Government, to which no man could be more devoted than he was.

Writings of Madison, Volume 3: 1816-1828, p.630

There is but too much truth in the picture of newspapers as sketched in the letter to the Philadelphia printer. But the effect of their falsehood and slanders must always be controuled in a certain degree by contradictions in rival or hostile papers where the press is free. The complaint nevertheless applies with much force to the one-sided publications which may happen to predominate at particular periods or under particular circumstances. It is then that the minds best disposed may be filled with the most gross and injurious untruths. Those who see erroneous statements of facts without ever seeing a contradiction of them, and specious comments without any exposure of their fallacies, will, of course, be generally under the delusions so strongly painted by Mr. Jefferson. It has been said, that any country might be governed at the will of one who had the exclusive privilege of furnishing its popular songs. The result would be far more certain from a monopoly of the politics of the press. Could it be so arranged that every newspaper, when printed on one side, should be handed over to the press of an adversary, to be printed on the other, thus presenting to every reader both sides of every question, truth would always have a fair chance.\* But such a remedy is ideal; and if reducible to practice, continual changes in the arrangement would be required by the successive revolutions in the state of parties, and their effect on the relative opinions and views of the same editors; revolutions producing, when not duly anticipated and provided for by a candid , the mortifying incongruities and perplexities of which so many striking examples are seen. But I am running into observations as unnecessary on the present occasion as they would probably be unavailing where most applicable.

Writings of Madison, Volume 3: 1816-1828, p.630

I had adverted to the papers subscribed, "the spirit of '87," before my attention was pointed to them. The analytic and demonstrative views taken of the subject are able and instructive. If liable to any criticism, it is, that they have a superfluity of those meritorious characteristics.

Writings of Madison, Volume 3: 1816-1828, p.631

Should the copy of the letter to Mr. Norvell have left a blank requiring another copy, I will return the one sent me.

To Samuel L. Southard.

Writings of Madison, Volume 3: 1816-1828, p.631

J. Madison returns his thanks to Mr. Southard for the copy of his "Address before the Columbian Institute." That its public effect may correspond with its instructive and persuasive merits must be the wish of all who sufficiently understand that knowledge is the only elixir of immortality or even longevity to a free Government.

Writings of Madison, Volume 3: 1816-1828, p.631

J. M. is very sensible that the address has done him far more than justice in some respects; but it has given a just view only of the grounds on which he recommended the establishment of a University within the District of Columbia. These grounds, whether admitted to be satisfactory or not, are very different from the claim of an indefinite power in the General Government on the subject of education, with which the recommendation has been confounded. And he cannot allude to the subject without acknowledging the kindness of Mr. Southard in his explanatory remarks.

MAY 4, 1828.

To T. J. Wharton.

MONTPELLIER, May 5th, 1828.

Writings of Madison, Volume 3: 1816-1828, p.631

DEAR SIR,—I received in due time your favor of the 18th ult., accompanied by the Report on the Penal Code, &c.

Writings of Madison, Volume 3: 1816-1828, p.631

I am sorry that I have not been permitted, by other engagements, to give to the whole the careful perusal which I infer, from a very deficient one, it well merits. My attention was most attracted to what relates to the penitentiary discipline as a substitute for the cruel inflictions so disgraceful to penal codes, and I cannot withhold the praise due to the ability with which the subject is examined and presented. The lights collected and added by the Report, give it a great Legislative value everywhere. On the questions incident to solitary confinement, the facts and reflections are peculiarly interesting. They amount to a very strong proof that it is inadmissible in the constancy and inoccupancy which has been supposed to constitute its aptitude for the contemplated purpose. The plan preferred in the report, of combining a discriminating proportion of the solitary arrangement with joint and silent labour, under the eye of a superintendent, if this can be enforced with the success anticipated, seems to involve all the desiderata better than any yet suggested.

Writings of Madison, Volume 3: 1816-1828, p.632

No apology, certainly, could have been necessary for a freedom of remarks on the late proceedings of the Virginia Legislature; some of which will not, I am persuaded, be reviewed with complacency by the more enlightened members, when the political fervor which produced them shall have cooled down to the ordinary temperature.

To William Wirt.

MONTPELLIER, May 5th, 1828.

Writings of Madison, Volume 3: 1816-1828, p.632

DEAR SIR,—I cannot better comply with the wish of Mr. Eppes, than by committing to your perusal the inclosed letter just received from him. You are probably not ignorant of his great worth, and the entire confidence due to whatever facts he may state; and will, I am sure, feel every appropriate disposition to favor the young friend he so warmly recommends as far as propriety will admit.

Writings of Madison, Volume 3: 1816-1828, p.632

Will you permit me to remind you of the letters from Mr. Pendleton, sent you some years ago when you were gathering materials for the Biography of Mr. Henry? I am now putting into final arrangement the letters of my correspondents, and those in question, though, as far as I recollect, of no peculiar importance, will fill a gap left in a series from a peculiarly valued friend. You will oblige me, therefore, by enabling me to make that use of them. I ask the favor of you, also, to return at due time the letter from Mr. Eppes, which I may have occasion to answer.

To John Finch.

MONTPELLIER, May 13, 1828.

Writings of Madison, Volume 3: 1816-1828, p.633

DEAR SIR,—I have received your letter of the 1st instant, and with it a copy of your "Essay on the effect of the Physical Geography of the World on the boundaries of Empires."

Writings of Madison, Volume 3: 1816-1828, p.633

The views taken of the subject are interesting, and some of them with the additional merit of originality, and I thank you, sir, for the communication of them.

Writings of Madison, Volume 3: 1816-1828, p.633

On turning from the past to the future, speculation may be invited to the influence of those boundaries that may result from new modifications of Governments and the operations of art on the Geographical features of nature. The improvements in political science, more particularly the combination of the federal and representative principles, seem to favor a greater expansion of Government in a free form than has been maintainable under the most despotic; whilst so many of the physical obstacles hitherto determining the boundaries of States are yielding to the means which now render mountains, rivers, lakes, and seas, artificially passable with a facility and a celerity which brings distant regions within the compass required for useful intercommunication. Nor should the telegraph, with its probable improvements, be overlooked as an auxiliary to the convenient exercise of power over an extended space. The play which moral causes may have in deranging the influence of the physical and political on the national grouping of mankind, do not fall within the precincts of anticipation. The power of reason, and the lessons of experience, are the only safeguards against such of them as are most to be deprecated.

To M. Van Buren.

MAY 13, 1828.

Writings of Madison, Volume 3: 1816-1828, p.634

DEAR SIR,—Perceiving that I am indebted to you for a copy of the Report to the Senate relating to the "Colonization of persons of colour," I return the thanks due to your politeness. The document contains much interesting matter, and denotes an able hand in the preparation of it. I find it more easy, however, to accede to its conclusion against the power claimed for Congress than to some of the positions and reasonings employed on the occasion.

Writings of Madison, Volume 3: 1816-1828, p.634

You will not, I am sure, take it amiss, if I here point to an error of fact in your "observations on Mr. Foot's amendment." It struck me when first reading them, but escaped my attention when thanking you for the copy with which you favored me. The threatening contest in the Convention of 1787 did not, as you supposed, turn on the degree of power to be granted to the Federal Government, but on the rule by which the States should be represented and vote in the Government; the smaller States insisting on the rule of equality in all respects; the larger, on the rule of proportion to inhabitants; and the compromise which ensued was that which established an equality in the Senate and an inequality in the House of Representatives.

Writings of Madison, Volume 3: 1816-1828, p.634

The contests and compromises turning on the grants of power, though very important in some instances, were knots of a less "Gordian" character.

To Edward Everett.

JUNE 1, 1828.

Writings of Madison, Volume 3: 1816-1828, p.634

DEAR SIR,—I have received the copy of your speech on the 1st of February which led you into the subject of our foreign intercourse.

Writings of Madison, Volume 3: 1816-1828, p.634

It is justly observed that there are no subjects within the circle of our Federal transactions on which the public mind is more susceptible of erroneous impressions than the arrangements and provisions for diplomatic missions. The explanatory views you have given of the policy and practice which have prevailed, cannot fail to be useful to those who wish to form a just estimate of them.

To Thomas Lehre. (Not Sent.)

AUGUST 2d, 1828.

Writings of Madison, Volume 3: 1816-1828, p.635

DR SIR,—I have received your letter of July 21, and offer my acknowledgments for its friendly enquiries concerning my health, a blessing which I enjoy in as great a degree as could be reasonably looked for at the stage of life to which I am now advanced.

Writings of Madison, Volume 3: 1816-1828, p.635

It gives me much pain to find you confirming the spirit of disunion said to prevail in your State. From the high reputation enjoyed by S. Carolina for a political deportment, marked not less by a respect for order than a love of liberty, from the warm attachment she has ever evinced to the Union, and from her full share of interest in its preservation, I must say, she is among the last States within which I could have contemplated sentiments and scenes such as are described. I cannot but hope that they will be as transient as they are intemperate; and that a foresight of the awful consequences which a separation of the States portends, will soon reclaim all well-meaning but miscalculating citizens to a tone of feeling within the limits of the occasion; the sooner, as it does not appear that any other State, certainly not this, however disapproving the measures complained of, is observed to sympathize with the effect they are producing in South Carolina.

Writings of Madison, Volume 3: 1816-1828, p.635

All Governments, even the best, as I trust ours will prove itself to be, have their infirmities. Power, wherever lodged, is liable, more or less, to abuse. In Governments organized on Republican principles it is necessarily lodged in the majority; which, sometimes from a deficient regard to justice, or an unconscious bias of interest, as well as from erroneous estimates of public good, may furnish just ground of complaint to the minority. But those who would rush at once into disunion as an asylum from offensive measures of the General Government, would do well to examine how far there be such an identity of interests, of opinions, and of feelings, present and permanent, throughout the States individually considered, as, in the event of their separation, would in all cases secure minorities against wrongful proceedings of majorities. A recurrence to the period anterior to the adoption of the existing Constitution, and to some of the causes which led to it, will suggest salutary reflections on this subject.

To Mathew Carey.

1828.

Writings of Madison, Volume 3: 1816-1828, p.636

I have received your letter of Aug. 20, 1828, with the little pamphlet accompanying it, for which I return my thanks. In selecting the manufactures to be encouraged by a tariff, and settling the proper degree of encouragement, a diversity of opinion is quite natural, and errors of decision always possible. But a denial of the authority in Congress to impose a tariff for such purposes, as well as the expediency of exercising it in any case if they had it, is certainly what I did not anticipate. The brief view you have taken of the question seems to leave no room for doubt with those who consult the original interpretation of the Charter and the long established practice under it.

To Joseph C. Cabell.

MONTPELLIER, September 18, 1828.

Writings of Madison, Volume 3: 1816-1828, p.636

DEAR SIR,—Your late letter reminds me of our conversation on the constitutionality of the power in Congress to impose a tariff for the encouragement of manufactures; and of my promise to sketch the grounds of the confident opinion I had expressed, that it was among the powers vested in that body. I had not forgotten my promise, and had even begun the task of fulfilling it; but frequent interruptions from other causes being followed by a bilious indisposition, I have not been able sooner to comply with your request. The subjoined view of the subject might have been advantageously expanded; but I leave that improvement to your own reflections and researches.

Writings of Madison, Volume 3: 1816-1828, p.637

The Constitution vests in Congress expressly "the power to lay and collect taxes, duties, imposts, and excises," and "the power to regulate trade."

Writings of Madison, Volume 3: 1816-1828, p.637

That the former power, if not particularly expressed, would have been included in the latter, as one of the objects of a general power to regulate trade, is not necessarily impugned by its being so expressed. Examples of this sort cannot sometimes be easily avoided, and are to be seen elsewhere in the Constitution. Thus the power "to define and punish offences against the law of nations" includes the power, afterward particularly expressed, "to make rules concerning captures, &c., from offending neutrals." So also a power "to coin money" would doubtless include that of "regulating its value," had not the latter power been expressly inserted. The term taxes, if standing alone, would certainly have included duties, imposts, and excises. In another clause it is said, "no tax or duty shall be laid on exports," &c. Here the two terms are used as synonymous; and in another clause, where it is said, "no State shall lay any imposts or duties," &c., the terms imposts and duties are synonymous. Pleonasms, tautologies, and the promiscuous use of terms and phrases differing in their shades of meaning, (always to be expounded with reference to the context, and under the control of the general character and manifest scope of the instrument in which they are found,) are to be ascribed, sometimes to the purpose of greater caution, sometimes to the imperfections of language, and sometimes to the imperfection of man himself. In this view of the subject it was quite natural, however certainly the general power to regulate trade might include a power to impose duties on it, not to omit it in a clause enumerating the several modes of revenue authorized by the Constitution. In few cases could the "ex majori cautelâ" occur with more claim to respect.

Writings of Madison, Volume 3: 1816-1828, p.638

Nor can it be inferred that a power to regulate trade does not involve a power to tax it, from the distinction made in the original controversy with Great Britain, between a power to regulate trade with the colonies and a power to tax them. A power to regulate trade between different parts of the empire was confessedly necessary, and was admitted to lie, as far as that was the case, in the British Parliament; the taxing part being at the same time denied to the Parliament, and asserted to be necessarily inherent in the colonial Legislatures, as sufficient and the only safe depositories of the taxing power. So difficult was it, nevertheless, to maintain the distinction in practice, that the ingredient of revenue was occasionally overlooked or disregarded in the British regulations, as in the duty on sugar and molasses imported into the colonies. And it was fortunate that the attempt at an internal and direct tax in the case of the stamp act, produced a radical examination of the subject before a regulation of trade with a view to revenue had grown into an established authority. One thing at least is certain, that the main and admitted object of the parliamentary regulations of trade with the colonies was the encouragement of manufactures in Great Britain.

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But the present question is unconnected with the former relations between Great Britain and her colonies, which were of a peculiar, a complicated, and, in several respects, of an undefined character. It is a simple question under the Constitution of the United States, whether "the power to regulate trade with foreign nations," as a distinct and substantive item in the enumerated powers, embraces the object of encouraging by duties, restrictions, and prohibitions, the manufactures and products of the country. And the affirmative must be inferred from the following considerations:

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1. The meaning of the phrase "to regulate trade" must be sought in the general use of it; in other words, in the objects to which the power was generally understood to be applicable when the phrase was inserted in the Constitution.

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2. The power has been understood and used by all commercial and manufacturing nations as embracing the object of encouraging manufactures. It is believed that not a single exception can be named.

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3. This has been particularly the case with Great Britain, whose commercial vocabulary is the parent of ours. A primary object of her commercial regulations is well known to have been the protection and encouragement of her manufactures.

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4. Such was understood to be a proper use of the power by the States most prepared for manufacturing industry while retaining the power over their foreign trade.

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5. Such a use of the power by Congress accords with the intention and expectation of the States in transferring the power over trade from themselves to the Government of the United States. This was emphatically the case in the Eastern, the more manufacturing members of the Confederacy. Hear the language held in the Convention of Massachusetts:

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By Mr. Dawes, an advocate for the Constitution, it was observed: "Our manufactures are another great subject which has received no encouragement by national duties on foreign manufactures, and they never can by any authority in the Old Confederation." Again: "If we wish to encourage our own manufactures, to preserve our own commerce, to raise the value of our own lands, we must give Congress the powers in question."

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By Mr. Widgery, an opponent: "All we hear is, that the merchant and farmer will flourish, and that the mechanic and tradesman are to make their fortunes directly, if the Constitution goes down."

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The Convention of Massachusetts was the only one in New England whose debates have been preserved. But it cannot be doubted that the sentiment there expressed was common to the other States in that quarter, more especially to Connecticut and Rhode Island, the most thickly peopled of all the States, and having, of course, their thoughts most turned to the subject of manufactures. A like inference may be confidently applied to New Jersey, whose debates in Convention have not been preserved. In the populous and manufacturing State of Pennsylvania, a partial account only of the debates having been published, nothing certain is known of what passed in her Convention on this point. But ample evidence may be found elsewhere, that regulations of trade for the encouragement of manufactures were considered as within the power to be granted to the new Congress, as well as within the scope of the national policy. Of the States south of Pennsylvania, the only two in whose Conventions the debates have been preserved are Virginia and North Carolina, and from these no adverse inferences can be drawn. Nor is there the slightest indication that either of the two States farthest south, whose debates in Convention, if preserved, have not been made public, viewed the encouragement of manufactures as not within the general power over trade to be transferred to the Government of the United States.

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6. If Congress have not the power, it is annihilated for the nation; a policy without example in any other nation, and not within the reason of the solitary one in our own. The example alluded to is the prohibition of a tax on exports, which resulted from the apparent impossibility of raising in that mode a revenue from the States proportioned to the ability to pay it; the ability of some being derived in a great measure, not from their exports, but from their fisheries, from their freights, and from commerce at large, in some of its branches altogether external to the United States; the profits from all which being invisible and intangible; would escape a tax on exports. A tax on imports, on the other hand, being a tax on consumption, which is in proportion to the ability of the consumers, whencesoever derived, was free from that inequality.

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7. If revenue be the sole object of a legitimate impost, and the encouragement of domestic articles be not within the power of regulating trade, it would follow that no monopolizing or unequal regulations of foreign nations could be counteracted; that neither the staple articles of subsistence nor the essential implements for the public safety could, under any circumstances, be ensured or fostered at home by regulations of commerce, the usual and most convenient mode of providing for both; and that the American navigation, though the source of naval defence, of a cheapening competition in carrying our valuable and bulky articles to market, and of an independent carriage of them during foreign wars, when a foreign navigation might be withdrawn, must be at once abandoned or speedily destroyed; it being evident that a tonnage duty merely in foreign ports against our vessels, and an exemption from such a duty in our ports in favour of foreign vessels, must have the inevitable effect of banishing ours from the ocean.

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To assume a power to protect our navigation, and the cultivation and fabrication of all articles requisite for the public safety as incident to the war power, would be a more latitudinary construction of the text of the Constitution than to consider it as embraced by the specified power to regulate trade; a power which has been exercised by all nations for those purposes, and which effects those purposes with less of interference with the authority and convenience of the States than might result from internal and direct modes of encouraging the articles, any of which modes would be authorized, as far as deemed "necessary and proper," by considering the power as an incidental power.

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8. That the encouragement of manufactures was an object of the power to regulate trade, is proved by the use made of the power for that object in the first session of the first Congress under the Constitution, when among the members present were so many who had been members of the Federal Convention which framed the Constitution, and of the State Conventions which ratified it; each of these classes consisting also of members who had opposed and who had espoused the Constitution in its actual form. It does not appear from the printed proceedings of Congress on that occasion, that the power was denied by any of them. And it may be remarked, that members from Virginia in particular, as well of the anti-federal as the federal party, the names then distinguishing those who had opposed and those who had approved the Constitution, did not hesitate to propose duties, and to suggest even prohibitions, in favour of several articles of her production. By one, a duty was proposed on mineral coal in favour of the Virginia coal-pits; by another, a duty on hemp was proposed to encourage the growth of that article; and by a third, a prohibition even of foreign beef was suggested as a measure of sound policy. [See Lloyd's Debates.]

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A farther evidence in support of the constitutional power to protect and foster manufactures by regulations of trade, an evidence that ought of itself to settle the question, is the uniform and practical sanction given to the power by the General Government for nearly forty years, with a concurrence or acquiescence of every State Government throughout the same period, and, it may be added, through all the vicissitudes of party which marked the period. No novel construction, however ingeniously devised, or however respectable and patriotic its patrons, can withstand the weight of such authorities, or the unbroken current of so prolonged and universal a practice. And well it is that this cannot be done without the intervention of the same authority which made the Constitution. If it could be so done, there would be an end to that stability in government and in laws which is essential to good government and good laws; a stability, the want of which is the imputation which has at all times been levelled against republicanism with most effect by its most dexterous adversaries. The imputation ought never, therefore, to be countenanced by innovating constructions without any plea of a precipitancy or a paucity of the constructive precedents they oppose, without any appeal to material facts newly brought to light, and without any claim to a better knowledge of the original evils and inconveniences for which remedies were needed; the very best keys to the true object and meaning of all laws and constitutions.

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And may it not be fairly left to the unbiased judgment of all men of experience and of intelligence to decide which is most to be relied on for a sound and safe test of the meaning of a constitution, a uniform interpretation by all the successive authorities under it, commencing with its birth, and continued for a long period, through the varied state of political contests? Or the opinion of every new Legislature, heated as it may be by the strife of parties, or warped, as often happens, by the eager pursuit of some favourite object, or carried away, possibly, by the powerful eloquence or captivating address of a few Popular statesmen, themselves perhaps influenced by the same misleading causes? If the latter test is to prevail, every new legislative opinion might make a new Constitution, as the foot of every new chancellor would make a new standard of measure.

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It is seen with no little surprise that an attempt has been made in a highly respectable quarter, and at length reduced to a resolution formally proposed in Congress, to substitute for the power of Congress to regulate trade so as to encourage manufactures, a power in the several States to do so, with the consent of that body; and this expedient is derived from a clause in the 10th section of article I of the Constitution, which says: "No State shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports and exports shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress."

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To say nothing of the clear indications in the journal of the Convention of 1787, that the clause was intended merely to provide for expenses incurred by particular States in their inspection laws, and in such improvements as they might choose to make in their harbours and rivers, with the sanction of Congress, objects to which the reserved power has been applied in several instances at the request of Virginia and of Georgia, how could it ever be imagined that any State would wish to tax its own trade for the encouragement of manufactures, if possessed of the authority, or could in fact do so, if wishing it?

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A tax on imports would be a tax on its own consumption; and the net proceeds going, according to the clause, not into its own treasury, but into the Treasury of the United States, the State would tax itself separately for the equal gain of all the other States; and as far as the manufactures so encouraged might succeed in ultimately increasing the stock in market and lowering the price by competition, this advantage also, procured at the sole expense of the State, would be common to all the others.

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But the very suggestion of such an expedient to any State would have an air of mockery when its experienced impracticability is taken into view. No one who recollects or recurs to the period when the power over commerce was in the individual States, and separate attempts were made to tax or otherwise regulate it, needs be told that the attempts were not only abortive, but, by demonstrating the necessity of general and uniform regulations, gave the original impulse to the constitutional reform which provided for such regulations.

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To refer a State, therefore, to the exercise of a power as reserved to her by the Constitution, the impossibility of exercising which was an inducement to adopt the Constitution, is, of all remedial devices, the last that ought to be brought forward. And what renders it the more extraordinary is, that as the tax on commerce, as far as it could be separately collected, instead of belonging to the treasury of the State as previous to the Constitution, would be a tribute to the United States; the State would be in a worse condition after the adoption of the Constitution than before, in relation to an important interest, the improvement of which was a particular object in adopting the Constitution.

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Were Congress to make the proposed declaration of consent to State tariffs in favour of State manufactures, and the permitted attempts did not defeat themselves, what would be the situation of States deriving their foreign supplies through the ports of other States? It is evident that they might be compelled to pay, in their consumption of particular articles imported, a tax for the common treasury, not common to all the States, without having any manufacture or product of their own to partake of the contemplated benefit.

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Of the impracticability of separate regulations of trade, and the resulting necessity of general regulations, no State was more sensible than Virginia. She was accordingly among the most earnest for granting to Congress a power adequate to the object. On more occasions than one in the proceedings of her legislative councils, it was recited, "that the relative situation of the States had been found on trial to require uniformity in their commercial regulations as the only effectual policy for obtaining in the ports of foreign nations a stipulation of privileges reciprocal to those enjoyed by the subjects of such nations in the ports of the United States; for preventing animosities which cannot fail to arise among the several States from the interference of partial and separate regulations; and for deriving from commerce such aids to the public revenue as it ought to contribute," &c.

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During the delays and discouragements experienced in the attempts to invest Congress with the necessary powers, the State of Virginia made various trials of what could be done by her individual laws. She ventured on duties and imposts as a source of revenue; resolutions were passed at one time to encourage and protect her own navigation and ship-building; and in consequence of complaints and petitions from Norfolk, Alexandria, and other places, against the monopolizing navigation laws of Great Britain, particularly in the trade between the United States and the British West Indies, she deliberated, with a purpose controlled only by the inefficacy of separate measures, on the experiment of forcing a reciprocity by prohibitory regulations of her own. [See Journal of House of Delegates in 1785.]

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The effect of her separate attempts to raise revenue by duties on imports soon appeared in representations from her merchants, that the commerce of the State was banished by them into other channels, especially of Maryland, where imports were less burdened than in Virginia. [See Journal of House of Delegates for 1786.]

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Such a tendency of separate regulations was indeed too manifest to escape anticipation. Among the projects prompted by the want of a federal authority over commerce, was that of a concert first proposed on the part of Maryland for a uniformity of regulations between the two States, and commissioners were appointed for that purpose. It was soon perceived, however, that the concurrence of Pennsylvania was as necessary to Maryland as of Maryland to Virginia, and the concurrence of Pennsylvania was accordingly invited. But Pennsylvania could no more concur without New York than Maryland without Pennsylvania, nor New York without the concurrence of Boston, &c. These projects were superseded for the moment by that of the Convention at Annapolis in 1786, and forever by the Convention at Philadelphia in 1787, and the Constitution which was the fruit of it.

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There is a passage in Mr. Necker's work on the finances of France which affords a signal illustration of the difficulty of collecting, in contiguous communities, indirect taxes, when not the same in all, by the violent means resorted to against smuggling from one to another of them. Previous to the late revolutionary war in that country, the taxes were of very different rates in the different provinces; particularly the tax on salt, which was high in the interior provinces and low in the maritime; and the tax on tobacco, which was very high in general, while in some of the provinces the use of the article was altogether free. The consequence was, that the standing army of patrols against smuggling had swollen to the number of twenty-three thousand; the annual arrests of men, women, and children engaged in smuggling, to five thousand five hundred and fifty; and the number annually arrested on account of salt and tobacco alone, to seventeen or eighteen hundred, more than three hundred of whom were consigned to the terrible punishment of the galleys.

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May it not be regarded as among the providential blessings to these States, that their geographical relations, multiplied as they will be by artificial channels of intercourse, give such additional force to the many obligations to cherish that union which alone secures their peace, their safety, and their prosperity? Apart from the more obvious and awful consequences of their entire separation into independent sovereignties, it is worthy of special consideration, that, divided from each other as they must be by narrow waters and territorial lines merely, the facility of surreptitious introductions of contraband articles would defeat every attempt at revenue in the easy and indirect modes of impost and excise; so that while their expenditures would be necessarily and vastly increased by their new situation, they would, in providing for them, be limited to direct taxes on land or other property, to arbitrary assessments on invisible funds, and to the odious tax on persons.

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You will observe that I have confined myself, in what has been said, to the constitutionality and expediency of the power in Congress to encourage domestic products by regulations of commerce. In the exercise of the power, they are responsible to their constituents, whose right and duty it is, in that, as in all other cases, to bring their measures to the test of justice and of the general good.

To Joseph C. Cabell.

OCTOBER 15th, 1828.

Writings of Madison, Volume 3: 1816-1828, p.647

DEAR SIR,—I have duly received your letter of September 27.

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The object of mine of Sepr 18 was to suggest the topics and references which have occurred to me as supporting a constitutional doctrine in which we agreed, and in which I know you to feel a particular interest. If, as you suppose, a publication of the views taken in the letter of the Tariff power in Congress might have a useful tendency, the present cannot, I think, be the moment for making the experiment. Every political subject brought before the public, however detached in its purpose, is now mingled with the all-absorbing one of the Presidential contest, and judged according to the bearing ascribed to it by the imaginations or suspicions of heated partisans. To obtain a fair hearing for the power in question, it must be best to wait, at least, till the public mind shall be left, by the approaching termination of that contest, in a more cool and tranquil state. Arguments and evidences which, after that event, might be heard with patience, and even candour, by those appealed to, would, in their existing excitement, be received with a prejudice, and with perhaps hasty commitments, very unfavorable to the result wished for.

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I felt much regret at not being able to join my colleagues on the 1st instant. My health was in too feeble a state for such a trial of it. It begins now to be decidedly improving.

To Joseph C. Cabell.

MONTPELLIER, October 30, 1828.

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DEAR SIR,—In my letter of September 18, I stated briefly the grounds on which I rested my opinion, that a power to impose duties and restrictions on imports with a view to encourage domestic productions was constitutionally lodged in Congress. In the observations then made was involved the opinion, also, that the power was properly there lodged. As this last opinion necessarily implies that there are cases in which the power may be usefully exercised by Congress, the only body within our political system capable of exercising it with effect, you may think it incumbent on me to point out cases of that description.

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I will premise that I concur in the opinion, that, as a general rule, individuals ought to be deemed the best judges of the best application of their industry and resources.

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I am ready to admit, also, that there is no country in which the application may with more safety be left to the intelligence and enterprise of individuals than the United States.

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Finally, I shall not deny that, in all doubtful cases, it becomes every Government to lean rather to a confidence in the judgment of individuals, than to interpositions controlling the free exercise of it.

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With all these concessions, I think it can be satisfactorily shown that there are exceptions to the general rule now expressed by the phrase "let us alone," forming cases which call for interpositions of the competent authority, and which are not inconsistent with the generality of the rule.

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1. The theory of "let us alone" supposes that all nations concur in a perfect freedom of commercial intercourse. Were this the case, they would, in a commercial view, be but one nation, as much as the several districts composing a particular nation; and the theory would be as applicable to the former as to the latter. But this golden age of free trade has not yet arrived; nor is there a single nation that has set the example. No nation can, indeed, safely do so, until a reciprocity at least be ensured to it. Take, for a proof, the familiar case of the navigation employed in a foreign commerce. If a nation, adhering to the rule of never interposing a countervailing protection of its vessels, admits foreign vessels into its ports free of duty, while its own vessels are subject to a duty in foreign ports, the ruinous effect is so obvious that the warmest advocate for the theory in question must shrink from a universal application of it.

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A nation leaving its foreign trade in all cases to regulate itself, might soon find it regulated by other nations into a subserviency to a foreign interest. In the interval between the peace of 1783 and the establishment of the present Constitution of the United States, the want of a general authority to regulate trade is known to have had this consequence. And have not the pretensions and policy latterly exhibited by Great Britain given warning of a like result from a renunciation of all countervailing regulations on the part of the United States? Were she permitted, by conferring on certain portions of her domain the name of Colonies, to open from these a trade for herself to foreign countries, and to exclude at the same time a reciprocal trade to such Colonies by foreign countries, the use to be made of the monopoly needs not be traced. Its character will be placed in a just relief by supposing that one of the Colonial islands, instead of its present distance, happened to be in the vicinity of Great Britain; or that one of the islands in that vicinity should receive the name and be regarded in the light of a Colony, with the peculiar privileges claimed for Colonies. Is it not manifest that in this case the favoured island might be made the sole medium of the commercial intercourse with foreign nations, and the parent country thence enjoy every essential advantage, as to the terms of it, which would flow from an unreciprocal trade from her other ports with other nations?

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Fortunately, the British claims, however speciously coloured or adroitly managed, were repelled at the commencement of our commercial career as an independent people, and at successive epochs under the existing Constitution both in legislative discussions and in diplomatic negotiations. The claims were repelled on the solid ground that the Colonial trade, as a rightful monopoly, was limited to the intercourse between the parent country and its Colonies, and between one Colony and another; the whole being strictly in the nature of a coasting trade from one to another port of the same nation; a trade with which no other nation has a right to interfere. It follows of necessity, that the parent country, whenever it opens a Colonial port for a direct trade to a foreign country, departs itself from the principle of Colonial monopoly, and entitles the foreign country to the same reciprocity in every respect as in its intercourse with any other ports of the nation.

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This is common sense and common right. It is still more, if more could be required; it is in conformity with the established usage of all nations, other than Great Britain, which have Colonies. Some of those nations are known to adhere to the monopoly of their Colonial trade with all the rigour and constancy which circumstances permit. But it is also known, that whenever, and from whatever cause, it has been found necessary or expedient to open their Colonial ports to a foreign trade, the rule of reciprocity in favour of the foreign party was not refused, nor, as is believed, a right to refuse it pretended.

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It cannot be said that the reciprocity was dictated by a deficiency of the commercial marine. France at least could not be, in every instance, governed by that consideration; and Holland still less; to say nothing of the navigating States of Sweden and Denmark, which have rarely, if ever, enforced a Colonial monopoly. The remark is indeed obvious, that the shipping liberated from the usual conveyance of supplies from the parent country to the Colonies might be employed in the new channels opened for them in supplies from abroad.

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Reciprocity, or an equivalent for it, is the only rule of intercourse among independent communities; and no nation ought to admit a doctrine, or adopt an invariable policy, which would preclude the counteracting measures necessary to enforce the rule.

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2. The theory supposes, moreover, a perpetual peace; a supposition, it is to be feared, not less chimerical than a universal freedom of commerce.

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The effect of war among the commercial and manufacturing nations of the world, in raising the wages of labour and the cost of its products, with a like effect on the charges of freight and insurance, needs neither proof nor explanation. In order to determine, therefore, a question of economy between depending on foreign supplies and encouraging domestic substitutes, it is necessary to compare the probable periods of war with the probable periods of peace; and the cost of the domestic encouragement in times of peace with the cost added to foreign articles in times of war.

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During the last century, the periods of war and peace have been nearly equal. The effect of a state of war in raising the price of imported articles cannot be estimated with exactness. It is certain, however, that the increased price of particular articles may make it cheaper to manufacture them at home.

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Taking, for the sake of illustration, an equality in the two periods, and the cost of an imported yard of cloth in time of war to be nine and a half dollars, and in time of peace to be seven dollars, while the same could at all times be manufactured at home for eight dollars, it is evident that a tariff of one dollar and a quarter on the imported yard would protect the home manufacture in time of peace, and avoid a tax of one and a half dollars imposed by a state of war.

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It cannot be said that the manufactories which could not support themselves against foreign competition in periods of peace would spring up of themselves at the recurrence of war prices. It must be obvious to every one, that, apart from the difficulty of great and sudden changes of employment, no prudent capitalists would engage in expensive establishments of any sort at the commencement of a war of uncertain duration, with a certainty of having them crushed by the return of peace.

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The strictest economy, therefore, suggests, as exceptions to the general rule, an estimate in every given case, of war and peace periods and prices, with inferences therefrom, of the amount of a tariff which might be afforded during peace, in order to avoid the tax resulting from war. And it will occur at once that the inferences will be strengthened by adding to the supposition, of wars wholly foreign, that of wars in which our own country might be a party.

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3. It is an opinion in which all must agree, that no nation ought to be unnecessarily dependent on others for the munitions of public defence, or for the materials essential to a naval force, where the nation has a maritime frontier or a foreign commerce to protect. To this class of exceptions to the theory may be added the instruments of agriculture and of mechanic arts, which supply the other primary wants of the community. The time has been when many of these were derived from a foreign source, and some of them might relapse into that dependence were the encouragement to the fabrication of them at home withdrawn. But, as all foreign sources must be liable to interruptions too inconvenient to be hazarded, a provident policy would favour an internal and independent source as a reasonable exception to the general rule of consulting cheapness alone.

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4. There are cases where a nation may be so far advanced in the pre-requisites for a particular branch of manufactures, that this, if once brought into existence, would support itself; and yet, unless aided in its nascent and infant state by public encouragement and a confidence in public protection, might remain, if not altogether, for a long time unattempted, or attempted without success. Is not our cotton manufacture a fair example? However favoured by an advantageous command of the raw material, and a machinery which dispenses in so extraordinary a proportion with manual labour, it is quite probable that, without the impulse given by a war cutting off foreign supplies and the patronage of an early tariff, it might not even yet have established itself; and pretty certain that it would be far short of the prosperous condition which enables it to face, in foreign markets, the fabrics of a nation that defies all other competitors. The number must be small that would now pronounce this manufacturing boon not to have been cheaply purchased by the tariff which nursed it into its present maturity.

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5. Should it happen, as has been suspected, to be an object, though not of a foreign Government itself, of its great manufacturing capitalists, to strangle in the cradle the infant manufactures of an extensive customer or an anticipated rival, it would surely, in such a case, be incumbent on the suffering party so far to make an exception to the "let alone" policy as to parry the evil by opposite regulations of its foreign commerce.

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6. It is a common objection to the public encouragement of particular branches of industry, that it calls off labourers from other branches found to be more profitable; and the objection is, in general, a weighty one. But it loses that character in proportion to the effect of the encouragement in attracting skilful labourers from abroad. Something of this sort has already taken place among ourselves, and much more of it is in prospect; and as far as it has taken or may take place, it forms an exception to the general policy in question.

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The history of manufactures in Great Britain, the greatest manufacturing nation in the world, informs us, that the woollen branch, till of late her greatest branch, owed both its original and subsequent growths to persecuted exiles from the Netherlands; and that her silk manufactures, now a flourishing and favourite branch, were not less indebted to emigrants flying from the persecuting edicts of France. [Anderson's History of Commerce.]

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It appears, indeed, from the general history of manufacturing industry, that the prompt and successful introduction of it into new situations has been the result of emigrations from countries in which manufactures had gradually grown up to a prosperous state; as into Italy, on the fall of the Greek Empire; from Italy into Spain and Flanders, on the loss of liberty in Florence and other cities; and from Flanders and France into England, as above noticed. [Franklin's Canadian Pamphlet.]

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In the selection of cases here made, as exceptions to the "let alone" theory, none have been included which were deemed controvertible; and if I have viewed them, or a part of them only, in their true light, they show what was to be shown, that the power granted to Congress to encourage domestic products by regulations of foreign trade was properly granted, inasmuch as the power is, in effect, confined to that body, and may, when exercised with a sound legislative discretion, provide the better for the safety and prosperity of the nation.

Notes.

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It does not appear that any of the strictures on the letters from J. Madison to J. C. Cabell have in the least invalidated the constitutionality of the power in Congress to favour domestic manufactures by regulating the commerce with foreign nations.

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1. That this regulating power embraces the object remains fully sustained by the uncontested fact that it has been so understood and exercised by all commercial and manufacturing nations, particularly by Great Britain; nor is it any objection to the inference from it, that those nations, unlike the Congress of the United States, had all other powers of legislation as well as the power of regulating foreign commerce, since this was the particular and appropriate power by which the encouragement of manufactures was effected.

Writings of Madison, Volume 3: 1816-1828, p.654

2. It is equally a fact that it was generally understood among the States previous to the establishment of the present Constitution of the United States, that the encouragement of domestic manufactures by regulations of foreign commerce, particularly by duties and restrictions on foreign manufactures, was a legitimate and ordinary exercise of the power over foreign commerce; and that, in transferring this power to the Legislature of the United States, it was anticipated that it would be exercised more effectually than it could be by the States individually. [See Lloyd's Debates and other publications of the period.]

Writings of Madison, Volume 3: 1816-1828, p.655

It cannot be denied that a right to vindicate its commercial, manufacturing, and agricultural interests against unfriendly and unreciprocal policy of other nations, belongs to every nation; that it has belonged at all times to the United States as a nation; that, previous to the present Federal Constitution, the right existed in the governments of the individual States, not in the Federal Government; that the want of such an authority in the Federal Government was deeply felt and deplored; that a supply of this want was generally and anxiously desired; and that the authority has, by the substituted Constitution of the Federal Government, been expressly or virtually taken from the individual States; so that, if not transferred to the existing Federal Government, it is lost and annihilated for the United States as a nation. Is not the presumption irresistible, that it must have been the intention of those who framed and ratified the Constitution, to vest the authority in question in the substituted Government? and does not every just rule of reasoning allow to a presumption so violent a proportional weight in deciding on a question of such a power in Congress, not as a source of power distinct from and additional to the constitutional source, but as a source of light and evidence as to the true meaning of the Constitution?

Writings of Madison, Volume 3: 1816-1828, p.655

3. It is again a fact, that the power was so exercised by the first session of the first Congress, and by every succeeding Congress, with the sanction of every other branch of the Federal Government, and with universal acquiescence, till a very late date. [See the Messages of the Presidents and the Reports and Letters of Mr. Jefferson.]

Writings of Madison, Volume 3: 1816-1828, p.655

4. That the surest and most recognised evidence of the meaning of the Constitution, as of a law, is furnished by the evils which were to be cured or the benefits to be obtained; and by the immediate and long-continued application of the meaning to these ends. This species of evidence supports the power in question in a degree which cannot be resisted without destroying all stability in social institutions, and all the advantages of known and certain rules of conduct in the intercourse of life.

Writings of Madison, Volume 3: 1816-1828, p.656

5. Although it might be too much to say that no case could arise of a character overruling the highest evidence of precedents and practice in expounding a constitution, it may be safely affirmed that no case which is not of a character far more exorbitant and ruinous than any now existing or that has occurred, can authorize a disregard of the precedents and practice which sanction the constitutional power of Congress to encourage domestic manufactures by regulations of foreign commerce.

Writings of Madison, Volume 3: 1816-1828, p.656

The importance of the question concerning the authority of precedents, in expounding a constitution as well as a law, will justify a more full and exact view of it.\*

Writings of Madison, Volume 3: 1816-1828, p.656

It has been objected to the encouragement of domestic manufactures by a tariff on imported ones, that duties and imposts are in the clause specifying the sources of revenue, and therefore cannot be applied to the encouragement of manufactures when not a source of revenue.

Writings of Madison, Volume 3: 1816-1828, p.656

But, 1. It does not follow from the applicability of duties and imposts under one clause for one usual purpose, that they are excluded from an applicability under another clause to another purpose, also requiring them, and to which they have also been usually applied. 2. A history of that clause, as traced in the printed journal of the Federal Convention, will throw light on the subject.\*

Writings of Madison, Volume 3: 1816-1828, p.656

It appears that the clause, as it originally stood, simply expressed "a power to lay taxes, duties, imposts, and excises," without pointing out the objects; and, of course, leaving them applicable in carrying into effect the other specified powers. It appears, farther, that a solicitude to prevent any constructive danger to the validity of public debts contracted under the superseded form of government, led to the addition of the words "to pay the debts."

Writings of Madison, Volume 3: 1816-1828, p.657

This phraseology having the appearance of an appropriation limited to the payment of debts, an express appropriation was added "for the expenses of the Government," &c.

Writings of Madison, Volume 3: 1816-1828, p.657

But even this was considered as short of the objects for which taxes, duties, imposts, and excises might be required; and the more comprehensive provision was made by substituting "for expenses of Government" the terms of the old Confederation, viz.: and provide for the common defence and general welfare, making duties and imposts, as well as taxes and excises, applicable not only to payment of debts, but to the common defence and general welfare.

Writings of Madison, Volume 3: 1816-1828, p.657

The question then is, What is the import of that phrase, common defence and general welfare, in its actual connexion? The import which Virginia has always asserted, and still contends for, is, that they are explained and limited to the enumerated objects subjoined to them, among which objects is the regulation of foreign commerce; as far, therefore, as a tariff of duties is necessary and proper in regulating foreign commerce for any of the usual purposes of such regulations, it may be imposed by Congress, and, consequently, for the purpose of encouraging manufactures, which is a well-known purpose for which duties and imposts have been usually employed. This view of the clause providing for revenue, instead of interfering with or excluding the power of regulating foreign trade, corroborates the rightful exercise of power for the encouragement of domestic manufactures.

Writings of Madison, Volume 3: 1816-1828, p.657

It may be thought that the Constitution might easily have been made more explicit and precise in its meaning. But the same remark might be made on so many other parts of the instrument, and, indeed, on so many parts of every instrument of a complex character, that, if completely obviated, it would swell every paragraph into a page, and every page into a volume; and, in so doing, have the effect of multiplying topics for criticism and controversy.

Writings of Madison, Volume 3: 1816-1828, p.658

The best reason to be assigned, in this case, for not having made the Constitution more free from a charge of uncertainty in its meaning, is believed to be, that it was not suspected that any such charge would ever take place; and it appears that no such charge did take place, during the early period of the Constitution, when the meaning of its authors could be best ascertained, nor until many of the contemporary lights had in the lapse of time been extinguished. How often does it happen, that a notoriety of intention diminishes the caution against its being misunderstood or doubted! What would be the effect of the Declaration of Independence, or of the Virginia Bill of Rights, if not expounded with a reference to that view of their meaning?

Writings of Madison, Volume 3: 1816-1828, p.658

Those who assert that the encouragement of manufactures is not within the scope of the power to regulate foreign commerce, and that a tariff is exclusively appropriated to revenue, feel the difficulty of finding authority for objects which they cannot admit to be unprovided for by the Constitution; such as ensuring internal supplies of necessary articles of defence, the counter-vailing of regulations of foreign countries, &c., unjust and injurious to our navigation or to our agricultural products. To bring these objects within the constitutional power of Congress, they are obliged to give to the power "to regulate foreign commerce" an extent that at the same time necessarily embraces the encouragement of manufactures; and how, indeed, is it possible to suppose that a tariff is applicable to the extorting from foreign Powers of a reciprocity of privileges, and not applicable to the encouragement of manufactures, an object to which it has been far more frequently applied?

To Joseph C. Cabell.

MONTPELLIER, Decr 5th, 1828.

Writings of Madison, Volume 3: 1816-1828, p.658

DEAR SIR,—I have received, though somewhat tardily, your letter of November 20. Since mine of the 10th acknowledged it, I have written you two others requesting further corrections of my remarks on the "Tariff," addressed in both instances to Edgewood, with a duplicate of the last forwarded to Richmond.

Writings of Madison, Volume 3: 1816-1828, p.659

Has not the passage in Mr. Jefferson's letter to Mr. Giles, to which you allude, denouncing the assumptions of power by the General Government, been in some respects misunderstood? "They assume," he says, "indefinitely, that also over agriculture and manufactures." It would seem that, writing confidentially, and probably in haste, he did not discriminate with the care he otherwise might have done, between an assumption of power and an abuse of power; relying on the term "indefinitely" to indicate an excess of the latter, and to imply an admission of a definite or reasonable use of the power to regulate trade for the encouragement of manufacturing and agricultural products. This view of the subject is recommended by its avoiding a variance with Mr. Jefferson's known sanctions, in official acts and private correspondence, to a power in Congress to encourage manufactures by commercial regulations. It is not easy to believe that he could have intended to reject altogether such a power. It is evident from the context that his language was influenced by the great injustice, impressed on his mind, of a measure charged with the effect of taking the earnings of one, and that the most suffering class, and putting them into the pockets of another, and that the most flourishing class. Had Congress so regulated an impost for revenue merely, as in the view of Mr. Jefferson, to oppress one section of the Union and favor another, it may be presumed that the language used by him would have been not less indignant, though the tariff, in that case, could not be otherwise complained of than as an abuse, not as a usurpation of power; or, at most, as an abuse violating the spirit of the Constitution, as every unjust measure must that of every Constitution, having justice for a cardinal object. No Constitution could be lasting without an habitual distinction between an abuse of legitimate power and the exercise of a usurped one. It is quite possible that there might be a latent reference in the mind of Mr. Jefferson to the reports of Mr. Hamilton and Executive recommendations to Congress favorable to indefinite power over both agriculture and manufactures. He might have seen, also, the report of a committee of a late Congress presented by Mr. Stewart, of Pennsylvania, which, in supporting the cause of internal improvement, took the broad ground of "general welfare," (including, of course, every internal as well as external power,) without incurring any positive mark of disapprobation from Congress.

Writings of Madison, Volume 3: 1816-1828, p.660

I need scarcely hint that this comment is meant for your own consideration, not for public use. If it be a fair one, it obviates any collision between the opinion of Mr. Jefferson and that I have espoused on the constitutional branch of the Tariff question.

Writings of Madison, Volume 3: 1816-1828, p.660

Owing to casualties which delayed the receipt of some of the materials for the annual Report of the Visitors, it will not reach the Legislature at the prescribed time. The Report is limited, as you will observe, to the year ending with the session of the Board in July last. The doubt whether the extra session of October ought or ought not to be embraced, and if embraced, whether by the Rector pro tem. or not, had also some influence in retarding the Report. I mention these explanatory circumstances, that, if necessary, you may avail yourself of them in my behalf.

To Major James Hamilton.

MONTPELLIER, Decr 13, 1828.

Writings of Madison, Volume 3: 1816-1828, p.660

DEAR SIR,—I have duly received the copy of your speech on the 21st of October last; for which I am indebted to your politeness and tender my acknowledgments.

Writings of Madison, Volume 3: 1816-1828, p.660

I join very sincerely in all the praise which has been bestowed on the intellectual power and impressive eloquence by which it is distinguished. But I am constrained to mingle with this just tribute the remark that it comprises doctrines in which I cannot concur, and an indulgence of feelings which I cannot but lament.

Writings of Madison, Volume 3: 1816-1828, p.660

As you appear to attach much importance to the Virginia and Kentucky proceedings, occasioned by the Alien and Sedition Acts, and may not possess them in the most convenient form, possibly not have seen them in an entire state, I ask the favor of you to accept the Pamphlet edition of them herewith enclosed; assuring you, at the same time, of my best wishes that the talents and virtues of which you enjoy the high reputation may ever be exerted in ways as really, as I am Persuaded they will be intentionally, conducive to the good of our Country and the cause of Liberty.

Writings of Madison, Volume 3: 1816-1828, p.661

I must intreat you, sir, to grant to the freedom used in what I have said, the excuse which I fear it may need, and to regard the motives to it as in perfect accordance with the cordial respects and salutations which I pray you to accept.

To James Barbour.

MONTPELLIER, Decr 18, 1828.

Writings of Madison, Volume 3: 1816-1828, p.661

DEAR SIR,—I had the pleasure of duly receiving your interesting favor of Sept 29. The agricultural scenery which charmed you so much has had the same effect on other strangers surveying it with an equal taste for such improvements. I wish you may have as much reason to be pleased with the countenance of the Cabinet, when your objects are Presented to it. We think here it is high time for a relinquishment of the theoretic fallacy and practical folly of their Colonial doctrine, and for a discovery of the inconsistency of refusing our claim to the use of the St. Lawrence, with theirs to that of the Mississippi; and what is more, with a reasonableness and a usage amounting to a law of nations in such cases.

Writings of Madison, Volume 3: 1816-1828, p.661

I need not repeat to you the issue of the Presidential contest, which fame, with her thousand trumpets, has already proclaimed. Of the Cabinet in embryo, and of the course which will be steered by the new Palinurus, with respect to the stormy questions and baffling expectations in the midst of which he will take the helm, I know as little as the least knowing, and must refer you for the various speculations afloat to the metropolitan fountain from which they flow.

Writings of Madison, Volume 3: 1816-1828, p.662

I am sorry to say that the ferment produced in South Carolina by the tariff subsides more slowly (if at all) than was to be expected. The Legislature is now in session, and the difference in opinions appears to be confined to the modes of effectuating its repeal or its nullification, all concurring in the uncon-stitutionality and intolerable oppression of the measure. As Georgia, however, does not back her neighbour in the extent that was probably expected, and North Carolina will certainly not do so, whilst Virginia frowns on every symptom of violence and disunion, it may be confidently presumed that a favourable change is not very distant, such as will satisfy our ill-wishers abroad that our free system of Government, however liable to local and acute maladies, has a chronic health and vigor that is sure to expel the cause of them.

To Baron Hyde De Neuville.

MONTPELLIER, Decr 19th, 1828.

Writings of Madison, Volume 3: 1816-1828, p.662

DEAR SIR,—I have received the copy of your speech politely forwarded. I have read it with pleasure on account of its intrinsic merits; and permit me to add, with the greater, as it presents you in a position which opens an important field for the exercise of the talents and virtues of which you left the lively remembrance among us. The Baroness has been so kind as to charge Mrs. Cutts with expressions towards Mrs. Madison and myself, for which we join in offering our acknowledgments, and a return of our cordial respects, with all our good wishes both to her and yourself.

To W. C. Rives.

DECEMBER 20, 1828.

Writings of Madison, Volume 3: 1816-1828, p.663

DEAR SIR,—The last mail brought me your favor of the 17th, accompanied by a copy of the last Southern Review, for which I thank you. The disproportion of polemic politics which distinguishes it, though derogatory from the literary character of such works, might, if conducted with ability and good temper, be pardoned at a moment and on topics peculiarly interesting. I have looked very hastily over the article from Mr. McCord, and if I have caught his meaning, (of which I am not sure,) the thread of his reasoning leads to an identity of the legislative power of the States with, or rather to a substitution of it for, the sovereignty of the people, between which there is all the difference which exists between a creature and the Creator. Were some of the Southern doctrines latterly advanced valid, our political system would not be a Government, but a mere league, in which the members have given up no part whatever of their sovereignty to a common Government, and retain, moreover, a right in each to dissolve the compact when it pleases. It seems to be forgotten, that in the case of a mere league, there must be as much right on one side to assert and maintain its obligation as on the other to cancel it, and prudence ought to calculate the tendency of such a conflict. It is painful to observe so much real talent, and at bottom, doubtless, so much real patriotism as prevail in the Southern quarter, so much misled by the sophistry of the passions.

Writings of Madison, Volume 3: 1816-1828, p.663

I should with great pleasure send you the remarks on the tariff\* to which you allude, but for my confidence that you will see them in print before a manuscript copy would now reach you. They were put on paper in consequence of a conversation with a friend, which led him to ask it; and on his urging a publication, I acquiesced, with an understanding that it should not take place until the Presidential contest should be over, and with it the possibility of misconstruing the object into some bearing on it. Having, in the first letter, sketched the grounds of my opinion in favor of the constitutionality and expediency of a power in Congress to regulate trade with a view to the encouragement of domestic manufactures, and knowing that the paper was to be made public, I thought it was due to the subject to specify as exceptions to the general "let alone" principle, cases in which the power ought to be exercised, and to shew at the same time that it could not be exercised with effect by the State authorities. The delay in sending the letters to the press is to be ascribed to the indisposition of the gentleman possessing them; but, I believe the cause has ceased. When I had the pleasure of your call at Montpelier, I should have offered you a perusal of what I had written, but I then counted on your seeing it in a few days in a more readable form than the rough manuscript draught.

Writings of Madison, Volume 3: 1816-1828, p.664

I wish your example in tracing our constitutional history through its earlier periods could be followed by our public men of the present generation. The few surveyors of the past seem to have forgotten what they once knew, and those of the present to shrink from such researches, though it must be allowed by all that the best key to the text of the Constitution, as of a law, is to be found in the contemporary state of things, and the maladies or deficiencies which were to be provided for.

Writings of Madison, Volume 3: 1816-1828, p.664

With great esteem and regard,

Appendix I

Documents Illustrative of the Foregoing Review.

[Note: Click here to view the section referred to in this appendix.]

Writings of Madison, Volume 3: 1816-1828, p.386

[These documents appear to have been collected and arranged according to the subjoined memorandum of Mr. MADISON; the words within brackets being inserted by the person collecting them. On a leaf next preceding the collection, the following words are written by Mr. MADISON: "Letters and notes instructing "the Secretary of War, 1813; ready to be copied. All correctly copied by J. "C. Payne; which see.—J.M."]

Writings of Madison, Volume 3: 1816-1828, p.386

1. Date of assignment of General Jackson to District No. 7.

Writings of Madison, Volume 3: 1816-1828, p.386

[May 22, 1814, as per letter in answer to question below numbered 3; and accepted as per letter No. 6, dated June 8, 1814.]

Writings of Madison, Volume 3: 1816-1828, p.386

2. Date of General Harrison's resignation, and of its receipt at the War Department. [Letter acknowledging receipt of resignation dated May 24, 1814; date of the General's letter, 11th same month. By letter of 28th May, 1814, the General is informed that his resignation is accepted, to take place on the 31st instant, as requested.]

Writings of Madison, Volume 3: 1816-1828, p.386

3. Copy of a letter from War Department to General Jackson, conveying his appointment of Brigadier and Brevet rank of Major General, till vacancy of that rank should occur in the line.

Writings of Madison, Volume 3: 1816-1828, p.386

[See copy of letter dated May 22, 1814, and numbered 3.]

Writings of Madison, Volume 3: 1816-1828, p.386

4. A letter from War Department to General Jackson conveying his commission as Major General.

Writings of Madison, Volume 3: 1816-1828, p.386

[DEPARTMENT OF WAR, May 21, 1814.

SIR,—Since the date of my letter of the 24th instant Major General Harrison has resigned his commission in the army; and thus is created a vacancy of that grade, which I hasten to fill with your name. This circumstance does away the necessity of sending the commission formerly contemplated.

Writings of Madison, Volume 3: 1816-1828, p.386

I have, &c.,

Writings of Madison, Volume 3: 1816-1828, p.386

J. A.

Writings of Madison, Volume 3: 1816-1828, p.386

Maj. Gen. A. JACKSON.]

Writings of Madison, Volume 3: 1816-1828, p.386

5. Any letters from War Department to General Jackson connected with those subjects.

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6. Several letters from General Jackson answering those to him.

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[None, except the one numbered 6.]

Writings of Madison, Volume 3: 1816-1828, p.387

Any others from him to War Department connected with those subjects. [Same answer as above.]

To General Armstrong.

Documents.

To General Armstrong.

WASHINGTON, January 14th, 1813.

Writings of Madison, Volume 3: 1816-1828, p.387

DEAR SIR,—The enclosed commission will inform you of your appointment to the direction of the Department of War. I hope it will not be incompatible with your views to avail the public of your services in that important trust; and that you will be able, without delay, to relieve the Secretary of State, who has been charged, ad interim, with that addition to his other duties.

Writings of Madison, Volume 3: 1816-1828, p.387

Accept assurances of my great esteem and friendly respects.

Writings of Madison, Volume 3: 1816-1828, p.387

JAMES MADISON.

To General Armstrong, Sackett's Harbour.

MONTPELLIER, September 8, 1813.

Writings of Madison, Volume 3: 1816-1828, p.387

DEAR SIR,—I have received yours from Albany of the 28th ultimo. So much depends on the ultimate character of the present campaign, that whilst I have the fullest confidence that the best exertions will be made, I cannot suppress my anxieties; and the less so, as one of the elements on which we are to act is of so inconsistent a nature. The loss of our command of Lake Champlain, at so critical a moment, is deeply to be regretted. I cannot but hope, from the measures taken, and the character of McDonough, that it will he regained in time for the cooperation of Hampton; or that the latter will be able to get forward by land the essential means of wresting from the enemy the ports at their end of the Lake. Chauncey, I see has gone once more in search of the British squadron. I trust in his good sense and firmness as a security against his being hurried by an impatience to fix the public opinion in his favor. In the N. Western quarter it would seem that Harrison has not been able to keep time with Perry. If no augmentation of the British squadron should deprive ours of its superiority, the delay may have little effect.

Writings of Madison, Volume 3: 1816-1828, p.387

I received lately from Mr. Parker a letter from Governor Shelby, of August lst, with your acknowledgment of it, intimating that a final answer would result from a transmission of the letter to me. From a note of Mr. Parker's to me, it appeared that you had not taken the meaning of one to you on the subject. I returned the letter to the War office, with a few notes, rendered of little moment by the lapse of time, but which might have a bearing on the answer which it may be still proper for you to give to the Governor, as it was promised.

Writings of Madison, Volume 3: 1816-1828, p.388

The British fleet under Warren has returned to the south end of the Chesapeake; whether to renew operations in that quarter, to seek shelter against the approaching equinox, or to proceed to New London or elsewhere, is uncertain. N. London would occur as a probable object, if the particular season were not unfavorable to it. The two frigates there are the next in importance to the objects presented in the Chesapeake. Whatever the immediate destination may be, it will be well to keep in mind, that as soon as the progress of the season renders a northern position unmanageable, the ulterior destination, according to their apparent plan of warfare, will be a Southern one; that is to say, the coasts and ports of South Carolina and Georgia. Nor is it beyond the range of calculation that New Orleans will be an object, more especially if our success in Canada should suggest such a set-off.

Writings of Madison, Volume 3: 1816-1828, p.388

You will have learnt from the War office the difficulties which adhered to the expedition against the hostile Indians. In order to remove them, I had adopted the idea of putting Pinckney at the head of it. The objections to the expedient acquired such force from reflection that it was abandoned, and the command left with Governor Mitchell.

Writings of Madison, Volume 3: 1816-1828, p.388

You will see by a letter from Governor Mitchell, of August 24th, the measures taken by him, and those not taken by Governor Blount, relative to the Indian expedition; and Mr. Parker will have informed you of his remittances for the use of it. I cannot reconcile what is stated by Governor Mitchell as to the purpose of Governor Blount with the letter from Governor B. of July 30, to you, as noted to me by Mr. Parker. The augmented force called out by Governor Mitchell will, it is to be hoped, ensure success,. should any failure happen on the part of the Governor of Tennessee; and if there should be no failure, we must console ourselves for the augmented expense by the success being made doubly sure, and by the more lasting awe which will be impressed on the savages.

Writings of Madison, Volume 3: 1816-1828, p.388

You will receive a letter of August 23d from Col. Hawkins, with a correspondence between him and Governor Mitchell. It is not a moment for discussing the question on which it turns. The doctrine of Governor Mitchell, who is regarded as a man of strong understanding, must have been hastily formed.

Writings of Madison, Volume 3: 1816-1828, p.388

If General Dearborn wishes the command of a district, it is fortunate that so important a one as that of New York can be assigned to him. I find that he feels severely his temporary exile from command, especially the mode of it; and that he thinks a court-martial, or of enquiry, due to him, previous to a recall into service. He will doubtless, also, compare the importance of the operations against Canada with the probable inactivity of the scene at New York.

Writings of Madison, Volume 3: 1816-1828, p.388

I have received a letter from Andrew Ellicott, by which it appears that he infers from a letter from you that it was in contemplation to appoint him a professor in the Military Academy. He is a man of talents and science; but if great injustice has not been done him in different respects, and his standing in Pennsylvania be what report makes it, the tendency of such a selection would merit consideration.

Writings of Madison, Volume 3: 1816-1828, p.389

The Secretary of State was with me yesterday morning, on his way to his family. No information from abroad has been received by him.

Writings of Madison, Volume 3: 1816-1828, p.389

J. MADISON.

To the Acting Secretary of the Treasury.

MONTPELLIER, September 16th, 1813.

Writings of Madison, Volume 3: 1816-1828, p.389

DEAR SIR,—I have just received a letter of the 6th inst. from the Secretary of War, in which he states that an addition of half a million to the monthly allotment of one and an half millions for war expenditure is indispensable to the completion of the campaign; and that he has written to the paymaster to furnish a sum amounting to about $400,000, called for by the estimate of Paymaster Lee, as will be seen in the inclosed copy of his letter. I had previously learned from the paymaster General that, without an enlargement of his funds, he could not make the remittances due from his department. As so much depends on the success of the armies on the Canada frontier, I hope the Treasury will be able, in this last stage of the campaign, to prevent any disappointment, which might endanger or embarrass its critical operations. No other expenditure not essential to the life, or, what is next to it, the credit, of the Government, can be equally urgent.

Writings of Madison, Volume 3: 1816-1828, p.389

Accept my cordial and best respects.

Writings of Madison, Volume 3: 1816-1828, p.389

J. MADISON.

To General Armstrong.

MONTPELLIER, September 18th, 1813.

Writings of Madison, Volume 3: 1816-1828, p.389

DEAR SIR,—I have received yours of the 1st instant from Utica, and of the 5th from Sackett's Harbour. I have written to Mr. Jones with a view to an extra half million per month, for war purposes, during the sequel of the campaign; but am not without apprehensions that the state of the Treasury may produce difficulties, unless reinforced by loans not yet ascertained. He will, however, feel all the importance of cherishing the operations in Canada, on which the eyes and hopes of the nation are so intensely fixed. The latest information which has reached me from Harrison and Perry is, from the former of the 8th, and the latter of the 2nd instant Harrison was in readiness himself for offensive movements, waiting only for the arrival of Shelby with his volunteers. Perry had just returned from another reconnaissance of Malden, where, it appears, the new ship was rigged, and anchored at the mouth of the harbour with the other ships, under cover of a Battery. Perry's men were sickly, as well as himself. These circumstances are not favorable; I trust they will be overbalanced by those that are so. I just learn, through a private channel, that on the 9th Chauncey had just got back to Niagara, Yeo having once more eluded his pursuit. The lake, therefore, is still open to us, and will, of course, be used for the proper purposes. It is well that Hampton is secured for the present campaign. The course of it may furnish new holds on him, if his services be as valuable on trial as in anticipation.

Writings of Madison, Volume 3: 1816-1828, p.390

The loss of Williams, at such a moment, and in such a deficiency of General officers, is truly to be regretted.

Writings of Madison, Volume 3: 1816-1828, p.390

Accept my great esteem and best wishes.

Writings of Madison, Volume 3: 1816-1828, p.390

JAMES MADISON.

To General Armstrong.

MONTPELLIER, Sep. 24, 1813.

Writings of Madison, Volume 3: 1816-1828, p.390

DEAR SIR,—Since my letter of the 13th, the state of the Treasury has been transmitted to me. It is more favorable than I had anticipated, and will be able, at least for a short period, to keep the army in an efficient state. I have just received a confirmation of the fine blow struck by Perry. Harrison's movements, in consequence of it, will, I hope, be not only effectual against Proctor, but be felt in our other operations. The last account of Chauncey left him blockading his antagonist in a harbour near Kingston. If the weather should not disturb that posture, it will be the next best to a successful encounter. I sent you, a day or two ago, a letter from a person in New York, lately from Halifax. Knowing nothing of him, I cannot judge of the credit due to what he states. It is improbable in no point but that of the great force in Canada. It is strange that whilst they were stripping Halifax so bare, they should have so long idled away the force under Warren. I see that his squadron has lately been spoken, on its way, apparently, to Halifax; but it may be that finding his movements without effect in diverting our force from its destination to Canada, and the danger threatening that possession, he may be pushing the experiment of conveying a succour not too late. Inclosed is an address from the Oneida Chiefs. The employment of the Indians on our side has come about in a manner which accounts for the inquiry they make. The fairness of making use of such services cannot be questioned; but the value of them must determine the question of expediency. Of this you can judge better in your position than I can in mine. I leave it with you, therefore to shape the answer to the address as may appear most proper.

Writings of Madison, Volume 3: 1816-1828, p.390

Accept my great esteem and best wishes.

Writings of Madison, Volume 3: 1816-1828, p.390

J. MADISON.

Extract from a letter of James Madison, October 8, 1813, [in answer?] to General Armstrong's letter of September 26, 1813, from Sackett's Harbour.

Writings of Madison, Volume 3: 1816-1828, p.391

"It cannot be doubted that ye destruction of the block-houses, &c., on our side of the Perdido, without a reparation, not to be expected, is a cause of war. The doubt is, whether it be a case in which the Executive authority can resort to it without the sanction of the Legislature, especially as the hostile step by the Spanish officer may not have been authorized by his superiors. The probability that it has been authorized, or will not be disavowed, though a ground of proceeding for Congress, who are under no controul but that of justice and policy, must be otherwise regarded by the Department, which is controuled by the legal state of things. On this distinction, and on that between resist-ence to an invasion and reprisals for one, it will be the most unexceptionable course to await the decision of the Legislative Department with respect to Pensacola, and other questions arising from Spanish proceedings. There is the greater reason for this as the next session is not very distant, and it is not certain that in the present state of Indian affairs in that quarter a sufficient force could be spared for another object.

Writings of Madison, Volume 3: 1816-1828, p.391

"J. MADISON."

To General Armstrong.

MONTPELLIER, October 11, 1813.

Writings of Madison, Volume 3: 1816-1828, p.391

DEAR SIR,—The communications which you will receive from and through the War Office present the state of things produced on our Southern frontier by the Creek war, and by the start it had of the movements for meeting it. It is of so much importance that it should receive a decisive blow before the success of the Creeks shall have operated on the other tribes, and on the views of the English and Spaniards, as well as that our settlements should be saved from the desolation threatening them, that I have thought it would be best, under all the circumstances brought to our view, to encourage the exertions of Tennessee by adopting the force added by the Legislature to that heretofore called for.

Writings of Madison, Volume 3: 1816-1828, p.391

It would be fortunate if we had an eligible Major General in that quarter, at once to effect a general concert, and to secure the command in regular hands; but such an arrangement appearing to be impracticable, Governor Mitchell, who was put at the head of the operations against the Indians, will continue so, if re-elected at the approaching session of the Legislature. In a contrary event, a General Floyd, who is highly spoken of, will command the Georgia detachment; subordinate, of course, to General Flournoy, who will be so to the commander of the Tennessee forces, if a Major General, as probably will be the case.

Writings of Madison, Volume 3: 1816-1828, p.392

The late success of Perry and progress of Harrison will have a favorable influence on the Southern Indians; but should they not be known in time to arrest the confidence and activity with which the war is pursued [some omission.]

Writings of Madison, Volume 3: 1816-1828, p.392

Yesterday's mail brought the account from Harrison, dated at Amherstburgh. I trust that in his pursuit he will not forget the traps and tricks of an artful enemy. The danger of these may be the greater if he is on foot and Proctor on horseback, and as some ruse or other may be essential to a successful retreat of the latter. Your letter last acknowledged brought the latest information relative to the quarter where you are, and to Hampton's movements. The issue of the engagement on Lake Ontario is still unknown. The universal anxiety on the occasion corresponds with the extreme importance of it. Your letter of the 21st of September had not been seen at the date of my last. The circumstances which it states make it proper that Ellicott should not be set aside.

Writings of Madison, Volume 3: 1816-1828, p.392

We have nothing from diplomatic sources throwing much light on the field of foreign politics, nor a line from our Envoys to Russia.

Writings of Madison, Volume 3: 1816-1828, p.392

Accept my best regards.

Writings of Madison, Volume 3: 1816-1828, p.392

JAMES MADISON.

To General Armstrong.

WASHINGTON, October 30, 1813.

Writings of Madison, Volume 3: 1816-1828, p.392

DEAR SIR,—Before my return hither I received yours of the 8th instant, and have since received those of the 11, 13, 19, and 20. The order relative to the discharge of ———— militia from Norfolk, referred to in the first, was not inclosed in it, and has not come otherwise to hand. There can be no question, under existing circumstances, but as to the degree in which the force at that place may be prudently reduced.

Writings of Madison, Volume 3: 1816-1828, p.392

The turn which things had taken in the S. W. quarter created much difficulty in employing the services of General Williams in the way rendered desirable by the confidence we all have in his capacity and activity. Both Governor Mitchell, who has not absolutely declined the command allotted to him, and General Pinckney, have been apprized of General Williams' solicitude to be employed in the expedition against the Creeks, and in terms indicating our opinion of his fitness to be as much in the front of it as might be practicable. The expedient of a brevet commission which you suggest would answer the purpose against militia pretensions. But if it be within the scope of the law, which you seem not to doubt, it would leave on hand the claims of General Flournoy, within whose command the theatre of expected operations lies, and who has, it appears, repaired to it. Should New Orleans be seriously threatened by movements of the enemy, a separation of commands might prevent collision without umbrage to General Flournoy. It is probable, however, that before any new arrangement can be carried into effect at such a distance the crisis will be over.

Writings of Madison, Volume 3: 1816-1828, p.393

The expense threatened on the part of Tennessee is much to be regretted. It was submitted to in consideration of the delays and uncertainties which had accrued, and in the hope that the augmented force from that quarter would ensure success before British or Spanish measures could co-operate with the hostile Indians, particularly in drawing other tribes into the war; and that the period of service would be very short. Governor Blount has been already reminded of the expediency of avoiding every waste of force and expense, and of the reported disappearance of our ground for augmenting them; namely, a threatened invasion of the State by a large Indian force.

Writings of Madison, Volume 3: 1816-1828, p.393

It is unfortunate that the weather has conspired so much with the manoeu-vres of the enemy to contract the period for the remaining operations. In the worst event, I hope an intermediate establishment between Kingston and Montreal can be secured; which, adding to the advantages already gained in the present campaign one having so favorable a bearing on the next, will preserve the tone of the nation, and inculcate on the enemy a disposition to peace.

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I was surprised to see by your letter of the 20th that the victory of Harrison on the 5th had been so imperfectly conveyed to you. That of Perry on the 10th of September, I recollect, was alluded to on the 25th by Chauncey at Niagara as a report only, believed to be true.

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J. MADISON.

To General Armstrong.

WASHINGTON, November 15th, 1813.

Writings of Madison, Volume 3: 1816-1828, p.393

DEAR SIR,—I have received yours of the 8th from Albany, and shall look, in a few days, for some result of the critical posture of our military affairs on the St. Lawrence. The weather here has become suddenly very cold, but without snow or rain; and seems to be getting back to a milder state. If it has not been more than proportionably worse at the scene of operations, the prosecution of them will not have been obstructed by that cause, and hopes may be indulged that they will be successful. I have had some apprehensions, from the dates of reinforcements from England, that they might arrive in time to strengthen the hands of Prevost; but if they be not greater than are stated, and his previous force be as limited as it is understood to be, the prospect would still be hopeful.

Writings of Madison, Volume 3: 1816-1828, p.393

In chusing the place for Hull's trial, which should be delayed as little longer as may be, the primary consideration certainly is the conveniency to the army; and I do not know that the secondary one, which regards the witnesses, affords material objections to Albany. The time and place at which they are to attend cannot be too soon made known; some of the important witnesses being now in the Atlantic States, who may soon return to the Western.

Writings of Madison, Volume 3: 1816-1828, p.394

The vindictive order from Montreal threatens a serious retaliatory contest. Although the enemy have so great an excess of prisoners in their hands that scarcely any success at Montreal will balance it, we must meet them with determination.

Writings of Madison, Volume 3: 1816-1828, p.394

The late communications from Harrison and Cuss, the latter just appointed Governor of Michigan, call our attention to several points:

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1. The Government of the conquered territory. On this point the answer is, that the military authority of the conqueror, to be exercised with as much lenity and as little needless innovation as possible, must prevail until the legislative authority may interpose.

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2. As to the Indians. The temporary arrangements made on the spot for taking advantage of their depression, without infusing despair, will suffice till the case be more systematically provided for.

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3. The supplies of food to the inhabitants of Michigan. On this point Cuss has been told that they are to be continued as far as may be imperiously required by humanity; which must justify to Congress such an application of money not contemplated by the law.

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4. It is asked whether, and how, the injuries suffered by individuals in violation of the capitulation are to be indemnified. As indemnity is not to be looked for from the National Treasury, no mode presents itself for consideration but that of sending an estimate and demand to the British Commander. But this step would be ineligible without a previous decision that, in case of its presumed failure, the amount should be taken by military distress from the most able and obnoxious inhabitants of Canada under our power. This would be a course most approaching to justice; but being a novel one, and difficult also, it ought to be weighed before it be adopted. It will be proper, however, without special reference to such a purpose, to have an estimate of the damages in question made out, as within the resolution of Congress which requires a report of all acts of the enemy violating the laws and usages of war.

Writings of Madison, Volume 3: 1816-1828, p.394

You will learn from the War Office what has been done and is going on in the Southwest quarter.

Writings of Madison, Volume 3: 1816-1828, p.394

Not a line yet from our Envoys to Russia.

Writings of Madison, Volume 3: 1816-1828, p.394

J. MADISON.

Copy of a note on General McClure's letters of the 10th,

11th, and 13th of December, 1813, returned to the

Department of War.

Writings of Madison, Volume 3: 1816-1828, p.395

Besides the answer to General McClure, it may be proper to instruct General Wilkinson to say frankly to Prevost, that the burning of Newark was the effect of a misapprehension of the officer, and not an order from the Government. This may be done without authorizing an inference that such a measure exceeds a just retaliation, or precluding a reflection on the facility with which a perseverance of the enemy in a system of conflagration can be made reciprocal. A desire to put an end to such an aggravation of the evils of war is a sufficient explanation of the disavowal.

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J. MADISON.

DECEMBER 29, 1813.

To the Secretary of War.

MONTPELLIER, May 4, 1814.

Writings of Madison, Volume 3: 1816-1828, p.395

DEAR SIR,—I have duly received your letter of the 1st instant, suggesting a recall of the vessels allotted for Lake Huron, &c., with a view to another destination of them.

Writings of Madison, Volume 3: 1816-1828, p.395

The force which can be assembled at the east end of Lake Erie by the 10 of Jane is greater than I had relied on; and if employed towards Burlington Heights and York, cannot fail to have a saluary effect in different directions. Whether it would have that of sufficiently controuling the savages, and preventing the distresses and expenses of another frontier campaign, whilst Mich-ilimakina should remain a source of British influence and intrigue, and, above all, in case the enemy should be able to make some naval show on Lakes Huron and Michigan, is the most serious question. I have communicated your views of the subject to the Secretary of the Navy, who will make the proposed change, if not too late to recall the vessels, and if he is satisfied that the enemy's project of a naval show on the waters of Lake Huron is abandoned, or cannot be pursued with any injurious effect.

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Perhaps it may be practicable to find sufficient naval means for the occasion without interfering with the Huron expedition, which will employ but a part of the vessels on Lake Erie. The land force must, I presume, be too inconsiderable to interfere with the other object; besides that, its appearance in the upper quarter may not be without effect in lessening the descent of savages to the theatre below.

Writings of Madison, Volume 3: 1816-1828, p.395

In a case so much to be influenced by intelligence and occurrences, and now so little admitting delays, I cannot do better than leave it to yourself and the Secretary of the Navy, whose interchange of information and ideas promises the safest result. [See annexed letter to the Secretary of the Navy.]

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After all, the issue of offensive operations in the neighbourhood of Lake Ontario must have some dependence on the naval command there. Should this be in the hands of the enemy, sudden concentrations at any point chosen may thwart measures otherwise the best planned. With that advantage, particularly, unless his force at Kingston be and remain inadequate, the scheme of forming a naval force on Lake Huron, through the medium of York and Lake Simcoe, might, for the season at least, be pushed with mischievous effect

Writings of Madison, Volume 3: 1816-1828, p.396

JAMES MADISON.

To the Secretary of the Navy.

MONTPELLIER, May 4, 1814.

Writings of Madison, Volume 3: 1816-1828, p.396

DEAR SIR,—The Secretary of War, in a letter of the 1st inst., states that the last advices make it evident that the enemy, instead of now meditating a re-establishment of himself on the Thames, and a renewal of his intercourse with the Indians, means to strengthen himself on the Peninsula, making Fort Erie the western extremity of his line of operations I that including the garrisons of Detroit and Malden, it will be practicable, by the means already taken, to assemble on Lake Erie and its waters, by the 10th day of June next, 5,000 regular troops and 3,000 volunteers and militia; but that this force will be dispersed and comparatively inoperative without the aid of the flotilla on that Lake; whilst with that aid, such a force, or even less, landed at a favorable point, and directed against the enemy's posts at Burlington Bay and York, could not be resisted without weakening and exposing himself to our forces at Sackett's Harbour and Plattsburg; the interposition of such a force being in the mean time a barrier to Detroit and Malden, obstructing the intercourse with the Indians, and leading, also, to the evacuation of Niagara, and rendering less important to him a continuance of the naval contest on Lake Ontario. With these prospects, he suggests that the expedition into the western lakes be relinquished, and that the naval means allotted to it be turned in aid of that above proposed.

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The probable effect, above as well as below, of so large a force, if it can be assembled at the eastern extremity of Lake Erie, entitles the suggestion to fair consideration; and if you find it not too late, and are satisfied that the project of creating a naval force on the waters of Huron is abandoned by the enemy, or cannot be effectually pursued so as to threaten a reanimation of savage hostilities, it will be best, under all circumstances, to change your orders to Captain Sinclair. I give the Secretary of War so to understand.

Writings of Madison, Volume 3: 1816-1828, p.396

Perhaps it may be practicable to find a sufficiency of naval aid for the War Department without interfering with the expedition to the Western lakes. The land force withdrawn for it must, I presume, be too inconsiderable to interfere with the other object; besides that, its appearance may prevent some of the savages from descending to the main theatre of operations.

Writings of Madison, Volume 3: 1816-1828, p.397

In a case depending on intelligence which must daily be improving, and on circumstances liable to continual change, it would be unsafe to be more positive than I have been. I cannot do better than to leave it in the hands of yourself and the Secretary of War, whose interchange of information and sentiments promises the soundest result.

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JAMES MADISON.

To the Secretary of War.

MONTPELLIER, May 17th, 1814.

Writings of Madison, Volume 3: 1816-1828, p.397

DEAR SIR,—Obstructions to the mail retarded for several days your letter of the 9th instant, accompanied by a correspondence between Generals Wilkinson and Izard, on the subject of the court-martial. The letter from the former to the Department of War, referred to in the correspondence, was omitted.

Writings of Madison, Volume 3: 1816-1828, p.397

The objection made to the validity of the order for a court-martial cannot be sustained. Although orders derive their authority from the President and not from the Department of War, where an authority is not specially vested in it by law, the authority of the President in orders requiring it is to be presumed when passing through a legitimate and known channel. I have not the means of ascertaining whether the terms of the order sent by Col. Walbach corresponded with the current of precedents. Should there have been any deviation in that respect it would not vitiate the order itself, and may be avoided in future.

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The other objection, viz: to the member of the court and the deficiency of rank in one of the members, is also without legal foundation. The extract from the articles of war cited by you import that the Executive must necessarily judge, on its responsibility, whether in any particular case a restriction of the members of a court-martial to the smallest number that is required in ordinary cases, or a resort to officers of inferior rank, can or cannot be avoided without manifest injury to the service.

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But although there be no legal right on the side of General Wilkinson, it merits consideration whether there may not be expectations which will be deemed reasonable. Being of the highest grade in the army, having been charged with the most important operations of the campaign, and so much time having elapsed after the question of a military court came into view, during which time he was continued in command, the grounds on which the smallest allowable number, with an inferiority of rank in any of the members, can be properly enforced, ought to be equally certain and imperious. The law evidently favors, in behalf of the party to be tried, the highest number and an equality of rank.

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As General Wilkinson will be content with a court composed of five members only, provided they be General officers, it is proper that such an one should be instituted, and assembled at as early a day as will avoid manifest injury to the public service. Of this determination you may inform him. The selection of the officers most eligible for the court, with the other necessary steps, may await my return to Washington. The suggestions in the letter of General Pinckney of April 22d, now returned, appear to be judicious. It would have been well if he could have participated in the final arrangements with the subdued Indians. The task of making them is now, however, so easy, that Col. Hawkins alone might suffice for it. But it may be more satisfactory to associate Col. Milton or some one else with him. It may be more satisfactory, also, to give associates to General Harrison for a treaty with the N. W. Indians, and Mr. Morrow and Col. Johnson will be a fit selection. Send me a commission, and let it be joint and several, as well to guard against casualties as to leave General Harrison free for the other service allotted to him, in case of an interference between the two.

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Send, also, a commission of Brigadier and a brevet of Major General for General Jackson.

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I have not yet fixed the day of my setting out for Washington. Until you receive notice of it your communications may be continued hither.

Writings of Madison, Volume 3: 1816-1828, p.398

Accept my respects and good wishes.

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JAMES MADISON.

To the Secretary of War.

MONTPELLIER, May 20, 1814,

Writings of Madison, Volume 3: 1816-1828, p.398

DEAR SIR,—I have received your letter of the 17th instant, covering further communications from General Pinckney; which are now returned.

Writings of Madison, Volume 3: 1816-1828, p.398

The supplies necessary to save the Indians from starving cannot but be approved, notwithstanding the failure of legal provision for the purpose. It is a case of humanity and necessity which carries its own justification with it.

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I mentioned in my last Col. Milton as a fit Commissioner to succeed General Pinckney, and as apparently within reach of the time and place for treating with the Indians. If Governor Holmes be so, he will be a very unexceptionable associate. McKee, also, may be well qualified, and is probably not too distant. But I think there will be a propriety in giving a preference to the Agent residing with the Cherokees, who is senior to him in several respects, who is very intelligent as well as experienced, and who will represent that meritorious tribe of Indians as well as the United States. I know not how far his age and other circumstances may admit of his attendance. You can better decide with the information you possess, or may obtain on the spot. There would be some advantage in associating both of them with Col. Hawkins, &c.; but, besides the expense of a numerous commission, there may he more danger of the want of concord. Make the selection you find best out of all that have been named; Col. Hawkins being of course retained.

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Whether the friendly Indians ought to be a party to the arrangement with the hostile ones is a question it may be best to leave to the Commissioners, who can best appreciate the considerations on which it depends. It seems most suitable that, although the terms of the peace will be dictated to the hostile Indians, their pride should not be irritated by excluding even the form of consent on their part; especially as it is possible that a foreign enemy of the United States may still make experiments on their character, if the future circumstances of the war should suggest them. Even this question, however, may be left with the Commissioners, if they see in the other course the surest precaution against revolt. The most critical part of the task will be the demarcation of lands to be given up by the offenders, and of lands to be secured to the friendly Creeks. It may be proper, also, to reward the Cherokees, if not the Choctaws, by some accommodations to them; and to consult the views of the States of Georgia and Tennessee as far as justice and policy will permit,

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These are points on which the information and discretion of the Commissioners must decide; subject, of course, to the constitutional ratification.

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Nothing better can be done with the leading offenders who may be surrendered than to have them effectually secured, with a report of the circumstances, which ought to influence the disposal to be respectively made of them. The treatment of the aged Telassia King may be safely trusted to the humanity of Col. Hawkins.

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I have much confidence in the judgment of General Pinckney in relation to the number of posts and men requisite for the conquered territory. But in the prostrate condition of the savages, and with the force which will be South of them, whilst the terror of Georgia and Tennessee will be on the other side of them, reductions in those respects will, I hope, be admissible very soon, if not at present. They are much to be desired, as well on account of the difficulty of keeping up regular supplies, as of the occasion there may be for increased exertions in other quarters.

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I am just possessed of the intelligence last from France and Great Britain, and the proclamation of Cochrane addressed to the blacks; they admonish us to be prepared for the worst the enemy may be able to effect against us. The date concurs, with the measure proclaimed, to indicate the most inveterate spirit against the Southern States, and which may be expected to shew itself against every object within the reach of vindictive enterprise. Among these, the seat of Government cannot fail to be a favorite one.

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I have the day for setting out for Washington still to fix. It was my original purpose to be back before the first of next month, and I shall endeavour to effect it.

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Accept my respects and best wishes.

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JAMES MADISON.

To Major General A. Jackson.

Writings of Madison, Volume 3: 1816-1828, p.400

DEPARTMENT OF WAR, May 21, 1814.

Writings of Madison, Volume 3: 1816-1828, p.400

SIR,—Since the date of my letter of the 24th instant, Major General Harrison has resigned his commission in the army, and thus is created a vacancy of that grade, which I hasten to fill with your name. This circumstance does away the necessity of sending the commission formerly contemplated.

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I have, &c.,

J. A.

To Major General Andrew Jackson, Nashville, Tennessee.

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[No. 3.] DEPARTMENT OF WAR, May 22, 1814

Writings of Madison, Volume 3: 1816-1828, p.400

SIR,—The vacancy produced by General Hampton's resignation, not having been filled during the late session of the Senate, cannot be supplied constitutionally during the recess of that body. All, therefore, that can be done at present, in reward for your able and gallant conduct during the campaign, and in testimony of the public respect these have obtained, is to make you a Brigadier of the line, with the Brevet of Major General, and to invest you with the command of the 7th Military District. Commissions of this character will be immediately prepared and forwarded; and I cannot but hope that they will be acceptable and accepted, and that it will not be inconvenient for you to assume this new command without loss of time.

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I avail myself of this occasion to offer to you my great respect and best wishes.

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J.A.

To the Secretary of War.

MONTPELLIER, May 24, 1814.

Writings of Madison, Volume 3: 1816-1828, p.400

DEAR SIR,—I have received yours of the 20th instant. The sufferings of the troops for want of clothing and pay are the more to be lamented as they cannot fail to damp the recruiting service, and particularly the re-enlistment of the men who are soon to be discharged. It seems strange that arrears of pay should run back for more than a year, and that supplies of clothing should have been so deficient that the troops at one station should have got none, and those at another not enough. It is always fair, however, that explanation should precede censure. That is necessary in this case; at least for a just distribution of the censure among the responsible agents.

Writings of Madison, Volume 3: 1816-1828, p.400

It would be a circumstance of regret if either the State of Tennessee or General Jackson should be dissatisfied at the course taken in the peace with the Indians. I am not sure that I understand your remarks on what took place previous to the departure of General Pinckney. It is to be considered now that the appointment of Commissioners to treat will not refer to a military capitulation, but to a regular treaty to be submitted to the Senate.

Writings of Madison, Volume 3: 1816-1828, p.401

The commission by Brevet for General Jackson is not accompanied by the preliminary one of Brigadier. As the resignation of General Harrison renders that circuit unnecessary, the better way will be to send at once a Major General's commission. I suspend a final decision, however, till I see you, which will be in two or three days after the arrival of this. The decision as to General Howard may also be delayed.

Writings of Madison, Volume 3: 1816-1828, p.401

If the power of France be broken down, which is more than probable, for a time at least, and the allies of England can be prevailed on to acquiesce in her measures against us, which is possible, we may calculate on the utmost extension she can give them, both on our Atlantic and inland frontier. I observe that her exertions for Lake Ontario correspond with our anticipations. Among them appears the project of sending ships from England in frames. If these arrive, and the conveyance of them up the St. Lawrence cannot be prevented, there will be little hope of our obtaining and keeping the command on that water.

Writings of Madison, Volume 3: 1816-1828, p.401

The complaints against Burbeck have been so multiplied and pointed that his longer continuance where he is is highly inexpedient. Transfer him to some other theatre which you think less unsuitable for him; and be so good as to hand the letter from Mr. Chauncey, after perusal, to the Secretary of the Treasury, who will communicate it to the Postmaster General. It contains matter which the Paymaster General also, may properly see.

Writings of Madison, Volume 3: 1816-1828, p.401

If the case of Lieut. Gore, inclosed, calls for the interposition represented, let a pardon be provided in the customary form.

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Accept my respects and best wishes.

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JAMES MADISON.

Writings of Madison, Volume 3: 1816-1828, p.401

P.S. May 25.—I observe in the National Intelligencer, just received, that a consolidation of 4 regiments into 2 has been finally carried into effect and made public. You must have inferred more from my conversations than I could have meant to convey by any thing in them on the subject. The question of exercising such a power, made discretionary by law, the designation of the regiments to be consolidated, and the discrimination between the officers to be retained and disbanded, involved so many considerations of importance, of justice, and of delicacy, that I should not have considered myself as satisfying my responsibility without weighing well the whole proceeding. It may be doubted, also, whether, as the exercise of the power was limited to the event of a failure to fill the rank and file of the regiments, the condition has yet occurred; the period between the passage of the law and the act of consolidation having admitted so scanty an opportunity for an adequate trial of the means of recruiting.

Writings of Madison, Volume 3: 1816-1828, p.402

JAMES MADISON.

To the Secretary of War.

JUNE 3, 1814.

Writings of Madison, Volume 3: 1816-1828, p.402

J. Madison requests a consultation with the Heads of Departments on Tuesday next, at 11 o'clock.

Writings of Madison, Volume 3: 1816-1828, p.402

The object is to decide on the plan of campaign which our means, military and naval, render most eligible.

Writings of Madison, Volume 3: 1816-1828, p.402

In the mean time, the Secretary will cause to be made out and send over—

Writings of Madison, Volume 3: 1816-1828, p.402

1. A statement of the numbers and kinds of regular force, respectively, at the several military posts and stations throughout the United States.

Writings of Madison, Volume 3: 1816-1828, p.402

2. The numbers on the way thereto, respectively.

Writings of Madison, Volume 3: 1816-1828, p.402

3. The remaining numbers enlisted, and in what States, according to the last returns.

Writings of Madison, Volume 3: 1816-1828, p.402

4. The amount and kind of the enemy's land forces in Canada, or on the frontier of the United States, and at what places, according to the best information in the War Department.

Writings of Madison, Volume 3: 1816-1828, p.402

5. Ditto, ditto, ditto, expected there, and when, according to ditto, ditto.

Writings of Madison, Volume 3: 1816-1828, p.402

6. Ditto, ditto, of enemy's land forces near, and destined for, our Atlantic frontier, according to the best information in the Department of War.

To the Secretary of the Navy.

JUNE 3, 1814.

Writings of Madison, Volume 3: 1816-1828, p.402

J. Madison requests a consultation, &c., on Tuesday next.

Writings of Madison, Volume 3: 1816-1828, p.402

The object is to decide on the plan of campaign which our means, military and naval, render most eligible.

Writings of Madison, Volume 3: 1816-1828, p.402

Meantime, the Secretary of the Navy will cause to be made out and send over—

Writings of Madison, Volume 3: 1816-1828, p.402

1. A statement of the naval force on the Lakes Erie, Ontario, and Chain. plain, respectively, now ready for service, and the portion of that on Lake Erie destined for Lake Huron.

Writings of Madison, Volume 3: 1816-1828, p.402

2. State and prospects of additional naval force in preparation for Lakes Ontario and Champlain, respectively.

Writings of Madison, Volume 3: 1816-1828, p.402

3. State and stations of vessels of war, (including the steam vessel,) gunboats, and barges, for the defence of the Atlantic frontier.

Writings of Madison, Volume 3: 1816-1828, p.402

4. Naval force of the enemy, (including marines,) according to the best information in the Navy Department, near and in the Atlantic waters of the United States.

Writings of Madison, Volume 3: 1816-1828, p.403

5. Ditto, understood to be destined for our coast.

To the Secretary of State.

JUNE 3rd, 1814.

Writings of Madison, Volume 3: 1816-1828, p.403

J. Madison requests a consultation with, &c., on Tuesday next. The object is, &c.

Writings of Madison, Volume 3: 1816-1828, p.403

Meantime, the Secretary of State will cause to be made out and send over a statement of any information received in his Department relative to the military or naval force of the enemy destined to Canada or the United States and to the military or naval operations contemplated by the enemy during the present campaign.

To the Secretary of the Treasury.

Writings of Madison, Volume 3: 1816-1828, p.403

J. Madison requests, &c.

The object is, &c.

JUNE 3, 1814.

To the Attorney General.

Writings of Madison, Volume 3: 1816-1828, p.403

J. Madison requests, &c.

The object is, &c.

JUNE 3, 1814.

In Cabinet, June 7, 1814—Present: J. Monroe, G. W. Campbell, General Armstrong, W. Jones, R. Rush.

Writings of Madison, Volume 3: 1816-1828, p.403

The subject, the opening of the campaign.

Writings of Madison, Volume 3: 1816-1828, p.403

1. Determined, nem. con., on an expedition into Lake Huron, of 4 or 5 vessels, and 800 or 1,000 troops; the first object to occupy Machadash and St. Joseph's, leaving about 500 to hold, at least, the former.

Writings of Madison, Volume 3: 1816-1828, p.403

2. Do., nem. con., (except Mr. Monroe, who did not positively oppose, but thought the measure hazardous,) on an expedition, with the forces under General Brown, from Lake Erie, near Long Point, to Burlington Heights, preparatory to further operations for reducing the Peninsula, and proceeding towards York, &c.; the expedition to depend on Commodore Chauncey's getting the command of the lake, without which supplies could not be secured, and with which they might be conveyed safely by water from depots on the south side of Lake Ontario.

Writings of Madison, Volume 3: 1816-1828, p.404

3. Do., nem. con., 14 or 15 armed boats to be built at Sackett's Harbour, to command the St. Lawrence, under protection of posts to be supplied by detachments from Izard's command, so as to intercept the water communication between Montreal and Kingston.

Writings of Madison, Volume 3: 1816-1828, p.404

4. Do., nem. con., the main force under Izard to make demonstrations towards Montreal, as a diversion of the enemy from operations Westward, and affording a chance of compelling Prevost to fight disadvantageously, or break up his connection with Lake Champlain.

To the Honorable John Armstrong, Secretary of War.

[No. 6.] NASHVILLE, June 8, 1814.

Writings of Madison, Volume 3: 1816-1828, p.404

SIR,—Yours of the 22d and 24th ultimo, with enclosures, have been received, and are now before me. The former alone shall be the subject of this communication. The appointments of Brigadier and Brevet Major General in the line are accepted under the circumstances tendered; believing, from the tenor of your letter, that the Senate, on its meeting, will honor me with the rank in the line which I have held in the militia service of the Republic for many years. Your other communication shall be the subject of a separate letter.

Writings of Madison, Volume 3: 1816-1828, p.404

I shall avail myself of the earliest opportunity to assume the command of the 7th Military District, pursuant to your wishes.

Writings of Madison, Volume 3: 1816-1828, p.404

Very respectfully, sir, your most obedient,

(Signed) ANDREW JACKSON.

June 15, 1814.

Writings of Madison, Volume 3: 1816-1828, p.404

The Secretary of War will send—

Writings of Madison, Volume 3: 1816-1828, p.404

1. All the correspondence with General Harrison, subsequent to his return to the Western Country.

Writings of Madison, Volume 3: 1816-1828, p.404

2. The correspondence with General Wilkinson from the date (inclusive) of his first request of a military investigation.

Writings of Madison, Volume 3: 1816-1828, p.404

3. The correspondence with General Jackson, subsequent to his leaving the Indian Country.

Writings of Madison, Volume 3: 1816-1828, p.404

4. The General orders which have been issued from the office of the Adjutant and Inspector General, subsequent to the 1st of May last.

Writings of Madison, Volume 3: 1816-1828, p.404

5. The correspondence subsequent to that date with the several officers commanding military districts; including the separate correspondence with Generals Izard, Brown, and Gaines, in the 9th district.

Writings of Madison, Volume 3: 1816-1828, p.405

6. The instructions to the Commissioners for treaties with the Creeks, and with N. Western Indians.

Writings of Madison, Volume 3: 1816-1828, p.405

7. The number of small-arms manufactured within the last year by and for the United States.

Writings of Madison, Volume 3: 1816-1828, p.405

8. The number of small-arms fit for use at the several depots, respectively.

Writings of Madison, Volume 3: 1816-1828, p.405

To save time and copying, the letters, instructions, and orders from the War Department may be sent in the record, or the retained draughts.

Writings of Madison, Volume 3: 1816-1828, p.405

J. MADISON.

To the Secretary of War.

JUNE 18, 1814.

Writings of Madison, Volume 3: 1816-1828, p.405

Besides the tendency of the proposed attempt for removing the Indians north of the State of Ohio to disquiet them, there are other objections to the measure. It may have a like tendency in its bearing on other Indians connected with the district given in exchange. And what merits particular attention, the territories contiguous to this district, whose peace and security might be affected, will probably be dissatisfied. A pointed remonstrance against such a measure was given in by the delegate from Missouri. Its policy, at this time, was not supported, if not opposed, by some of the most weighty characters of the State of Ohio.

Writings of Madison, Volume 3: 1816-1828, p.405

Instead of a treaty of alliance and subsidy, specifying the pay, subsistence, &c., &c., which, requiring the sanction of the Legislative branches, could not have effect during this campaign without an Executive assumption of the whole treaty power, an article will be better, simply obliging the Indians, if required by the United States, to enter into the war, and put themselves under their direction in the prosecution of it. This will lay us under no treaty obligations, and leave the way open for the employment of the Indians as heretofore under military arrangements, for which explanation at the treaty on the several necessary points might sufficiently prepare them.

Writings of Madison, Volume 3: 1816-1828, p.405

A change in the instructions to the above effect will probably reach the Commissioners in time; but it will not avoid the incongruity of the proceeding.

Writings of Madison, Volume 3: 1816-1828, p.405

JAMES MADISON.

Col. Croghan's letter, with the following note thereon by General Armstrong, referred to the President.

"This letter of Lieut. Col. Croghan's is highly improper: 1st, because he made no complaint of what he calls a departure from military etiquette to the War Department: 2d, because the first notice he takes of it is in a letter to a navy officer, and then without any object of business, as he says his conduct will not be the result of any chagrin produced by it: 3d, because, by a letter to General Harrison of the 15th of May, it appears that he would not permit Major Holmes to go until an order to that effect was sent directly to himself: and, 4th, his doctrine of etiquette is unfounded, either in the practice of the land or sea service. The order was sent to General Harrison. Are orders from the War Department to be sent to every Colonel in the army before he will consent to aid in an expedition directed by the Government?

Writings of Madison, Volume 3: 1816-1828, p.406

"For the orders to General Harrison and to Major Holmes, see page 172 of the letter book."

Writings of Madison, Volume 3: 1816-1828, p.406

Received June 18, 1814.

Note on the note of the Secretary of War covering letter of Col. Groghan to Captain Sinclair, of May 26.

Writings of Madison, Volume 3: 1816-1828, p.406

As the order to Major Holmes required a resort to his superior officer, Col. Croghan, and as Capt. Sinclair was ordered to communicate with the latter, it might have been better to have conveyed the orders to Major Holmes through Col. Groghan than vice versa, as well as to have apprised Col. Croghan directly of the orders to Captain Sinclair. But there being no room to question the orders to Major Holmes, or those to Captain S., and the case forbidding delay, the proper course for Croghan was to have conformed to the authenticated intentions of the Government, and to have then made his communications on the subject, both to the War Department, and to the officer commanding the district. The superseding arrangement transmitted directly to him on the 2nd of June admits of no misconstruction, unless, indeed, Holmes should set up his direct and unrevoked orders from the War Department against those proceeding immediately from Col. Groghan.

Writings of Madison, Volume 3: 1816-1828, p.406

A Canada newspaper, in the hands of the Secretary of the Navy, speaks of the weakness of Michilimakina, and of a reinforcement on the way, under a Lieut. Colonel.

Writings of Madison, Volume 3: 1816-1828, p.406

A decision on the acceptance of General McArthur's resignation is suspended, with a view to the questions whether he may not be employed as he wishes and to a proper successor.

Writings of Madison, Volume 3: 1816-1828, p.406

J. MADISON.

JUNE 18, 1814.

Note on a note\* of the Secretary of War, on letters from

Governor Clarke and General Howard, proposing the

establishment of a post at Prairie du Chien.

Writings of Madison, Volume 3: 1816-1828, p.407

The apparent objections to the proposed establishment of a post so distant are very strong. Much weight, however, is due to the concurring opinions of Governor Clarke and General Howard, both men of judgment, and possessed of many advantages for a correct exercise of it in such a case.

Writings of Madison, Volume 3: 1816-1828, p.407

J. MADISON.

JUNE 19, 1814.

To the Secretary of War.

JUNE 20, 1814.

Writings of Madison, Volume 3: 1816-1828, p.407

General Wilkinson, it appears, addressed an application to the President on the 6th ult. for an opportunity of securing testimony which may be lost by the casualties of the campaign. This is reasonable; and be effected by depositions taken in the usual mode, a Judge Advocate attending on the part of the public. Give the proper instructions for the purpose, and let the General be informed that his request is complied with. It will be proper, also, to liberate him from his restriction to particular places of residence.

Writings of Madison, Volume 3: 1816-1828, p.407

I wish a list of all the Major and Brigadier Generals not prisoners of war, as at present respectively distributed for service.

Writings of Madison, Volume 3: 1816-1828, p.407

J. MADISON.

To the Secretary of War.

JUNE 21, 1814.

Writings of Madison, Volume 3: 1816-1828, p.407

The taking of soldiers for manning the navy is certainly a disagreeable circumstance in several respects; but the efficient state of the navy, even for land operations on the Canada frontier, is so essential, that it seems unavoidable occasionally, until a sufficiency of seamen can be obtained, for which every exertion is doubtless made.

Writings of Madison, Volume 3: 1816-1828, p.407

The expedient of volunteers, adopted by General Izard as a diminution of the inconvenience, seems a good one, and he will, of course, repress improper attempts to prevent its success.

Writings of Madison, Volume 3: 1816-1828, p.407

J. MADISON.

Submitted to the Cabinet, June 23 and 24, 1814.

Writings of Madison, Volume 3: 1816-1828, p.408

1. Shall the surrender by Great Britain of the practice of impressment, in a treaty limited to a certain period, be an ultimatum? Monroe, Campbell, Armstrong, Jones—No: Rush inclining, but not insisting otherwise.

Writings of Madison, Volume 3: 1816-1828, p.408

2. Shall a treaty of peace, silent on the subject of impressment, be authorized? All no, but Armstrong and Jones, who were aye.

Writings of Madison, Volume 3: 1816-1828, p.408

3. Shall a treaty be authorized comprising an article referring the subject of impressment, along with that of commerce, to a separate negotiation? Monroe, Campbell, Armstrong, and Jones—Aye: Rush for awaiting further information from Europe.

June 27, 1814.

Writings of Madison, Volume 3: 1816-1828, p.408

In consequence of the letters from Messrs. Bayard and Gallatin of May 6-7, and of other accounts from Europe, as to the ascendency and views of Great Britain and the dispositions of the great Continental Powers, the preceding question No. 2 was put to the Cabinet, and agreed to by Monroe, Campbell, Armstrong, and Jones; Rush being absent. Our Minister to be instructed, besides trying the other conditions, to make a previous trial to insert or annex some declaration or protest against any inference, from the silence of the Treaty on the subject of impressment, that the British claim was admitted, or that of the United States abandoned.

To the Secretary of War.

HEADQUARTERS 7TH MILITARY DISTRICT,

Murfreesborough, June 27th, 1814.

Writings of Madison, Volume 3: 1816-1828, p.408

SIR,—Mine of the 25th instant advised of the rumours of the day, and that on the 26th I would set out for Fort Jackson. At this place I met a corroboration of the account that 300 British had landed, and are fortifying at the mouth of the Apalachicols, and are arming and exciting the Indians to acts of hostility against the United States. Whether the rumours are founded on fact or not, we ought at least to be prepared for the worst.

Writings of Madison, Volume 3: 1816-1828, p.408

Query: If the hostile Creeks have taken refuge in East Florida, fed and armed there by the Spaniards and British, the latter having landed troops within it, and fortifying, with a large supply of munitions of war and provisions, and exciting the Indians to hostilities, will the Government say to me, require a few hundred militia, (which can be had for the campaign at one day's notice,) and, with such of my disposable force, proceed to and reduce? If so, I promise the war in the South has a speedy termination, and British influence forever cut off from the Indians in that quarter.

(Signed) ANDREW JACKSON.

Estimate of force and preparation for defence of the City, made up in Cabinet meeting, July 1st, 1814.

Cavalry, City of Washington 120

Ditto, from Carlisle, say 200

Regular infantry 1,000

District ditto 1,000

Marines 120

District artillery \_\_ 200

2,640

Of Barney's corps \_\_ 500

3,140

Writings of Madison, Volume 3: 1816-1828, p.409

10,000 militia to be designated and held in readiness.

10,000 arms and camp equipage to be brought forward for use.

Survey of the grounds, &c.

To the Secretary of War.

JULY 2, 1814.

Writings of Madison, Volume 3: 1816-1828, p.409

In analogy to the arrangement yesterday decided on in reference to this City and Baltimore, and with a view to a systematic provision against invading armaments, the Secretary of War will digest and report to the President corresponding precautionary means of defence in reference to the other more important and exposed places along the Atlantic frontier; particularly Boston, New York, Wilmington, Norfolk, Charleston, Savannah, and New Orleans. In addition to the distribution at suitable depots of arms and other necessaries, the Secretary will report a circular communication to the Governors of the several States, calculated to obtain from them convenient designations of adequate portions of their militia, with every other arrangement depending on the State Executives for having them in the best readiness for actual service in cases of emergency.

Writings of Madison, Volume 3: 1816-1828, p.409

JAMES MADISON.

Noted on the return of papers, accompanied by a letter from the Secretary of War of June 29, 1814.

JULY 6, 1814.

Writings of Madison, Volume 3: 1816-1828, p.409

On the question whether warrants for payment ought to be drawn by the Secretary of War, immediately on settlements made by the Accountant of the Department of War, or not without a previous inspection and revision of such settlements by the accounting officers of the Treasury, the considerations in favor of the latter course are:

Writings of Madison, Volume 3: 1816-1828, p.410

1st. That the term "revision" used in the law seems to import that the settlement of the Accountant at the War Department, not being definitive, ought not to be operative.

Writings of Madison, Volume 3: 1816-1828, p.410

2d. That the policy of requiring a report to and revision of the settlements of the War Accountant, implies that the accounting officers in the Treasury Department were to be a check on the War Accountant, which check cannot be effectual without a suspension of payment.

Writings of Madison, Volume 3: 1816-1828, p.410

3d. That this was the sense of a Committee of each House of Congress, of the Senate, and of the Attorney General.

Writings of Madison, Volume 3: 1816-1828, p.410

4. That reasons personal to the Accountant to the War Department opposed an issue of warrant on his settlements. On the other side, the considerations are:

Writings of Madison, Volume 3: 1816-1828, p.410

1st. That as the reports of settlements by the War Accountant were required to be made "from time to time" only, and not forthwith, the law could not have meant that debts actually due should be exposed to the delays of payment incident to reports so to be made. In the case of settlements by the Auditor. his reports to the Comptroller are required, but not "from time to time," and consequently forthwith.

Writings of Madison, Volume 3: 1816-1828, p.410

2. In pursuance of the authority given to the Treasury Department to prescribe the forms of rendering accounts, it was prescribed to the War Accountant in 1792, and the rule referred to as in force as late as April last by the Comptroller, that the Accountant should render his accounts quarterly; thus fixing the vague rule of "from time to time," and indicating that the Treasury Department understood that balances liquidated by the War Accountant were not to remain unpaid until the revision of the accounts should be had.

Writings of Madison, Volume 3: 1816-1828, p.410

3. That the practice for so long a period, and down to so late a day, has settled the meaning of the law beyond the controul of a new construction, which would introduce uncertainty in place of that certainty in which the law delights.

Writings of Madison, Volume 3: 1816-1828, p.410

4. That the accounting establishment in the Navy Department is on the same footing with that in the War Department, and that the practice has been and continues the same there as it has heretofore been in the War Department; that an innovation in one Department would, in relation to the other, introduce a diversity where uniformity was contemplated by law, and is in itself desirable.

Writings of Madison, Volume 3: 1816-1828, p.410

5. That opinions of Committees of Congress, however made known, and inferences as to the opinions of the Senate, however strong, cannot overrule the long and uniform construction and practice of the proper and responsible officers charged with the execution of the law. The opinion of the Attorney General has probably been misconceived.

Writings of Madison, Volume 3: 1816-1828, p.410

6. That reasons personal to the Accountant cannot affect the legal relation or official course of business between the Secretary of War and him, such reasons belonging to the cognisance of the authority to which the Accountant is responsible by the tenure of his office.

Writings of Madison, Volume 3: 1816-1828, p.411

The latter considerations appear to preponderate against the former.

Writings of Madison, Volume 3: 1816-1828, p.411

The question whether the Accountant can withhold his counter-signature to warrants for monies on account, turns on the question: 1st. Whether warrants on account be, or be not, contrary to law? 2. Whether the Accountant, with respect to warrants drawn by the Secretary of War, possesses a discretionary authority, or his counter-signature be merely a form of verification?

Writings of Madison, Volume 3: 1816-1828, p.411

On the first point, it is understood that warrants on account, though not expressly authorized by statute, have been in constant use by all the Heads of Departments from the commencement of the present Government; that the expediency of them amounts nearly to a necessity; and that they are constructively recognized in the act of Congress relating to the Treasury, War, and Navy Departments, passed July 16, 1798.

Writings of Madison, Volume 3: 1816-1828, p.411

On the 2d point, nothing is perceived in laws or usage favoring the idea that the counter-signature of the Accountant is more than a form of verifying the authenticity of the warrants. The abstract case of a warrant illegal on the face of it does not enter into the question.

Writings of Madison, Volume 3: 1816-1828, p.411

JAMES MADISON.

Noted to the Secretary of War, July 6, 1814, on the reported plan for ninety-odd thousand Militia.

Writings of Madison, Volume 3: 1816-1828, p.411

The reference to the Military Districts as places of service is liable to two remarks: the one, that the reference is in some respects too vague; the other, that in other respects it is too restrictive.

Writings of Madison, Volume 3: 1816-1828, p.411

District No. 1 illustrates both remarks: the first, by its great extent and numerous objects; the second, by the vicinity of Newport and Providence in another district, which can receive support more readily from Massachusetts than from Connecticut, which makes part of the same district with Rhode Island.

Writings of Madison, Volume 3: 1816-1828, p.411

It will be better to intimate to the State Executives the expediency of having regard, in the designations of the Militia, and the places of rendezvous, to the points within, or in the neighbourhood of, their respective States, the importance or exposure of which will be most likely to attract the views of the enemy.

Writings of Madison, Volume 3: 1816-1828, p.411

Will it not be useful, also, to make the places of rendezvous, and the portions of Militia respectively allotted to them, changeable on applications to that effect from the officers commanding in the Military Districts, to whom this arrangement will of course be communicated?

Writings of Madison, Volume 3: 1816-1828, p.411

J. MADISON.

To Major General Andrew Jackson.

WAR DEPARTMENT, July 18, 1814.

Writings of Madison, Volume 3: 1816-1828, p.412

SIR,—I have the honour to acknowledge the receipt of your letter of the 27th June last. The case you put is a very strong one; and if all the circumstances stated by you unite, the conclusion is inevitable. It becomes our duty to carry our arms where we find our enemies. It is believed, and I am so directed by the President to say, that there is a disposition on the part of the Spanish Government not to break with the United States, nor to encourage any conduct on the part of her subordinate agents having a tendency to such a rupture. We must, therefore, in this case, be careful to ascertain facts; and even to distinguish between what, on the part of the Spanish authorities, may be the effect of menace and compulsion, or of choice and policy.

Writings of Madison, Volume 3: 1816-1828, p.412

The result of this enquiry must govern. If they admit, feed, arm, and cooperate with the British and hostile Indians, we must strike on the broad principle of self-preservation. Under other and different circumstances, we must forbear.

Writings of Madison, Volume 3: 1816-1828, p.412

I have the honor, &c.,

(Signed) J. ARMSTRONG.

To the Secretary of War.

JULY 18, 1814.

Writings of Madison, Volume 3: 1816-1828, p.412

Wanted: Copies of the instructions to General Brown for carrying into effect the plan of operations agreed on in the Cabinet on the 7th of June. Copies of the instructions to General Winder on his taking command of his military district, and since.

Writings of Madison, Volume 3: 1816-1828, p.412

The Secretary will let me see the requisitions of Militia to be placed between this place and Baltimore before they go forward.

Writings of Madison, Volume 3: 1816-1828, p.412

JAMES MADISON.

Note on the correspondence of War Department with Generals Izard and Gaines.

JULY 27, 1814.

Writings of Madison, Volume 3: 1816-1828, p.412

It does not appear that Izard, though the senior officer of the district, has been made acquainted with the plan of operations under Brown, or that any correspondence exists between those officers. It would certainly be advantageous that each should be apprized of the instructions of the other, as well as of the forces and movements of the enemy, and of all material occurrences within their respective spheres. Information of this sort would aid each commander in interpreting the movements and purposes of his immediate adversary, and produce a tacit concert and co-operation with the other commanders; the more necessary, as the separate corps of the enemy are kept in a harmony of operations by an acting commander superintending the whole. A mutual understanding between commanders on Lake Champlain and at the head of Lake Ontario, through Washington alone, would lose its effect from delay. These remarks are more or less applicable to all separated commands having relation to, or influence on, each other.

Writings of Madison, Volume 3: 1816-1828, p.413

A cypher in the hands of distant commanders would be useful on certain occasions, as giving security to confidential communications, as well among themselves as with the Government. In that case, also, copies might be safely sent with a view to miscarriages.

Writings of Madison, Volume 3: 1816-1828, p.413

J. MADISON.

Note on the above from the Secretary of War.

Writings of Madison, Volume 3: 1816-1828, p.413

Generals Izard and Gaines were both fully apprized of General Brown's movements; the former by my letter of the 10th of June.\*

Writings of Madison, Volume 3: 1816-1828, p.413

J. ARMSTRONG.

Memorandum on the letter [returned to the War Department] from General Harrison and Governor Case of July 17, 1814, relative to a Treaty with the Indians to be entered into at Greenville.

Writings of Madison, Volume 3: 1816-1828, p.413

The treaty of Greenville in 1795 may be the basis of the new treaty, with any improvements which may be eligible under existing circumstances.

Writings of Madison, Volume 3: 1816-1828, p.413

The former allowances to the Indians may be continued, and, if deemed necessary by the Commissioners, enlarged. Those suspended by the war should not be made up, unless indispensable to keep the Indians quiet; as present supplies will suffice for actual wants, and retrospective allowances might encourage perfidy.

Writings of Madison, Volume 3: 1816-1828, p.413

The treatment of the Indians refusing to join in the war must be left very much to the judgment of the Commissioners, who ought to manage their interests and their fears so as best to guard against their joining the enemy. Where co-operation cannot be obtained, neutrality should be aimed at.

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If reserves of land for a chain of posts, as a barrier against hostilities of the British, and of the Indians seduced by them, can be obtained without impairing the friendly dispositions of the tribes, an article to that effect is desirable.

Writings of Madison, Volume 3: 1816-1828, p.414

These dispositions, however, ought not at the present crisis to be endangered. The reserves, if stipulated, should contemplate spots of 6 miles square, at suitable distances, and extending from Lake Michigan to the Mississippi on the one side, and to the western boundary of the Michigan Territory on the other.

Writings of Madison, Volume 3: 1816-1828, p.414

The idea conveyed in the memorandum sent to the Secretary of War June the 18th, will be found to meet the question of the Commissioners relative to a remuneration of Indians for their services. They were to be prepared, by explanations at the treaty, (verbal, of course, which the Commissioners make an alternative,) for being employed under military arrangements, as in other cases; and these arrangements can be immediately made, if immediately necessary. The extent and the immediate object of them belong regularly to the commanding officer of the district. In his distant situation, the duty must devolve on the next in command, who may be instructed to avail himself of the counsel and influence of the Commissioners. The expedition recommended by them may be critically important in the event of a failure of that under Croghan and Sinclair. The number of Militia suggested, to be joined by the Warriors at Greenville, and the Rangers in the Indiana Territory, will doubtless be readily obtained from the Governor of Kentucky, or more conveniently, perhaps, from the State of Ohio.

Writings of Madison, Volume 3: 1816-1828, p.414

It was not intended to preclude a road, as pointed out by General Worthington, which it was supposed would willingly be yielded by the Indians holding the country through which it would pass. The Commissioners should be at liberty, however, to waive the subject, if in the least unacceptable to the Indians.

Writings of Madison, Volume 3: 1816-1828, p.414

The appointment of an influential Superintendent of Indian Affairs, as recommended, merits consideration. A superintendency was heretofore vested in the Governor of Michigan. The range of it is not precisely recollected.

Writings of Madison, Volume 3: 1816-1828, p.414

JAMES MADISON.

JULY 28, 1814.

Note to the Secretary of War on Izard's letter of July 19, asking if he ought not to move to the St. Lawrence if necessary.

JULY 30, 1814.

Writings of Madison, Volume 3: 1816-1828, p.414

It ought certainly to be at the discretion of Izard to accommodate his movements to those of the enemy, and to his information from the other commanders.

Writings of Madison, Volume 3: 1816-1828, p.414

The question as to Colonel Drayton appears to be precluded by the list of original vacancies, which includes none of his former rank.

Writings of Madison, Volume 3: 1816-1828, p.414

JAMES MADISON.

Note on General Lewis' letter to the Secretary of War, July 28th, 1814, asking whether he is to judge of the menace of invasion requiring calls for Militia.

Writings of Madison, Volume 3: 1816-1828, p.415

General Lewis, as other Commanders of Districts, should be authorized to call for Militia according to the danger threatened. When the cases are not too urgent, they ought to be reported for previous sanction here. When the urgency will not permit this delay, information should be immediately transmitted of the call made, or about to be made.

Writings of Madison, Volume 3: 1816-1828, p.415

If New York be in danger at all, the danger is probably not very distant, and preparations for its safety therefore urgent, especially as they cannot be brought into effect at once.

Writings of Madison, Volume 3: 1816-1828, p.415

JAMES MADISON.

AUGUST 2, 1814.

on a letter from General Stuart, requesting 200 rounds of Grape, Canister, &c.; also a few 9's or 12's Cannon.

AUGUST 2, 1814.

Writings of Madison, Volume 3: 1816-1828, p.415

The Secretary of War will cause the supply of ammunition requested to be furnished. If the arrangements of General Winder should not have anticipated the other want, and the cannon can be furnished, orders to that effect will also be given.

Writings of Madison, Volume 3: 1816-1828, p.415

JAMES MADISON.

Note accompanying a return of sundry Brevets sent, filled up, and sealed, from the Office.

Writings of Madison, Volume 3: 1816-1828, p.415

The Secretary of War will not in future permit commissions to be filled up in the office, until it be ascertained that the appointments are approved. In the Brevets to General Scott and the other officers, who so well merited them, the irregularity could not but be without effect. But when appointments are proposed and not approved, the circumstance ought not unnecessarily to appear.

Writings of Madison, Volume 3: 1816-1828, p.415

JAMES MADISON.

AUGUST 4, 1814.

To the Secretary of War.

Writings of Madison, Volume 3: 1816-1828, p.415

Wanted—

Writings of Madison, Volume 3: 1816-1828, p.415

The instructions to General Brown, or officer commanding on the Niagara, subsequent to July 5.

Writings of Madison, Volume 3: 1816-1828, p.416

Ditto to the officer commanding at Sackett's Harbour.

Writings of Madison, Volume 3: 1816-1828, p.416

Ditto to General McArthur, and the officer commanding at Detroit.

Writings of Madison, Volume 3: 1816-1828, p.416

Ditto to General Izard, subsequent to July 27.

Writings of Madison, Volume 3: 1816-1828, p.416

Ditto to General Lewis, subsequent to the mission of General Mapes and his associate.

Writings of Madison, Volume 3: 1816-1828, p.416

JAMES MADISON.

AUGUST 10, 1814.

Note to the Secretary of War.

AUGUST 12, 1814.

Writings of Madison, Volume 3: 1816-1828, p.416

Note to the Secretary of War, on letters from him to Brown of July 19, and to Izard of July 27 and August 2, with a memorandum of the Secretary on the two last, "that in case the attack on Kingston be rendered impracticable, and that the moment of ascendency on the Lake Ontario may not be lost, 2,000 of Izard's men may be carried to the west end of the lake to join Gaines; being landed on the east side of Niagara and marched rapidly to Lewistown and Buffalo. When united, to reduce Forts Gaines and Niagara. Izard to command. Of the remainder of Izard's army, 2,000 to begin to fortify on the St. Lawrence; the balance, 500, to relieve militia at Sackett's Harbour, and assist in manning the armed barges. J.A."

Writings of Madison, Volume 3: 1816-1828, p.416

It becomes more and more evident that without a direct and constant correspondence and understanding, of which no proof is seen, between Izard, Brown, and the commanding officer at Sackett's Harbour, (as well as between them and the naval commander,)no system of operations can take place. Communications from Buffalo, to Plattsburg, on the St. Lawrence, and vice versa, through Washington, with particular instructions founded thereon, must be inadequate; the more so, as the plans and movements on the lines must depend on the varying strength and movements of the enemy, which will be known there before they reach Washington; and as the instructions may become inapplicable before they arrive.

Writings of Madison, Volume 3: 1816-1828, p.416

Will not Izard be too late on the St. Lawrence to prevent the transportation of troops and stores from Montreal, and consequently the 2,000 men be now misapplied in establishing a post for that purpose?

Writings of Madison, Volume 3: 1816-1828, p.416

If he is to proceed with 2,000 to the head of Lake Ontario, ought not communications thereon to be immediately had with the Navy Department, and the measure to be conditioned on the safety of Sackett's Harbour?

Writings of Madison, Volume 3: 1816-1828, p.416

What arrangements exist for Militia aid from Vermont or New York for the security of the posts on Lake Champlain, in case reinforcements should enable the enemy to direct attach there as well as elsewhere in the absence of the force with Izard?

Writings of Madison, Volume 3: 1816-1828, p.416

JAMES MADISON.

Note to the Secretary of War on Governor Cass' letter of July 25, 1814, and John Johnson's of July 26.

AUGUST 13, 1814.

Writings of Madison, Volume 3: 1816-1828, p.417

If not more than 200 warriors have gone to Detroit with Governor Cass, the residue, with the militia called for, will suffice for the expedition recommended by him and General Harrison. The pledges given by them to the Indians employed must be fulfilled of course, and the case, with similar ones, submitted to Congress.

Writings of Madison, Volume 3: 1816-1828, p.417

Governor Cass may receive the superintending and discretionary power as to Indians, &c., which were possessed by Governor Hull. If these be not adequate to the existing emergencies explained by Governor Cuss, the Secretary of War will state the proper enlargement of them.

Writings of Madison, Volume 3: 1816-1828, p.417

JAMES MADISON.

for the Department of War.

AUGUST 13, 1814.

Writings of Madison, Volume 3: 1816-1828, p.417

On viewing the course which the proceedings of the War Department have not unfrequently taken, I find that I owe it to my own responsibility, as well as to other considerations, to make some remarks on the relations in which the Head of the Department stands to the President, and to lay down some rules for conducting the business of the Department which are dictated by the nature of those relations.

Writings of Madison, Volume 3: 1816-1828, p.417

In general, the Secretary of War, like the Heads of the other Departments, as well by express statute as by the structure of the Constitution, acts under the authority and subject to the decisions and instructions of the President, with the exception of cases where the law may vest special and independent powers in the Head of the Department.

Writings of Madison, Volume 3: 1816-1828, p.417

From the great number and variety of subjects, however, embraced by that Department, and the subordinate and routine character of a great portion of them, it cannot be either necessary or convenient that proceedings relative to every subject should receive a previous and positive sanction of the Executive. In cases of that minor sort, it is requisite only that they be subsequently communicated, as far and as soon as a knowledge of them can be useful or satisfactory.

Writings of Madison, Volume 3: 1816-1828, p.417

In cases of a higher character and importance, involving necessarily, and in the public understanding, a just responsibility of the President, the acts of the Department ought to be either prescribed by him or preceded by his sanction.

Writings of Madison, Volume 3: 1816-1828, p.417

It is not easy to define in theory the cases falling within these different classes, or, in practice, to discriminate them with uniform exactness. But a substantial observance of the distinction is not difficult, and will be facilitated by the confidence between the Executive and the Head of the Department. The distinction has not been sufficiently kept in view.

Writings of Madison, Volume 3: 1816-1828, p.418

I need not repeat the notice heretofore taken of the measure consolidating certain regiments; a measure highly important under more than one aspect, and which was adopted and executed without the knowledge or sanction of the President; nor was it subsequently made known to him otherwise than through the publication of the act in the newspapers.

Writings of Madison, Volume 3: 1816-1828, p.418

The like may be said of certain rules and regulations, particularly a body of them for the Hospital and Medical Departments, of which the law expressly required the approbation of the President, and which comprise a rule to be observed by the President himself in future appointments. The first knowledge of these latter regulations was derived from the newspapers.

Writings of Madison, Volume 3: 1816-1828, p.418

A very remarkable instance is a late general order prohibiting duels and challenges on pain of dismission from the army. However proper such an order may be in itself, it would never be supposed to have been issued without the deliberate sanction of the President; the more particularly, as it pledges an exercise of one of the most responsible of the Executive functions, that of summarily dismissing from military offices without the intervention of the Military Tribunal provided by law. This order was adopted and promulgated without the previous knowledge of the President, nor was it ever made known to him otherwise than by its promulgation.

Writings of Madison, Volume 3: 1816-1828, p.418

Instructions to military commanders relating to important plans and operations have been issued without any previous, or even any subsequent, communication thereof to the Executive; and letters expressly intended and proper for the knowledge and decision of the Executive have been received and acted on without being previously communicated, or the measures taken being made known to him.

Writings of Madison, Volume 3: 1816-1828, p.418

Other illustrations might be drawn from instances of other sorts leading to the result of these remarks. The above may suffice, with the addition of one, which, with the circumstances attending it, will be explained by a reference to the letter of resignation from General Harrison; to the letter of the President to the Secretary of War of May 24; to the issuing of the commission of Major General to General Jackson, and the letter of the Secretary of War accompanying it.

Writings of Madison, Volume 3: 1816-1828, p.418

The following course will be observed in future: To be previously communicated to the President—

Writings of Madison, Volume 3: 1816-1828, p.418

1. Orders from the Department of War establishing general or permanent regulations.

Writings of Madison, Volume 3: 1816-1828, p.418

2. Orders for courts of enquiry or courts-martial on General officers; or designating the numbers or members of the courts.

Writings of Madison, Volume 3: 1816-1828, p.418

3. Commissions or notifications of appointment to officers, other than regular promotions in uncontested cases.

Writings of Madison, Volume 3: 1816-1828, p.419

4. Dismissions of officers from the Service.

Writings of Madison, Volume 3: 1816-1828, p.419

5. Consolidations of corps or pans of corps, and translations of field officers from one regiment to another.

Writings of Madison, Volume 3: 1816-1828, p.419

6. Acceptances and refusals of resignations from officers above the rank of captains.

Writings of Madison, Volume 3: 1816-1828, p.419

7. Requisitions and receptions of militia into the service and pay of the United States.

Writings of Madison, Volume 3: 1816-1828, p.419

8. Instructions relating to Treaties with Indians.

Writings of Madison, Volume 3: 1816-1828, p.419

9. Instructions to officers commanding Military Districts, or corps, or stations, relative to military movements or operations.

Writings of Madison, Volume 3: 1816-1828, p.419

10. Changes in the boundaries of Military Districts or the establishment of separate commands therein; or the transfer of General officers from one District or command to another District or command.

Writings of Madison, Volume 3: 1816-1828, p.419

In the absence of the President from the seat of Government previous communications to him may be waived in urgent cases, but to be subsequently made without delay.

Writings of Madison, Volume 3: 1816-1828, p.419

All letters giving military intelligence, or containing other matters intended or proper for the knowledge of the President, will of course be immediately communicated to him.

Writings of Madison, Volume 3: 1816-1828, p.419

These rules may omit cases falling within, and embrace cases not entirely within, the reason of them. Experience, therefore, may improve the rules. In the mean time, they will give a more suitable order and course to the business of the Department; will conduce to a more certain harmony and co-operation in the proceedings of the several Departments; and will furnish the proper opportunities for the advantage of Cabinet consultations on cases of a nature to render them expedient.

Writings of Madison, Volume 3: 1816-1828, p.419

J. MADISON.

AUGUST 13, 1814.

Note to the Secretary of War on a letter of Jennings Deputy Commissary of purchases, and an endorsement by the Secretary of War; and on a letter, &c.,from General Cushing, relating to attack on Stonington.

AUGUST 15th, 1814.

Writings of Madison, Volume 3: 1816-1828, p.419

As a little time will probably decide as to the force allotted by the enemy to the Chesapeake, it may be as well not to reject the additional 500 called out by Governor Barbour for the security of Richmond and that quarter.

Writings of Madison, Volume 3: 1816-1828, p.419

The step taken by General Winder (receiving 2,000 under General Par-ker into service of the United States) is to be supported, of course. There may be a difficulty as to Parker, who is a Major General, but otherwise a desirable officer, as well on account of his military experience as his local knowledge, and of the popular confidence in him.

Writings of Madison, Volume 3: 1816-1828, p.420

The attack on Stonington enforces the policy of preparations for hot shot wherever practicable.

Writings of Madison, Volume 3: 1816-1828, p.420

JAMES MADISON.

Note to the Secretary of War on Gaines's letter of August 7th.

AUGUST 16, 1814.

Writings of Madison, Volume 3: 1816-1828, p.420

It ought certainly to be at the discretion of Gaines to cross the Niagara. This may be made prudent by large reinforcements to the enemy, even after receiving 2,000 from Izard's army. Buffalo and Black Rock must also claim his attention, whilst the enemy are placed so conveniently for enterprises against them.

Writings of Madison, Volume 3: 1816-1828, p.420

If Izard should be unable, by leaving a force on the St. Lawrence, to obstruct the reinforcements destined to Kingston and upwards, it would seem that he ought to move all that can be spared from Champlain to Sackett's Harbour; the residue, after sending 2,000 to Gaines, may make the place secure, and be ready for any offensive operation concerted with Chauncey. Sackett's Harbour being the rendezvous of the naval force and the starting point for joint operations, a disposable land force there must be always advantageous when we have the command of the lake, or the prospect of it.

Writings of Madison, Volume 3: 1816-1828, p.420

Let Cunningham be disposed of as suggested by Col. Brady.

Writings of Madison, Volume 3: 1816-1828, p.420

JAMES MADISON.

Note to the Secretary of War on Cushing's letter and enclosures of August 12, 1814.

Writings of Madison, Volume 3: 1816-1828, p.420

Cushing seems to view the extraordinary threat of Hardy in its proper light. It was determined, before the Secretary of State left the city, that Mrs. Stewart, on whom the misbehaviour of her husband ought not to be visited, might be\* removed to him, whenever General Cushing thought no injury could result from intelligence she might convey with her. Instruct him to this effect, with the further condition of her removal, that it do not take place under any appearance of being extorted by threats.

Writings of Madison, Volume 3: 1816-1828, p.420

If a Major General's command be not received by Cushing into [in?] the service of the United States, he will be secure against a claim to command him. In all the Military Districts commanded by Brigadiers only, these inconveniences may arise. Where brevet rank can be properly given, the remedy is easy. Cushing has the title to it of long service at least. The proximity of Dearborn is another resource in the present instance.

Writings of Madison, Volume 3: 1816-1828, p.421

JAMES MADISON.

AUGUST 17th, 1814.

To the Secretary of War.

AUGUST 17, 1814.

Writings of Madison, Volume 3: 1816-1828, p.421

Where, on what service, and under what commission, is General Swartwout to be employed? If out of service, as the last Army Register imports, he cannot be employed without a new appointment.

Writings of Madison, Volume 3: 1816-1828, p.421

Wanted—

Writings of Madison, Volume 3: 1816-1828, p.421

The number of men enlisted into the rifle corps, and not yet furnished with rifles.

Writings of Madison, Volume 3: 1816-1828, p.421

The number of rifles on hand according to the last returns, and the date of those returns.

Writings of Madison, Volume 3: 1816-1828, p.421

JAMES MADISON.

Note to the Secretary of War on General Brown's letter of August 7.

AUGUST 19, 1814.

Writings of Madison, Volume 3: 1816-1828, p.421

If there be no opposing considerations unknown to me, Col. Miller is entitled to Brevet promotion. Majors Wood and McRae, at least, seem to merit attention also.

Writings of Madison, Volume 3: 1816-1828, p.421

What is best as to Ripley?

Writings of Madison, Volume 3: 1816-1828, p.421

JAMES MADISON.

Note to the Secretary of War on the proposed consolidation of 8 Regiments, 30, 31, &c.

AUGUST 20, 1814.

Writings of Madison, Volume 3: 1816-1828, p.421

The consolidations proposed are approved. The information for assisting the selection of officers to be retained is extremely scanty, whilst the task is both important and difficult. The Secretary of War will suggest the names which appear on the whole most fit to remain in service.

Writings of Madison, Volume 3: 1816-1828, p.421

JAMES MADISON.

Note to the Secretary of War on Governor Shelby's letter of August 4, put into the hands of J. Madison August 19.

AUGUST 20, 1814.

Writings of Madison, Volume 3: 1816-1828, p.422

The Secretary of War will state his opinion on the case presented by Governor Shelby.

Writings of Madison, Volume 3: 1816-1828, p.422

Have not analogous cases of a disproportion of officers, and of mounted volunteers serving as militia, been heretofore acted on?

Writings of Madison, Volume 3: 1816-1828, p.422

JAMES MADISON.

Memorandum—Aug. 24, 1814.

Writings of Madison, Volume 3: 1816-1828, p.422

In the morning, a note, by an express from General Winder, was handed me. It was addressed to the Secretary of War. Not doubting the urgency of the occasion, I opened and read it, and it went on immediately by the express to General Armstrong, who lodged in the Seven Buildings. Finding by the note that the General requested the speediest counsel, I proceeded to his headquarters on the Eastern Branch, trusting, for notice to the Secretary of War to follow, to the note from Winder. On my reaching his quarters, we were successively joined by the Secretary of State, [who soon, with our approbation, repaired to Bladensburg,] the Secretary of the Navy, and Mr. Rush, the Attorney General. After an hour or so the Secretary of the Treasury arrived, and quickly after the Secretary of War. The latter had been impatiently expected, and surprise at his delay manifested. General Winder was, at the moment, setting off to hurry on the troops to Bladensburg, in consequence of certain intelligence that the enemy had taken that direction. Barney's corps was also ordered thither, leaving the bridge to be blown up if necessary. On General Armstrong's coming into the room, he was informed of the certain march of the enemy for Bladensburg, and of what had passed before his arrival; and he was asked whether he had any arrangement or advice to offer in the emergency. He said he had not; adding, that as the battle would be between militia and regular troops, the former would be beaten.

Writings of Madison, Volume 3: 1816-1828, p.422

On coming out of the house, and mounting on horses, the Secretary of the Treasury, who, though in a very languid state of health, had turned out to join us, observed to me privately, that he was grieved to see the great reserve of the Secretary of War, [he lodged in the same house with him,] who was taking no part on so critical an occasion; that he found him under the impression, that as the means of defending the District had been committed to General Winder, it might not be delicate to intrude his opinions without the approbation of the President; though, with that approbation, he was ready to give any aid he could. Mr. Campbell said that, notwithstanding his just confidence in General Winder, he thought, in the present state of things, which called for all the military skill possible, the military knowledge and experience of the Secretary of War ought to be availed of, and that no considerations of delicacy ought to jeopard the public safety. With these impressions, he said he had thought it his duty to make this communication, and was very anxious that I should take some proper steps in the case; I told him I could scarcely conceive it possible that General Armstrong could have so misconstrued his functions and duty as Secretary of War; that he could not but know that any proper directions from him would receive any sanction that might be necessary from the Executive; nor doubt that any suggestions or advice from him to General Winder would be duly attended to; [in this case it had been requested in writing.] I told Mr. C. that I would speak to the Secretary of War explicitly on the subject; and accordingly, turning my horse to him, expressed to him my concern and surprise at the reserve he shewed at the present crisis, and at the scruples I understood he had at offering his advice or opinions; that I hoped he had not construed the paper of instructions given him some time before, [see the paper of Aug. 13, 1814,] so as to restrain him in any respect from the exercise of functions belonging to his office; that at such a juncture it was to be expected that he should omit nothing within the proper agency of Secretary of War towards the public defence; and that I thought it proper particularly that he should proceed to Bladensburg, and give any aid to General Winder that he could; observing that if any difficulty on the score of authority should arise, which was not likely, I should be near at hand to remove it; [it was my purpose, in case there should be time, to have the members of the Cabinet together in Bladensburg, where it was expected General Winder would be, and, in consultation with him, to decide on the arrangements suited to the posture of things.] He said, in reply, that he had put no such construction on the paper of instructions as was alluded to; and that, as I thought it proper, he would proceed to Bladensburg, and be of any service to General Winder he could. The purport of this conversation I communicated to Mr. Campbell, who remained near us. The Secretary of War set off without delay to Bladensburg.

Writings of Madison, Volume 3: 1816-1828, p.423

After a short turn to the Marine barracks, whither the Secretary of the Navy had gone, I mentioned to Mr. Rush, who was with me, my purpose of going to Bladensburg, and my object in so doing. He readily accompanied me. On approaching the town, we learned from William Simmons that Winder was not there, and that the enemy were entering it. We rode up to him [?] instantly. The Secretaries of State and War were with him. I asked the latter whether he had spoken with General Winder on the subject of his arrangements and views. He said he had not. I remarked that, though there was so little time for it, it was possible he might offer some advice or suggestion that might not be too late to be turned to account; on which he rode up to the General as I did myself. The unruliness of my horse prevented me from joining in the short conversation that took place. When it was over, I asked General Armstrong whether he had seen occasion to suggest any improvement in any part of the arrangements. He said that he had not; that from his view of them they appeared to be as good as circumstances admitted.

Writings of Madison, Volume 3: 1816-1828, p.424

When the battle had decidedly commenced, I observed to the Secretary of War and Secretary of State that it would be proper to withdraw to a position in the rear, where we could act according to circumstances; leaving military movements now to the military functionaries who were responsible for them. This we did, Mr. Rush soon joining us. When it became manifest that the battle was lost, Mr. Rush accompanying me, I fell down into the road leading to the city, and returned to it.

Writings of Madison, Volume 3: 1816-1828, p.424

It had been previously settled that, in the event of the enemy's taking possession of the city, and the necessity of Executive consultations elsewhere, Fredericktown would be the proper place for the assembling of the Cabinet.

Memorandum.

Writings of Madison, Volume 3: 1816-1828, p.424

In the evening of the 29th of August, 1814, being on horseback, I stopped at General Armstrong's lodgings for the purpose of communicating with him on the state of things in the District, then under apprehensions of an immediate visit from the force of the enemy at Alexandria.

Writings of Madison, Volume 3: 1816-1828, p.424

I observed to him that he could not be unaware of the great excitement in the District produced by the unfortunate event which had taken place in the city; that violent prejudices were known to exist against the Administration, as having failed in its duty to protect it, particularly against me, and himself, as head of the War Department; that threats of personal violence had, it was said, been thrown out against us both, but more especially against him; that it had been sufficiently known for several days, and before his return\* to the city, (which was about one o'clock P.M. of the 29th;) that the temper of the troops was such as made it expedient, if possible, that he should have nothing to do with them; that I had within a few hours received a message from the commanding general of the Militia informing me that every officer would tear off his epaulettes if General Armstrong was to have any thing to do with them; that before his arrival there was less difficulty, as Mr. Monroe, who was very acceptable to them, had, as on preceding occasions of his absence, though very reluctantly on this, been the medium for the functions of Secretary of War; but that since his return and presence the expedient could not be continued, and the question was, what was best to be done. Any convulsion at so critical a moment could not but have the worst consequences.

Writings of Madison, Volume 3: 1816-1828, p.425

He said he had been aware of the excitement against him; that it was altogether artificial, and that he knew the sources of it, and the intrigues by which it had been effected, which this was not the proper time for examining; that the excitement was founded on the most palpable falsehoods, and was limited to this spot; that it was evident he could not remain here, and the functions belonging to him divided or exercised by any one else, without forgetting what he owed to his station and to himself; that he had come into his office with the sole view of serving the public, and was willing to resign it when he could no longer do so with honor and effect; that if it was thought best, therefore, that he should adopt this course, he was ready to give up his appointment; or he could, with my permission, retire from the scene, by setting out immediately on a visit to his family in the State of New York.

Writings of Madison, Volume 3: 1816-1828, p.425

I observed that a resignation was an extent which had not been contemplated; that if made under such circumstances, it might receive constructions which could not be desirable, either in a public or a personal view; that a temporary retirement, as he suggested, though also subject to be viewed in some rights not agreeable, was, on the whole, less objectionable, and would avoid the existing embarrassment, without precluding any future course which might be deemed most fit.

Writings of Madison, Volume 3: 1816-1828, p.425

He dwelt on the groundless nature of the charges which had produced the excitement, and on the limits within which they had and would operate; affirming that his conduct in relation to the defence of the city, &c., had proved that there had been no deficiency on his part.

Writings of Madison, Volume 3: 1816-1828, p.425

I told him that I well knew that some of the particular charges brought against him were destitute of foundation, and that as far as they produced the discontents, these would be limited both as to time and space; but that I suspected the discontents to be in a great measure rooted in the belief that he had not taken a sufficient interest in the defence of the city, nor promoted the measures for it; and, considering the heavy calamity which had fallen on the place, and on its inhabitants, it was natural that strong feelings would be excited on the spot; and, as the place was the Capital of the nation, every where else also. I added that it would not be easy to satisfy the nation that the event was without blame somewhere, and I could not in candour say that all that ought to have been done had been done, and in proper time.

Writings of Madison, Volume 3: 1816-1828, p.425

He returned to an exculpation of himself, and remarked that he had omitted no preparations or steps whatever for the safety of the place which had been enjoined on him.

Writings of Madison, Volume 3: 1816-1828, p.425

I replied, that as the conversation was a frank one, I could not admit this justification; that it was the duty of the Secretary of War not only to execute plans or orders committed to him, but to devise and propose such as would, in his opinion, be necessary and proper; that it was an obvious and essential part of his charge, and that, in what related to military plans and proceedings elsewhere, he had never been scrupulous or backward in taking this course; that, on the contrary, he well knew, from what on another occasion\* had passed between us, he had taken a latitude in this respect which I was not satisfied with; that it was due to truth and to myself to say, that he had never appeared to enter into a just view either of the danger to the city which was to be apprehended, or of the consequences of its falling into the hands of the enemy; that he had never himself proposed or suggested a single precaution or arrangement for its safety, everything done on that subject having been brought forward by myself; and that the apparent difference of his views on that subject from mine had naturally induced a reduction of my arrangements to the minimum, in order to obtrude the less on a reluctant execution. I reminded him, also, that he had fallen short of the preparations even decided on in the Cabinet, in some respects, particularly in not having arms and equipments brought to convenient depots from distant ones, some of the militia, when called on for the defence of the City, being obliged to get arms first at Harper's Ferry.

Writings of Madison, Volume 3: 1816-1828, p.426

I remarked that it was not agreeable thus to speak, nor on aft occasion less urgent would it be done; that I had selected him for the office he filled from a respect to his talents, and a confidence that he would exert them for the public good; that I had always treated him with friendship and confidence; and that as there was but a short distance before me to the end of my public career, my great wish, next to leaving my country in a state of peace and prosperity, was to have preserved harmony and avoid changes; and that I had, accordingly, as he well knew, acquiesced in many things to which no other consideration would have reconciled me.

Writings of Madison, Volume 3: 1816-1828, p.426

He said he was very sensible of my friendly conduct towards him, and always had, and always should respect me for it.

The conversation was closed by my referring to the idea of his setting out in the morning on a visit to his family, and observing that he would of course revolve it further, and if he continued to think of it as he then did, he would consider me as opposing no restraint. We parted, as usual, in a friendly manner. On the next morning he sent me word by Mr. Farker that he should proceed immediately to visit his family; and, on his arrival at Baltimore, transmitted his resignation. [See his letter.]

Writings of James Madison

Volume 4: 1829-1836

1829

LETTERS, ETC.

To Richard D. Cutts.

MONTPELLIER, Jan. 4th, 1829.

Writings of Madison, Volume 4: 1829-1836, p.1

Your letter, my dear Richard, gave me much pleasure, as it shews that you love your studies, which you would not do if you did not profit by them. Go on, my good boy, as you have begun; and you will find that you have chosen the best road to a happy life, because a useful one; the more happy, because it will add to the happiness of your parents, and of all who love you and are anxious to see you deserving to be loved.

Writings of Madison, Volume 4: 1829-1836, p.1

When I was at an age which will soon be yours, a book fell into my hands, which I read, as I believe, with particular advantage. I have always thought it the best that had been written for cherishing in young minds a desire of improvement, a taste for learning, and a lively sense of the duties, the virtues, and the proprieties of life. The work I speak of is the "Spectator," well known by that title. It had several authors, at the head of them Mr. Addison, whose papers are marked at the bottom of each by one of the letters in the name of the muse C L I O. They will reward you for a second reading after reading them along with the others.

Writings of Madison, Volume 4: 1829-1836, p.1

Addison was of the first rank among the fine writers of the age, and has given a definition of what he shewed himself to be an example.

Writings of Madison, Volume 4: 1829-1836, p.2

"Fine writing," he says, "consists of sentiments that are natural without being obvious;" to which adding the remark of Swift, another celebrated author of the same period, making a good style to consist "of proper words in their proper places," a definition is formed which will merit your recollection, when you become qualified, as I hope you will one day be, to employ your pen for the benefit of others, and for your own reputation.

Writings of Madison, Volume 4: 1829-1836, p.2

I send you a copy of the "Spectator," that it may be at hand when the time arrives for making use of it; and as a token, also, of the good wishes of your affectionate uncle.

To Joseph C. Cabell.

MONTPELLIER, January 5, 1829.

Writings of Madison, Volume 4: 1829-1836, p.2

DEAR SIR,—I have received yours of December 28, in which you wish me to say something on the agitated subject of the basis of representation in the contemplated convention for revising the State Constitution. In a case depending so much on local views and feelings, and perhaps on the opinions of leading individuals, and in which a mixture of compromises with abstract principles may be resorted to, your judgment, formed on the theatre affording the best means of information, must be more capable of siding mine than mine yours.

Writings of Madison, Volume 4: 1829-1836, p.2

What occurs to me is, that the great principle "that men cannot be justly bound by laws, in making which they have no share," consecrated as it is by our Revolution and the Bill of Rights, and sanctioned by examples around us, is so engraven on the public mind here, that it ought to have a preponderating influence in all questions involved in the mode of forming a convention, and in discharging the trust committed to it when formed. It is said that west of the Blue Ridge the votes of non-freeholders are often connived at, the candidates finding it unpopular to object to them.

Writings of Madison, Volume 4: 1829-1836, p.2

With respect to the slaves, they cannot be admitted as persons into the representation, and probably will not be allowed any claim as a privileged property. As the difficulty and disquietudes on that subject arise mainly from the great inequality of slaves in the geographical division of the country, it is fortunate that the cause will abate as they become more diffused, which is already taking place; transfers of them from the quarters where they abound, to those where labourers are more wanted, being a matter of course.

Writings of Madison, Volume 4: 1829-1836, p.3

Is there, then, to be no constitutional provision for the rights of property, when added to the personal rights of the holders, against the will of a majority having little or no direct interest in the rights of property? If any such provision be attainable beyond the moral influence which property adds to political rights, it will be most secure and permanent if made by a convention chosen by a general suffrage, and more likely to be so made now than at a future stage of population. If made by a freehold convention in favour of freeholders, it would be less likely to be acquiesced in permanently.

Writings of Madison, Volume 4: 1829-1836, p.3

I received your letter when I was much engaged in other matters, and am still so in a degree that obliges me to be very brief. I know not, however, that with more leisure I could do more than add to what I have said developments and applications which will readily occur to yourself, should your general view of the subject accord with mine, which I am sufficiently aware may not be the case.

To W. C. Rives.

Montpellier, January 10, 1829.

Writings of Madison, Volume 4: 1829-1836, p.3

DEAR SIR,—Your favor of the 31st ult. was duly received. You have not mistaken my idea of the constitutional power of Congress to regulate trade; and it gives me pleasure that you take the same view of it.

Writings of Madison, Volume 4: 1829-1836, p.3

The power to regulate trade is a compound technical phrase, to be expounded by the sense in which it has been usually taken, as shewn by the purposes to which it has been usually applied. To interpret it with a literal strictness, excluding whatever is not specified, would exclude even the retaliating and extorting power against the unequal policy of other nations, which is not specified, yet is admitted by all to be included. The custom-house has, in fact, been more generally used as the instrument for establishing and protecting domestic manufactures, than for enforcing liberality or reciprocity abroad.

Writings of Madison, Volume 4: 1829-1836, p.4

You make a very pertinent enquiry as to the object and history of the publication in 1801 subscribed "The danger not over." A lapse of nearly thirty years would account for failures of a memory more tenacious than mine. I have certainly no recollections favoring the supposition that it referred to any questions then agitated concerning the constitutional power of Congress to encourage manufactures by regulations of trade, and must believe that the passage grew out of the broad and ductile rules of construction advanced at an earlier period by Mr. Hamilton on that and other subjects, and to hypothetical abuses of the power, not less oppressive than usurpation. The language of Mr. Pendleton shows that his ideas were neither very definite nor very positive.

Writings of Madison, Volume 4: 1829-1836, p.4

On what authority\* it is given out that Mr. Jefferson and myself were associated in the preparation of the piece, I cannot divine. For myself, I hold it to be impossible. I do not remember even more than that it excited much attention as coming from such a source. The spirit and style would denote the pen of Mr. Pendleton, and of him singly. It is possible that Mr. Jefferson, in corresponding with him, might, at that crisis, have exhorted him to take up that weapon in order to kill the snake, which had perhaps been skotched only; and that, not doubting my political sentiments, he might have alluded to me, in known friendship with Mr. Pendleton, as sure to have the same wish with himself. I have looked over all my correspondence of that period with Mr. Jefferson, and others with whom it was constant and confidential, without finding a ray of light. If Mr. Pendleton wrote in communion with any one, my conjecture would point to his kinsman and eleve, Col. J. Taylor, with whom he was always very intheate, and who had almost an antipathy to Federal powers. It is much more probable that he concurred in all the opinions expressed by Mr. Pendleton than that both Mr. Jefferson and myself should have done so in some of them. I will renew the search into my files, and if I make any discovery will let you know it.

Writings of Madison, Volume 4: 1829-1836, p.5

The authority of Col. Hamilton, I observe, is cited against the power in question. If his language in the Federalist was so intended, which is not probable, he must have changed his opinion at a very early day, as is proved by his official reports, which go into the opposite extreme. Such a change, if real, would not, indeed, be without his own example. In the Federalist, he had so explained the removal from office as to deny the power to the President. In an edition of the work at New York, there was a marginal note to the passage that "Mr. H. had changed his view of the Constitution on that point."

Writings of Madison, Volume 4: 1829-1836, p.5

Mrs. Rives being now with you, Mrs. Madison joins in the offer of cordial regards and good wishes to you both.

Writings of Madison, Volume 4: 1829-1836, p.5

I must ask an excuse for the marks of haste, which I could not avoid without losing a mail.

To Richard Rush.

Montpellier, Jan. 17, 1829.

Writings of Madison, Volume 4: 1829-1836, p.5

DEAR SIR,—I have received your very kind letter of the 10th. The commendations you bestow on those relating to the Tariff, belong rather to what so pregnant and important a subject ought to have made them, than to what they are. They were written to a friend who wished to avail himself of the presumed result of my better opportunities of elucidating the question, and whom I considered as needing such an outline only of topics and references as might be filled up by the researches, developments, and reflections of which he was himself very capable. I may mention that though the letters were finally published with my assent, it was given with an understanding that such a use was not to be made of them until the presidential struggle should be over, and with it the possibility of a misconstruction that might impute inconsistency to the writer, and defeat any good tendency the publication might otherwise have.

Writings of Madison, Volume 4: 1829-1836, p.6

That there should be a difference of opinion on the policy of legislative encouragement in any form to manufacturing industry, was to be expected. But that a constitutional power to encourage it through the custom-house should at this day be denied, was what I certainly had not anticipated. Nor was I less surprised at the rapid growth than at the birthplace of the doctrine that would convert the Federal Government into a mere league, which would quickly throw the States back into a chaos, out of which, not order a second time, but lasting disorders of the worst kind, could not fail to grow. There are, however, such excellent talents and so much of personal worth mingled with these aberrations, that we may hope they will not be of long continuance. Opinions whose only root is in the passions, must wither as the subsiding of these withdraws the necessary pabulum.

Writings of Madison, Volume 4: 1829-1836, p.6

It affords us great pleasure to have the pledge from Mrs. Rush that we are not to be finally disappointed of the visit so long expected. In the meantime, and at all times, be assured of our affectionate regards and all our best wishes.

To W. C. Rives.

Montpellier, January 23, 1829.

Writings of Madison, Volume 4: 1829-1836, p.6

DEAR SIR,—I have received, under your cover, the newspaper containing the explanatory remarks\* on the two letters relating to the power of Congress to encourage domestic manufactures.

Writings of Madison, Volume 4: 1829-1836, p.7

The writer of the letters is laid under great obligation by the opportune and apposite interposition in their behalf. The strange misconstructions which continue to be put on the occasion and object of the letters would produce surprise if such effects of party and other feelings were less familiarized to us.

Writings of Madison, Volume 4: 1829-1836, p.7

I am truly sorry to observe the persevering and exulting appeals to the letter of Mr. Jefferson to Mr. Giles. The inconsistency is monstrous between the professed veneration for his name and the anxiety to make him avow opinions in the most pointed opposition to those maintained by him in his more deliberate correspondence with others, and acted on through his whole official life.

Writings of Madison, Volume 4: 1829-1836, p.7

I cannot particularly refer to his letters to Austin and others, but have consulted his elaborate report in 1793, when Secretary of State, on the foreign commerce of the United States, and all his messages when President; and I find in them the most explicit and reiterated sanctions given to the power to regulate trade or commerce in favour of manufactures, by recommending the expediency of exercising the power for that purpose, as well as for others distinct or derogating from the object of revenue. Having noted the pages in the State Papers, published by Wait, as I examined them with an eye to Mr. Jefferson's opinions, I refer to them in the margin\* as abridging a research, if your curiosity should at any time prompt one.

Writings of Madison, Volume 4: 1829-1836, p.8

To set up against such evidence of Mr. Jefferson's direct and settled opinions, a letter, the unstudied and unguarded language incident to a hasty and confidential correspondence, is surely as unreasonable as it must be disrespectful and unfriendly to make such a letter, written under such circumstances, the basis of a charge that he had, through so many years and on so many occasions, maintained and acted on the power in question, without discovering that it was not warranted by the great Charter which he had bound himself by oath not to violate. Every rule of fair construction, as well as every motive of friendly respect, ought to favour, as much as possible, a meaning in the letter that would reconcile it with the overwhelming evidence of opinions elsewhere avowed, instead of displaying a self-contradiction by turning the letter against those opinions.

Writings of Madison, Volume 4: 1829-1836, p.8

Nor would a candid critic be at any loss for a meaning that would avoid the self-contradiction. The term "indefinitely," on which the question of constitutionality turns, would seem to imply that a definite or limited use of the power might not be unconstitutional. And it is a fair presumption that the idea in the mind of the writer was that an unlimited or excessive abuse of the power was equivalent to a usurpation of it. Is it possible to believe that Mr. Jefferson could have intended to admit that he had been all his life inhaling despotism, and had then, for the first time, "scented the tainted breeze?" However just the distinction may be between the abuse and the usurpation of power, and necessary to be kept in view in all accurate discussions, it cannot be denied that there may be abuses so enormous as to be not only at war with the Constitution, whether Federal or State, but to strike at the foundation of the social compact itself, and, if otherwise irremediable, to justify a dissolution of it.

Writings of Madison, Volume 4: 1829-1836, p.9

I am still in the dark as to the ground of the statement that makes Mr. Jefferson and me parties to the publication in 1801, signed "The danger not over."

Writings of Madison, Volume 4: 1829-1836, p.9

Have you noticed in Niles's Register of the 17th instant, page 380, an extract from an address in 1808, signed, among others, by our friend Mr. Ritchie, wishing Congress to encourage our own manufactures by higher duties on foreign, even if the present attack on our commerce should blow over, that we may be the less dependent? &c.

Writings of Madison, Volume 4: 1829-1836, p.9

With our joint salutations to Mrs. Rives, I pray you to accept a reassurance of my great and cordial esteem.

To Joseph C. Cabell.

MONTPELLIER, February 2, 1829.

Writings of Madison, Volume 4: 1829-1836, p.9

DEAR SIR,—I received last evening yours of the 29th ultheo. It confirms, I observe, my fears that nothing could now be done for the University, though the more in need of aid in consequence of the fever, which is banishing a number of the students, and may have the effect of impairing its income.

Writings of Madison, Volume 4: 1829-1836, p.9

The spirit in which my letters to you are criticised is as singular as it is illiberal. The least degree of candor would readily understand what so much effort is employed to misunderstand. If a doubt could have arisen as to the meaning of the word trade, which happened to slip from the pen instead of the word commerce, the doubt ought to have vanished before the evidence furnished by the whole scope of the letter, which has reference exclusively to the commerce with foreign nations. To apply the term to trade between man and man within the jurisdiction of a particular State, is such a violation of all probability and propriety, that it could not be dreaded as a snare for the weakest minds, if we did not see strong ones decoyed by party spirit into such as are not less obvious.

Writings of Madison, Volume 4: 1829-1836, p.10

To regard the omitted words "common defence and general welfare" as what would have limited the meaning of the quotation, is, if possible, still more extraordinary. Had they been added without a precautionary explanation, they would have been a fine treat for hungry critics. The quotation which includes imposts and duties among the revenue powers, and the remarks founded on that circumstance, were dictated by the argument from it, that a tariff on commerce could be imposed for no purpose other than revenue. To meet the argument, it was necessary to show that the circumstance did not exclude a tariff on commerce for other purposes, from the power to regulate trade, under which was claimed the constitutionality of a tariff in favour of manufactures, as of other objects, such as munitions of war, &c., &c., none of which could be favoured by a tariff on a construction exclusively appropriating it to revenue.

Writings of Madison, Volume 4: 1829-1836, p.10

What the extract is to be, from Yates's account of the Convention, which convicts me of inconsistency, I cannot divine. If anything stated by him has that tendency, it must be among the many errors in his crude and broken notes of what passed in that body. When I looked over them some years ago, I was struck with a number of instances in which he had totally mistaken what was said by me, or given it in scraps and terms which, taken without the developments or qualifications accompanying them, had an import essentially different from what was intended. Mr. Yates bore the character of an honest man, and I do not impute to him wilful misrepresentation. But besides the fallible and faulty mode in which he noted down what passed, the prejudices he felt on the occasion, with those of which he was a representative, were such as to give every tincture and warp to his mind of which an honest one could be susceptible. It is to be recollected, too, that he was present during the early discussions only, which were of a more loose and general cast; having withdrawn to make his welcome report before the rough materials were reduced to the size and shape proper for the contemplated edifice. Certain it is, that I shall never admit his report as a test of my opinions, when not in accordance with those which have been repeatedly explained and authenticated by myself. The report of Luther Martin is as little to be relied on for accuracy and fairness.

Writings of Madison, Volume 4: 1829-1836, p.11

I am sorry to see the exulting appeals which continue to be made to the letter of Mr. Jefferson to Mr. Giles, as evidence of an opinion adverse to the constitutionality of a protecting tariff. It is surely a strange mode of manifesting the veneration professed for his memory, to be so anxious to place him in such pointed contradiction to himself. A true friend ought to seek rather for a meaning in the letter that would avoid the charge on him of supporting usurped power through a long life, and never making the discovery till near the end of it; he who had been one of the very first to snuff it in a tainted breeze. Of his deliberate opinion, officially and privately maintained, there is the fullest proof on record and in print. You will find it in the able report to Congress in 1793, when Secretary of State, and in his successive messages to Congress when President, published in Wait's State Papers, as referred to in the margin.\* His report on the fisheries in 1794, equally able and elaborate with the other, is not there printed, but is not less in point. His letter to Mr. Austin, in 1816, is so clear, so full, and so emphatical, that it alone ought to crush every attempt to put the weight of his opinion in the wrong scale; and such is the weight of it that it ought to be kept in the right one; of this I am sure you are very sensible.

Writings of Madison, Volume 4: 1829-1836, p.11

You see, my good friend, that my disinclination to go into the newspapers was more justified than you were disposed to allow. What is occurring was anticipated, and was a sufficient motive for wishing to avoid the dilemma of leaving a good cause to be borne down by the persevering efforts of zealous partisans, or throwing the defence of it on reluctant though adequate hands. In mine an "imbelle telum" only could now be wielded.

Writings of Madison, Volume 4: 1829-1836, p.11

Can you conveniently ascertain the authority on which it was stated that Mr. Jefferson and myself were parties to the publication of Mr. Pcndleton in 1801, under the signature of "The danger not over."

Writings of Madison, Volume 4: 1829-1836, p.11

With cordial regard, &c.

To Frederick List.

FEBY 3, 1829.

Writings of Madison, Volume 4: 1829-1836, p.12

I have received, sir, your letter of January 21, with the printed accompaniments; of which none can say less than that they contain able and interesting views of the doctrine they espouse. The more thorough the examination of the question which relates to the encouragement of domestic manufactures, the more the true policy (until all nations make themselves commercially one nation) will be found to lie between the extremes of doing nothing and prescribing everything; between admitting no exception to the rule of "laissez faire," and converting the exceptions into the rule. The intermediate Legislative interposition will be more or less limited, according to the differing judgments of Statesmen, and ought to be so, according to the aptitudes or inaptitudes of countries and situations for the particular objects claiming encouragement.

Writings of Madison, Volume 4: 1829-1836, p.12

Having found it convenient to adopt the rule which contracts my subscriptions of every sort, and for reasons strengthened by every day withdrawn from the scanty and uncertain remnant of life, I must deny myself the pleasure of adding my name to the list which patronises, in that way, the work you contemplate; and which, I doubt not, will well repay the attention of readers who set a due value on the subjects to be investigated. That your knowledge of our language is not incompetent for the task is sufficiently shewn by specimens which place you among the foreigners who have studied the idiom of the country with most success.

To James Barbour.

FEBRUARY 6, 1829.

Writings of Madison, Volume 4: 1829-1836, p.13

DR SIR,—I am glad to find that the Duke of Wellington, now understood to be the mainspring of the Cabinet policy, and, more than his predecessors, a manager of the public will, holds a language so friendly towards this country. The longer a practice corresponding with it is postponed, though not the better for us, the worse it will be for the other party. I sincerely wish, on every account, that you may succeed in bringing about a satisfactory arrangement on all the points in controversy between the two countries, particularly that of the trade with the West Indies, which, more than any other, may be an obstacle to commercial harmony. Not only the Government, but the British shipowners, ought to be sensible that nothing can be gained on that side by the existing prohibition of direct intercourse. And as the Eastern States, which alone ever questioned our right to a reciprocity, or were willing to waive it, are now the champions for asserting it, no hope ought to be indulged that the British monopoly of the navigation will ever be acquiesced in. The present and prospective dependence of the Islands for necessary supplies on the United States, makes the period favorable for pressing on the Government hard arguments in soft words.

Writings of Madison, Volume 4: 1829-1836, p.13

It seems to be understood that Congress will hand over the most difficult subjects to their successors; particularly the tariff, on which the discord between the South and the Centre and the West will be not a little embarrassing, and require the compromising management of a masterly hand. The proceedings of Georgia and South Carolina against the Tariff were sent to Governor Giles, and have been laid before the Legislature, in the hope of an echo of them. The report of the committee to which they were referred, if made, has not been published. The large proportion of members committed by their recorded votes at the last session will, probably, in the event of a direct question, turn the scale in the House of Delegates in favour of those proceedings. It is suggested that the Senate will either negative or postpone the subject.

Writings of Madison, Volume 4: 1829-1836, p.14

The session has been almost exclusively occupied with the proposed Convention for improving the Constitution of the State. Various plans have been offered, discussed, amended, and rejected, as the basis of representation in the Convention. The prevailing opinion, I believe, is that the white population in the Senatorial districts will be the basis, with a right of suffrage extended to non-freeholders.

To Joseph C. Cabell.

MONTPELLIER, February 13, 1829.

Writings of Madison, Volume 4: 1829-1836, p.14

DEAR SIR,—Since mine of January 29, I have received one of the papers of Hampden. But it is number 2, the Enquirer containing the first number, and a number from the fellow pen having not come into the neighbourhood. Be so good, when at leisure, to procure and enclose it to me.

Writings of Madison, Volume 4: 1829-1836, p.14

I observe that some stress is laid on the reference to our Colonial relations to Great Britain, as having originated with me. The fact is, that I found them used as a source of argument against the power claimed for Congress in a speech of Mr. Alexander, which I received as printed in a pamphlet form. His object was to show that the power to regulate commerce did not embrace the tariff power, by the distinction made between them in the revolutionary controversy with Great Britain, and by the specific insertion of "imposts" on commerce among the revenue powers. My object was to clear the way for my view of the general question, by removing this particular error. Had not the attention been called to that controversy, I should not have noticed it, because it was desirable to keep the subject as simple and within as small a compass as possible. For a like reason, I made no reference to the "power to regulate commerce among the several States." I always foresaw that difficulties might be started in relation to that power which could not be fully explained without recurring to views of it, which, however just, might give birth to specious though unsound objections. Being in the same terms with the power over foreign commerce, the same extent, if taken literally, would belong to it. Yet it is very certain that it grew out of the abuse\* of the power by the importing States in taxing the non-importing, and was intended as a negative and preventive provision against injustice among the States themselves, rather than as a power to be used for the positive purposes of the General Government, in which alone, however, the remedial power could be lodged. And it will be safer to leave the power with this key to it, than to extend to it all the qualities and incidental means belonging to the power over foreign commerce, as is unavoidable, according to the reasoning I see applied to the case.

Writings of Madison, Volume 4: 1829-1836, p.15

The quotations from the Virginia Convention prove nothing but the poverty of the cause that would avail itself of them. It would be wrong to detract from the talents or integrity of the opponents of the Constitution. But their eulogists, in the praises bestowed on their prophetic sagacity, seem to forget that where one prediction has been fulfilled, a hundred have been contradicted by the events. And well it is that such has been the case, for otherwise every calamity involved in monarchy, aristocracy, oligarchy, and military and fiscal oppression, would, ere this, have been the lot of our country.

Writings of Madison, Volume 4: 1829-1836, p.15

I hope Lloyd's Debates of the First Session of the First Congress, on the subject of commerce and revenue, will be fully used in case the tariff should be brought up by the report of the Committee of the House of Delegates on the Georgia and South Carolina resolutions. The debates contain the most ample proof that manufactures were as much an object as revenue; that the encouragement of them aimed at was by regulations diminishing and even preventing revenue, as well as producing it; that such regulations previously existed in particular States, and were looked for from the new Congress; that the power was not questioned by a single member, and that the use of it was expressly proposed, not only by Northern members, but particularly by those from Virginia and South Carolina, to the extent not only of imposts, but prohibitions.

To N. P. Trist.

MONTPELLIER, Mar. 1, 1829.

Writings of Madison, Volume 4: 1829-1836, p.16

DEAR SIR,—Your favor of the 24th ult. was received by the mail of Thursday last. The copies of Mr. Monroe's paper had been just before forwarded to Mr. Johnson and Mr. Cabell; and I sent to Mr. Randolph by the earliest mail the copies of Mr. Jefferson's letters to the senior Mr. Adams, and to myself, having previously adverted to the passages [of which] you wished to have my consideration. The word "species" last repeated I found to be preceded by the word "only" in the original letter to me; and the restoration of it seeming to improve the expression, I did not insert the word "itself" as a substitute for the repetition. It appeared to me, as [to] you, that a fastidious criticism only would notice the passages which speak of pamphlets; and as a literal consistency results from the order of dates, I did not suggest any change. I took the liberty, however, of inviting the attention of Mr. Randolph to the charges—one implied, the other express—against Col. Hamilton, the nature of which made it probable that proofs would be called for by those who watch over his fame, observing, that if these could not be readily given, an anticipation of the call might have a just influence on the question of publishing the charges. I annexed also a marginal "quere" to the sentence Which contrasts the disciplined policy of New England in party votings with the less artful course of the Southern people.

Writings of Madison, Volume 4: 1829-1836, p.16

We are thankful for your careful attention to the letter you kindly took charge of. It was safely received.

Writings of Madison, Volume 4: 1829-1836, p.16

Had the style of criticism on the letters to Mr. Cabell been suspected, much trouble might have been saved to the pen and the press. A very few words ex abundanti cautela would have obviated the effect of brevity. But we must not look to the misunderstanding of the text for the strain of the comment on it.

Writings of Madison, Volume 4: 1829-1836, p.17

I have glanced at the papers sketching the views you mean to take of two important subjects. That they admit and deserve elucidation cannot be doubted. But some care in discussing the question of a distinction between literal and constructive meanings may be necessary in order to avoid the danger of a verbal character to the discussion. The best aids in investigating the true scope of "contracts" a violation of which is prohibited by the Constitution, will be found where you intend to look for them. I wish I could abridge your researches. The Federalist touches on the origin of the prohibition; but my copy not being at home, I cannot refer to the passage. The debates in the State Conventions would seem to promise much information, but I am not sure that such will be the case. The cotemporary state of things will be the best resource, if the publications exhibiting it can be met with. They are numerous in pamphlet form and in newspapers. But I am unable to make any specific references that would be useful to you, and I am sorry for it.

To Samuel Kercheval.

MONTPELLIER Sepr 7, 1829.

Writings of Madison, Volume 4: 1829-1836, p.17

I have received, sir, your letter of August 27, and thank you for the little pamphlet containing Mr. Jefferson's letters to you, which I did not before possess in that convenient form. In reply to your request, the infirm state of my health, with particular claims at present on my time, obliges me to say that on the points in which I do not exactly concur with Mr. Jefferson, I could offer nothing beyond opinions without the proper explanations, which would not be either sufficiently respectful to the subject or worthy of your acceptance.

Outline.

SEPTEMBER, 1829.

Writings of Madison, Volume 4: 1829-1836, p.18

The compound Government of the United States is without a model, and to be explained by itself, not by similitudes or analogies. The terms Union, Federal, National, ought not to be applied to it without the qualifications peculiar to the system. The English Government is in a great measure sui generis, and the terms Monarchy, used by those who look at the executive head only, and Commonwealth, by those looking at the representative member chiefly, are inapplicable in a strict sense.

Writings of Madison, Volume 4: 1829-1836, p.18

A fundamental error lies in supposing the State governments to be the parties to the constitutional compact from which the Government of the United States results.

Writings of Madison, Volume 4: 1829-1836, p.18

It is a like error that makes the General Government and the State governments the parties to the compact, as stated in the fourth letter of "Algernon Sidney," [Judge Roane.] They may be parties in a judicial controversy, but are not so in relation to the original constitutional compact.

Writings of Madison, Volume 4: 1829-1836, p.18

In No. XI of "Retrospects," [by Gov. Giles,] in the Richmond Enquirer of Sept. 8, 1829, Mr. Jefferson is misconstructed or, rather, misstated, as making the State governments and the Government of the United States foreign to each other; the evident meaning, or, rather, the express language of Mr. Jefferson being, "the States are foreign to each other, in the portions of sovereignty not granted, as they were in the entire sovereignty before the grant," and not that the State governments and the Government of the United States are foreign to each other. As the State governments participate in appointing the functionaries of the General Government, it can no more be said that they are altogether foreign to each other, than that the people of a State and its government are foreign.

Writings of Madison, Volume 4: 1829-1836, p.18

The real parties to the constitutional compact of the United States are the States—that is, the people thereof respectively in their sovereign character, and they alone, so declared in the resolutions of 1798, and so explained in the report of 1799. In these resolutions, as originally proposed, the word alone, which guarded against error on this point, was struck out, [see printed debates of 1798,] and led to misconceptions and misreasonings concerning the true character of the political system, and to the idea that it was a compact between the governments of the States and the Government of the United States; an idea promoted by the familiar one applied to governments independent of the people, particularly the British, of [?] a compact between the monarch and his subjects, pledging protection on one side and allegiance on the other.

Writings of Madison, Volume 4: 1829-1836, p.19

The plain fact of the case is, that the Constitution of the United States was created by the people composing the respective States, who alone had the right; that they organized the Government into Legislative, Executive, and Judiciary departments, delegating thereto certain portions of power to be exercised over the whole, and reserving the other portions to themselves respectively. As these distinct portions of power were to be exercised by the General Government and by the State governments, by each within limited spheres; and as, of course, controversies concerning the boundaries of their power would happen, it was provided that they should be decided by the Supreme Court of the United States, so constituted as to be as impartial as it could be made by the mode of appointment and responsibility for the judges.

Writings of Madison, Volume 4: 1829-1836, p.19

Is there, then, no remedy for usurpations in which the Supreme Court of the United States concur? Yes: constitutional remedies, such as have been found effectual, particularly in the case of the alien and sedition laws, and such as will in all cases be effectual, while the responsibility of the General Government to its constituents continues: remonstrances and instructions; recurring elections and impeachments; amendment of Constitution, as provided by itself, and exemplified in the 11th article limiting the suability of the States.

Writings of Madison, Volume 4: 1829-1836, p.19

These are resources of the States against the General Government, resulting from the relations of the States to that Government, while no corresponding control exists in the General to the individual governments, all of whose functionaries are independent of the United States in their appointment and responsibility.

Writings of Madison, Volume 4: 1829-1836, p.20

Finally, should all the constitutional remedies fail, and the usurpations of the General Government become so intolerable as absolutely to forbid a longer passive obedience and non-resistence, a resort to the original rights of the parties becomes justifiable, and redress may be sought by shaking off the yoke, as of right might be done by part of an individual State in a like case, or even by a single citizen, could he effect it, if deprived of rights absolutely essential to his safety and happiness. In the defect of their ability to resist, the individual citizen may seek relief in expatriation or voluntary exile,\* a resort not within the reach of large portions of the community.

Writings of Madison, Volume 4: 1829-1836, p.20

In all the views that may be taken of questions between the State governments and the General Government, the awful consequences of a final rupture and dissolution of the Union should never for a moment be lost sight of. Such a prospect must be deprecated, must be shuddered at by every friend to his country, to liberty, to the happiness of man. For, in the event of a dissolution of the Union, an impossibility of ever renewing it is brought home to every mind by the difficulties encountered in establishing it. The propensity of all communities to divide, when not pressed into a unity by external danger, is a truth well understood. There is no instance of a people inhabiting even a small island, if remote from foreign danger, and sometimes in spite of that pressure, who are not divided into alien, rival, hostile tribes. The happy Union of these States is a wonder; their Constitution a miracle; their example the hope of Liberty throughout the world. Woe to the ambition that would meditate the destruction of either!

Notes on Suffrage.\*

Written at Different Periods After

His Retirement from Public Life.

I.

Writings of Madison, Volume 4: 1829-1836, p.21

As appointments for the General Government here contemplated\* will in part be made by the State governments, all the citizens, in States where the right of suffrage is not limited to the holders of property, will have an indirect share of representation in the General Government. But this does not satisfy the fundamental principle that men cannot be justly bound by laws in making which they have no part. Persons and property being both essential objects of government, the most that either can claim is such a structure of it as will leave a reasonable security for the other. And the most obvious provision of this double character seems to be that of confining to the holders of property the object deemed least secure in popular governments, the right of suffrage for one of the two legislative branches. This is not without example among us, as well as other constitutional modifications, favouring the influence of property in the Government. But the United States have not reached the stage of society in which conflicting feelings of the class with, and the class without property, have the operation natural to them in countries fully peopled. The most difficult of all political arrangements is that of so adjusting the claims of the two classes as to give security to each and to promote the welfare of all. The Federal principle, which enlarges the sphere of power without departing from the elective basis of it, and controls in various ways the propensity in small Republics to rash measures, and the facility of forming and executing them, will be found the best expedient yet tried for solving the problem.

II.

Writings of Madison, Volume 4: 1829-1836, p.21

These observations (in the speech of James Madison, see Debates in the Convention of 1787, August 7) do not convey the speaker's more full and matured view of the subject, which is subjoined. He felt too much at the time the example of Virginia.

Writings of Madison, Volume 4: 1829-1836, p.22

The right of suffrage is a fundamental article in republican constitutions. The regulation of it is, at the same time, a task of peculiar delicacy. Allow the right exclusively to property, and the rights of persons may be oppressed. The feudal polity alone sufficiently proves it. Extend it equally to all, and the rights of property or the claims of justice may be overruled by a majority without property or interested in measures of injustice. Of this abundant proof is afforded by other popular governments, and is not without examples in our own, particularly in the laws impairing the obligation of contracts.

Writings of Madison, Volume 4: 1829-1836, p.22

In civilized communities, property as well as personal rights is an essential object of the laws, which encourage industry by securing the enjoyment of its fruits; that industry from which property results, and that enjoyment which consists not merely in its immediate use, but in its posthumous destination to objects of choice, and of kindred or affection.

Writings of Madison, Volume 4: 1829-1836, p.22

In a just and a free Government, therefore, the rights both of property and of persons ought to be effectually guarded. Will the former be so in ease of a universal and equal suffrage? Will the latter be so in case of a suffrage confined to the holders of property?

Writings of Madison, Volume 4: 1829-1836, p.22

As the holders of property have at stake all the other rights common to those without property, they may be the more restrained from infringing, as well as the less tempted to infringe, the rights of the latter. It is nevertheless certain, that there are various ways in which the rich may oppress the poor; in which property may oppress liberty; and that the world is filled with examples. It is necessary that the poor should have a defence against the danger.

Writings of Madison, Volume 4: 1829-1836, p.22

On the other band, the danger to the holders of property cannot be disguised, if they be undefended against a majority without property. Bodies of men are not less swayed by interest than individuals, and are less controlled by the dread of reproach and the other motives felt by individuals. Hence the liability of the rights of property, and of the impartiality of laws affecting it, to be violated by legislative majorities having an interest, real or supposed, in the injustice. Hence agrarian laws and other levelling schemes. Hence the cancelling or evading of debts, and other violations of contracts. We must not shut our eyes to the nature of man, nor to the light of experience. Who would rely on a fair decision from three individuals if two had an interest in the case opposed to the rights of the third? Make the number as great as you please, the impartiality will not be increased, nor any farther security against injustice be obtained, than what may result from the greater difficulty of uniting the wills of a greater number. In all Governments there is a power which is capable of oppressive exercise. In monarchies and aristocracies, oppression proceeds from a want of sympathy and responsibility in the Government towards the people. In popular Governments the danger lies in an undue sympathy among individuals composing a majority, and a want of responsibility in the majority to the minority. The characteristic excellence of the political system of the United States arises from a distribution and organization of its powers, which, at the same time that they secure the dependence of the Government on the will of the nation, provide better guards than are found in any other popular Government against interested combinations of a majority against the rights of a minority.

Writings of Madison, Volume 4: 1829-1836, p.23

The United States have a precious advantage also in the actual distribution of property, particularly the landed property, and in the universal hope of acquiring property. This latter peculiarity is among the happiest contrasts in their situation to that of the Old World, where no anticipated change in this respect can generally inspire a like sympathy with the rights of property. There may be at present a majority of the nation who are even freeholders, or the heirs and aspirants to freeholds; and the day may not be very near when such will cease to make up a majority of the community. But they cannot always so continue. With every admissible subdivision of the arable [land,] a populousness not greater than that of England or France will reduce the holders to a minority. And whenever the majority shall be without landed or other equivalent property, and without the means or hope of acquiring it, what is to secure the rights of property against the danger of an equality and universality of suffrage, vesting complete power over property in hands without a share in it; not to speak of danger in the mean time from a dependence of an increasing number on the wealth of a few? In other countries, this dependence results in some from the relations between landlords and tenants; in others, both from that source and from the relations between wealthy capitalists and indigent labourers. In the United States the occurrence must happen from the last source; from the connexion between the great capitalists in manufactures and commerce, and the numbers employed by them. Nor will accumulations of capital for a certain time be precluded by our laws of descent and distribution; such being the enterprise inspired by free institutions, that great wealth in the hands of individuals and associations may not be unfrequent. But it may be observed, that the opportunities may be diminished and the permanency defeated by the equalizing tendency of the laws.

Writings of Madison, Volume 4: 1829-1836, p.24

No free country has ever been without parties, which are a natural offspring of freedom. An obvious and permanent division of every people is into the owners of the soil and the other inhabitants. In a certain sense the country may be said to belong to the former. If each landholder has an exclusive property in his share, the body of landholders have an exclusive property in the whole. As the soil becomes subdivided, and actually cultivated by the owners, this view of the subject derives force from the principle of natural law, which vests in individuals an exclusive right to the portions of ground with which they have incorporated their labour and improvements. Whatever may be the rights of others, derived from their birth in the country; from their interest in the highways and other parcels left open for common use, as well as in the national edifices and monuments; from their share in the public defence, and from their concurrent support of the Government, it would seem unreasonable to extend the right so far as to give them, when become the majority, a power of legislation over the landed property without the consent of the proprietors. Some shield against the invasion of their rights would not be out of place in a just and provident system of Government. The principle of such an arrangement has prevailed in all Governments where peculiar privileges or interests held by a part were to be secured against violation, and in the various associations where pecuniary or other property forms the stake. In the former case a defensive right has been allowed; and, if the arrangement be wrong, it is not in the defence, but in the kind of privilege to be defended. In the latter case, the shares of suffrage allotted to individuals have been with acknowledged justice apportioned more or less to their respective interests in the common stock.

Writings of Madison, Volume 4: 1829-1836, p.25

These reflections suggest the expediency of such a modification of Government as would give security to the part of the society having most at stake and being most exposed to danger. Three modifications present themselves.

Writings of Madison, Volume 4: 1829-1836, p.25

1. Confining the right of suffrage to freeholders and to such as hold an equivalent property, convertible, of course, into freeholds. The objection to this regulation is obvious. It violates the vital principle of free Government, that those who are to be bound by laws ought to have a voice in making them. And the violation would be strikingly more unjust as the lawmakers became the minority. The regulation would be as unpropitious also as it would be unjust. It would engage the numerical and physical force in a constant struggle against the public authority, unless kept down by a standing army, fatal to all parties.

Writings of Madison, Volume 4: 1829-1836, p.25

2. Confining the right of suffrage for one branch to the holder of property, and for the other branch to those without property. This arrangement, which would give a mutual defence where there might be mutual danger of encroachment, has an aspect of equality and fairness. But it would not be, in fact, either equal or fair, because the rights to be defended would be unequal, being on one side those of property as well as of persons, and on the other those of persons only. The temptation also to encroach, though in a certain degree mutual, would be felt more strongly on one side than on the other. It would be more likely to beget an abuse of the legislative negative in extorting concessions at the expense of propriety [property?] than the reverse. The division of the State into two classes, with distinct and independent organs of power, and without any intermingled agency whatever, might lead to contests and antipathies not dissimilar to those between the patricians and plebeians at Rome.

Writings of Madison, Volume 4: 1829-1836, p.26

3. Confining the right of electing one branch of the Legislature to freeholders, and admitting all others to a common right with holders of property in electing the other branch. This would give a defensive power to holders of property, and to the class also without property, when becoming a majority of electors, without depriving them, in the meantime, of a participation in the public councils. If the holders of property would thus have a twofold share of representation, they would have at the same time a twofold stake in it, the rights of property as well as of persons, the twofold object of political institutions. And if no exact and safe equilibrium can be introduced, it is more reasonable that a preponderating weight should be allowed to the greater interest than to the lesser. Experience alone can decide how far the practice in this case would accord with the theory. Such a distribution of the right of suffrage was tried in New York, and has been abandoned, whether from experienced evils or party calculations may possibly be a question. It is still on trial in North Carolina, with what practical indications is not known. It is certain that the trial, to be satisfactory, ought to be continued for no inconsiderable period, until, in fact, the non-freeholders should be the majority.

Writings of Madison, Volume 4: 1829-1836, p.26

4. Should experience or public opinion require an equal and universal suffrage for each branch of the Government, such as prevails generally in the United States, a resource favourable to the rights of landed and other property, when its possessors become the minority, may be found in an enlargement of the election districts for one branch of the Legislature, and a prolongation of its period of service. Large districts are manifestly favourable to the election of persons of general respectability and of probable attachment to the rights of property, over competitors depending on the personal solicitations practicable on a contracted theatre. And although an ambitious candidate of personal distinction might occasionally recommend himself to popular choice by espousing a popular though unjust object, it might rarely happen to many districts at the same time. The tendency of a longer period of service would be to render the body more stable in its policy, and more capable of stemming popular currents taking a wrong direction, till reason and justice could regain their ascendancy.

Writings of Madison, Volume 4: 1829-1836, p.27

5. Should even such a modification as the last be deemed inadmissible, and universal suffrage and very short periods of election within contracted spheres be required for each branch of the Government, the security for the holders of property, when the minority, can only be derived from the ordinary influence possessed by property, and the superior information incident to its holders, from the popular sense of justice, enlightened and enlarged by a diffusive education, and from the difficulty of combining and effectuating unjust purposes throughout an extensive country; a difticulty essentially distinguishing the United States, and even most of the individual States, from the small communities where a mistaken interest or contagious passion could readily unite a majority of the whole under a factious leader, in trampling on the rights of the minor party.

Writings of Madison, Volume 4: 1829-1836, p.27

Under every view of the subject, it seems indispensable that the mass of citizens should not be without a voice in making the laws which they are to obey, and in choosing the magistrates who are to administer them. And if the only alternative be between an equal and universal right of suffrage for each branch of the Government, and a confinement of the entire right to a part of the citizens, it is better that those having the greater interest at stake, namely, that of property and persons both, should be deprived of half their share in the Government, than that those having the lesser interest, that of personal rights only, should be deprived of the whole.

III.\*

Writings of Madison, Volume 4: 1829-1836, p.28

The right of suffrage being of vital importance, and approving an extension of it to housekeepers and heads of families, I will suggest a few considerations which govern my judgment on the subject.

Writings of Madison, Volume 4: 1829-1836, p.28

Were the Constitution on hand to be adapted to the present circumstances of our country, without taking into view the changes which time is rapidly producing, an unlimited extension of the right would probably vary little the character of our public councils or measures. But as we are to prepare a system of government for a period which it is hoped will be a long one, we must look to the prospective changes in the condition and composition of the society on which it is to act.

Writings of Madison, Volume 4: 1829-1836, p.28

It is a law of nature, now well understood, that the earth under a civilized cultivation is capable of yielding subsistence for a large surplus of consumers beyond those having an immediate interest in the soil; a surplus which must increase with the increasing improvements in agriculture, and the labour-saving arts applied to it. And it is a lot of humanity, that of this surplus a large proportion is necessarily reduced by a competition for employment to wages which afford them the bare necessaries of life. The proportion being without property, or the hope of acquiring it, cannot be expected to sympathize sufficiently with its rights to be safe depositories of power over them.

Writings of Madison, Volume 4: 1829-1836, p.28

What is to be done with this unfavoured class of the community? If it be, on one hand, unsafe to admit them to a full share of political power, it must be recollected, on the other, that it cannot be expedient to rest a republican government on a portion of the society having a numerical and physical force excluded from, and liable to be turned against it, and which would lead to a standing military force, dangerous to all parties and to liberty itself. This view of the subject makes it proper to embrace in the partnership of power every description of citizens having a sufficient stake in the public order and the stable administration of the laws, and particularly the housekeepers and heads of families, most of whom, "having given hostages to fortune," will have given them to their country also.

Writings of Madison, Volume 4: 1829-1836, p.29

This portion of the community, added to those who, although not possessed of a share of the soil, are deeply interested in other species of property, and both of them added to the territorial proprietors, who in a certain sense may be regarded as the owners of the country itself, form the safest basis of free government. To the security for such a government, afforded by these combined members, may be farther added the political and moral influence emanating from the actual possession of authority, and a just and beneficial exercise of it.

Writings of Madison, Volume 4: 1829-1836, p.29

It would be happy if a state of society could be found or framed in which an equal voice in making the laws might be allowed to every individual bound to obey them. But this is a theory which, like most theories, confessedly requires limitations and modifications. And the only question to be decided in this, as in other cases, turns on the particular degree of departure in practice required by the essence and object of the theory itself.

Writings of Madison, Volume 4: 1829-1836, p.29

It must not be supposed that a crowded state of population, of which we have no example here, and which we know only by the image reflected from examples elsewhere, is too remote to claim attention.

Writings of Madison, Volume 4: 1829-1836, p.29

The ratio of increase in the United States [makes it probable] that the present

12 millions will in 25 years be 24 millions.

24 " 50 " 48 "

48 " 75 " 96 "

96 " 100 " 192 "

Writings of Madison, Volume 4: 1829-1836, p.29

There may be a gradual decrease of the ratio of increase, but it will be small as long as the agriculture shall yield its abundance. Great Britain has doubled her population in the last fifty years, notwithstanding its amount in proportion to its territory at the commencement of that period; and Ireland is a much stronger proof of the effect of an increasing product of food in multiplying the consumers.

Writings of Madison, Volume 4: 1829-1836, p.30

How far this view of the subject will be affected by the republican laws of descent and distribution, in equalizing the property of the citizens and in reducing to the minimum mutual surpluses for mutual supplies, cannot be inferred from any direct and adequate experiment. One result would seem to be a deficiency of the capital for the expensive establishments which facilitate labour and cheapen its products on one hand; and on the other, of the capacity to purchase the costly and ornamental articles consumed by the wealthy alone, who must cease to be idlers and become labourers. Another, the increased mass of labourers added to the production of necessaries by the withdrawal for this object, of a part of those now employed in producing luxuries, and the addition to the labourers from the class of present consumers of luxuries. To the effect of these changes, intellectual, moral, and social, the institutions and laws of the country must be adapted; and it will require for the task all the wisdom of the wisest patriots.

Writings of Madison, Volume 4: 1829-1836, p.30

Supposing the estimate of the growing population of the United States to be nearly correct, and the extent of their territory to be eight or nine hundred millions of acres, and one-fourth of it to consist of arable surface, there will, in a century or a little more, be nearly as crowded a population in the United States as in Great Britain or France; and if the present Constitution, (of Virginia,) with all its flaws, has lasted more than half a century, it is not an unreasonable hope that an amended one will last more than a century.

Writings of Madison, Volume 4: 1829-1836, p.30

If these observations be just, every mind will be able to develop and apply them.

To Samuel S. Lewis, President, Etc.

FEBY 16, 1829.

Writings of Madison, Volume 4: 1829-1836, p.30

DR SIR,—Your communication of the 3d instant having proceeded, by mistake, to Montpelier in Vermont, was not received till yesterday.

Writings of Madison, Volume 4: 1829-1836, p.30

My lengthened observation making me more and more sensible of the essential connexion between a diffusion of knowledge and the success of Republican institutions, I derive pleasure from every example of such associations as that of the "Washington College Parthenon." With my best wishes that its usefulness may equal the laudable views which led to it, I tender my acknowledgements for the honorary membership conferred on me. At my advanced period of life these wishes and acknowledgments are the only proofs I have to give of the value I put on the mark of respect shown me; and the sincerity of them the only value that can entitle them to a favorable acceptance by the Society.

To J. Q. Adams.

MONTPELLIER, Feby 24, 1829.

Writings of Madison, Volume 4: 1829-1836, p.31

DEAR SIR,—I have received, in your kind letter of the 21st instant, the little pamphlet containing the correspondence between yourself and "several citizens of Massachusetts," with "certain additional papers."

Writings of Madison, Volume 4: 1829-1836, p.31

The subjects presented to view by the pamphlet will, doubtless, not be overlooked in the history of our country. The documents not previously published are of a very interesting cast. The letter of Governor Plumer, particularly, if nowise impaired by adverse authority, must receive a very marked attention and have a powerful effect.

Writings of Madison, Volume 4: 1829-1836, p.31

As what relates to Col. Hamilton, however, is stated on a solitary information only, I cannot but think there may be some material error at the bottom of it. That the leading agency of such a man, and from a State in the position of New York, should, in a project for severing the Union, be anxiously wished for by its authors, is not to be doubted; and an experimental invitation of him to attend a select meeting may, without difficulty, be supposed. But obvious considerations oppose a belief that such an invitation would be accepted; and if accepted, the supposition would remain, that his intention might be to dissuade his party and personal friends from a conspiracy as rash as wicked, and as ruinous to the party itself as to the country. The lapse of time must have extinguished lights by which alone the truth, in many eases, could be fully ascertained. It is quite possible that this may be an exception.

To Benjamin Waterhouse.

MONTPELLIER, Mar. 12, 1829.

Writings of Madison, Volume 4: 1829-1836, p.32

DEAR SIR,—I received in due time, with your favor of 14th ult., a copy of your Inaugural Discourse, prepared in early life. I was not at leisure, till within a few days, to give it a perusal, and ought not now to hazard a critique on the merits of its Latinity. If I were ever in any degree qualified for such a task, a recollection of my long separation from classical studies would arrest my pen. I am safe, I believe, in the remark that the language has less the aspect of being moulded in a modern idiom than has been generally the case with the performances of modern Latinists.

Writings of Madison, Volume 4: 1829-1836, p.32

Another interview, which you despair of, would give me as much pleasure as it could you. The possibility of it must lie with you, as the junior party. We should certainly be at no loss for topics, having lived through a long period filled with events, as novel as various, and as interesting as novel. Our conversation would of course embrace the scenes\* you glance at, from which corners of the veil are already lifted. You probably know much of them that I do not, and both of us less than, others whose testimony has passed beyond the summons even of History.\* It might have been well if the truth yet in preservation could have instructed posterity without disturbing the present generation. This seems now to have become impossible; and the sufferers will know on whom to charge the misfortune.

To John Q. Adams.

MARCH 13, 1829.

Writings of Madison, Volume 4: 1829-1836, p.33

DEAR SIR,—I have received your letter of the 1st (postmarked the 7th) instant, inclosing copies of two letters from you to Mr. Bacon in 1808, one bearing date Novr 17, the other Decr 21st.

Writings of Madison, Volume 4: 1829-1836, p.33

You ask the favor of me to compare these letters with the narrative in that of Mr. Jefferson [to Mr. Giles] of December 25, 1825, and to let you know whether they were seen by me shortly after they were received; with a further request that I would state whether any other circumstances known to me at the time, and now remembered, may serve to rectify either Mr. Jefferson's memory concerning those occurrences or your own.

Writings of Madison, Volume 4: 1829-1836, p.33

Aware, as I am, of the fallibility of memories more tenacious than mine, I cannot venture, after so long an interval, to say positively whether the letters were or were not seen by me; being unable to distinguish sufficiently between impressions which might be derived either from a sight of the letters, or from a verbal communication of their contents.

Writings of Madison, Volume 4: 1829-1836, p.33

The substance of my recollections on the subject is, that in conversations at an interview with Mr. Bacon and one of his colleagues, during the session of Congress commencing in November, 1808, the deep discontents and menacing crisis produced by the Embargo in the Eastern quarter were pressed by them with much anxiety, as calling for a substitution of some other measure; and that information and opinions of a likeness to those conveyed in the two letters were referred to as received from you, and dwelt upon as entitled to the greatest weight on the occasion.

Writings of Madison, Volume 4: 1829-1836, p.33

It does not seem difficult to account for the anachronisms into which Mr. Jefferson might have fallen. The confidential interview with you having made the more vivid impression, subsequent informations of a kindred bearing might in the lapse of time lose their distinction of dates, and finally be referred to the same origin. There are few memories which under like circumstances might not in that way be misled.

Writings of Madison, Volume 4: 1829-1836, p.34

I return the two copies, as you desire, and pray you to be reassured of my high esteem, and to accept my cordial salutations.

To Joseph C. Cabell.

MARCH 19, 1829.

Writings of Madison, Volume 4: 1829-1836, p.34

DEAR SIR,—I received by the last mail your favor of the 13th, with a copy of the pamphlet containing the two supplemental letters of Mr. Jefferson. They are as much in point as words could make them. But his authority is made to weigh nothing, or outweigh everything, according to the scale in which it is put. It would be well if the two letters, at least, could find their way into the newspapers which circulate most the poison for which they are an antidote.

Writings of Madison, Volume 4: 1829-1836, p.34

I have been prevented from sooner thanking you for your communications at the close of the session, and particularly for the several numbers of the Norfolk Herald, by a constant employment, occasioned by successive occurrences. Two of the numbers of Hampden were in Enquirers which came to hand, and one was in an Enquirer which never reached the neighbourhood. They have the merit of ingenuity; but it smacks rather of the Bar than smells of the lamp. I have never been able to look over the number you last sent till within a few days, nor the others with more than a slight attention. I will return them, as you request, unless you have no occasion for the number in the lost Enquirer, and that also, if you wish it. I have been almost tempted, by the gross misstatements, the strange misconstructions, and the sophistical comments applied to my letters to you, to sketch a few explanatory remarks on topics which were left for your development, and on passages the brevity of which has been urged for such ample abuse of criticism, and such malign inferences. But I foresaw that whatever the explanations might be, they would produce fresh torrents of deceptive and declamatory matter, which, if not answered, might be trumpeted as unanswerable; and if answered, might tend to a polemic series as interminable as the fund of words and the disposition to abuse them is inexhaustible. A silent appeal to a cool and candid judgment of the public may, perhaps, serve the cause of truth.

Writings of Madison, Volume 4: 1829-1836, p.35

I am truly sorry for the trouble to which you have been put in the case, notwithstanding your willingness in taking it; and still more for the indisposition which has not yet been subdued.

Writings of Madison, Volume 4: 1829-1836, p.35

I hope you will not think it necessary to say anything relative to the course you pursued on the Convention question. I have no doubt of the purity of your views, which your speech shews were very ably supported.

Writings of Madison, Volume 4: 1829-1836, p.35

I have not heard for some days from the malady at the University, which has thrown such a cloud on its prospects. I hope the worst is over there, but it is difficult to say what may be the duration of the effect on public opinion, produced by the indiscretion of friends and the workings of foes. The Faculty wish an examination and report on the whole case, by persons properly selected for the purpose. I have given my sanction to the measure; but there is, I fear, some difficulty in bringing it about. I wrote near a month ago to General C on the subject, who, I suspect, was then, and may yet be, in the lower country. I have just received from our Minister in London and from Professor Long, letters on the subject of a successor to the latter. Mr. B. is doing all he can for us, but without any encouraging prospects. Mr. Long is pretty decided that we ought not to rely on any successor from England, and is equally so that Doctor Harrison will answer our purpose better than any one attainable abroad. He appears to be quite sanguine on this point. He intimates, confidentially, I suppose, what I did not before know, that Dr. Harrison is himself desirous of having his temporary appointment made permanent. I have received a letter from Mr. Quincy, now President of Harvard University, expressing a wish to procure a full account of the origin, the progress, and arrangement of ours, including particularly what may have any reference to Theological instruction; and requesting that he may be referred to the proper source of all the printed documents, that he may know where to apply for them. Can a set of copies be had in Richmond, and of whom? Mr. Quincy is so anxious on the subject that he was on his way to the University, when the report of the fever stopped him. The answer given to your enquiry concerning the publication of Judge Pendleton, signed the "Danger not over," was very imperfect. The authority of Mr. Pollard should have been disclosed. I still think the statement of a partnership destitute of foundation; my files are perfectly silent, and I learn that Mr. Jefferson's contain no correspondence with Mr. Pendleton on the subject. It is possible that something may have passed indirectly through Col. Taylor bearing on the case; but if so, it was probably not of a nature to make Mr. Jefferson a party in any sense to the particular contents of the paper.

Writings of Madison, Volume 4: 1829-1836, p.36

I cannot conclude without expressing my regret at the trouble brought on you by our mutual attempt to vindicate the Constitution of the United States against misinterpretation, and my concern at the unfavorable account of your health. Accept my best wishes that this may be soon and effectually restored, and the reassurance I offer of my affectionate esteem.

To William Madison, Chairman, &C.

MONTPELLIER, March 25, 1829.

Writings of Madison, Volume 4: 1829-1836, p.36

DEAR SIR,—I have received the communication of the Delegates from the counties composing this Senatorial District,\* assembled for the purpose of recommending four persons to represent it in the Convention which is to propose amendments to the Constitution of the State, acquainting me that I have been included in the number selected, and expressing a wish to be informed whether the Delegation has my assent to their making it known to the people of the district that, if elected, I will obey the call to the service assigned me.

Writings of Madison, Volume 4: 1829-1836, p.37

Although aware of the considerations which, at my age, with the infirmities incident to it, might dissuade me from assuming such a trust, I retain too deep a sense of what I owe for past and repeated marks of confidence and favor, to my native State, and particularly to this portion of it, not to join my efforts, however feeble, in the important work to be performed, should such be the will of the district.

Writings of Madison, Volume 4: 1829-1836, p.37

In that event I shall carry into the Convention every disposition not to lose sight of the interest and feelings of the district; whilst availing myself of the lights afforded by the free and calm discussions becoming such a body, and yielding to that spirit of compromise to which the foresight of the Delegation has so appropriately alluded.

Writings of Madison, Volume 4: 1829-1836, p.37

I offer to the Delegation the expression of my sincere and great respect.

To Benjamin Romaine.

MONTPELLIER, Apl 14, 1829.

Writings of Madison, Volume 4: 1829-1836, p.37

DEAR SIR,—I have received your favor of March 30th, accompanied by two sets of pamphlets, for which I tender my thanks. That which relates to the views of a particular party during the period from 1803 to the close of the last war necessarily invites the recollections of the agents and observers of public affairs, among whom both of us are numbered. On the other subject, that of Constitutional Reforms, the lights of experience, such as you impart, must always merit attention, and it will be well for the States who are latest in performing the task not to lose sight of the advantage which that circumstance gives them. There is a pretty general concurrence here as to the chief defects in the Constitution which is about to be revised. I wish there may be an equal one in the proper remedies. I hope, at least, that everything tending to undermine the general Constitution will be avoided with the same care which guards against encroachments on the reserved authorities of the States.

Writings of Madison, Volume 4: 1829-1836, p.38

Mrs. Madison did not need a memento of her former acquaintance with you, though she had forgotten her observation, whether just or not, which is retained by your better recollections. She joins me in friendly respects, and in all the good wishes, which I pray you to accept.

To Elliott Cresson.—For His Album.

APRIL 23, 1829.

Writings of Madison, Volume 4: 1829-1836, p.38

With the examples before me, and as a token of my esteem and good wishes for Elliott Cresson, I take pleasure in complying with his request, by the following sample of my handwriting:

Writings of Madison, Volume 4: 1829-1836, p.38

Liberty and Learning; both best supported when leaning each on the other.

To Jonathan Leonard.

MONTPELLIER, Apl 28, 1829.

Writings of Madison, Volume 4: 1829-1836, p.38

DEAR SIR,—I have duly received yours of the 10th instant, with a copy of "the History of Dedham." Though more immediately interesting to those locally and personally related to the subjects of it, the work contains much that is generally attractive. This may be said more especially of the minute care with which the author exhibits the example of a civil society in its primary formation, and spontaneous organization; and the like example of an ecclesiastical society, self-constituted and self-governed. We are here, as you appear to know, about to undertake, not the creation of a political union, but the revisal of an existing Constitution.\* Its defects are generally admitted, but there will probably be some disagreement as to the best remedies for them.

Writings of Madison, Volume 4: 1829-1836, p.39

Be pleased to accept my thanks for the favor done me; and, taking for granted that it comes from an old acquaintance in public life, I offer at the same time my friendly recollections and my good wishes.

To Baron De Neuville.

JUNE 15, 1829.

Writings of Madison, Volume 4: 1829-1836, p.39

DR SIR,—My friend, Mr. Rives, is about to take his station in Paris as diplomatic representative of the U. States, and not doubting that an acquaintance will be mutually agreeable, I wish to open a direct way to it by this introduction. You will find him equally enlightened and amiable, with liberal views on all subjects, and with dispositions to cherish the friendly feelings and improve the beneficial intercourse between France and the United States, which I venture to assure him are not wanting on your part.

Writings of Madison, Volume 4: 1829-1836, p.39

I have seen with sincere regret a late notice that your health was not good. I hope this will find it re-established, and that, with the assurance of my high esteem, you will accept my cordial salutations.

To General La Fayette.

JUNE 15, 1829.

Writings of Madison, Volume 4: 1829-1836, p.39

MY DEAR FRIEND,—Your letter of January 28 came duly to hand. The answer to it has been procrastinated to this late day, by circumstances which you will gather from it.

Writings of Madison, Volume 4: 1829-1836, p.39

I am glad to learn that the regenerating spirit continues to work well in your public councils, as well as in the popular mind; and elsewhere as well as in France. It is equally strange and shameful that England, with her boasted freedom, instead of taking the lead in the glorious cause, should frown on it as she has done, and should aim as she now does to baffle the more generous policy of France in behalf of the Greeks. The contrast will increase the lustre reflected on her rival.

Writings of Madison, Volume 4: 1829-1836, p.40

On the receipt of your letter, I communicated to Mr. Jefferson Randolph the contents of the paragraph which had reference to him; asking from him, at the same time, such information as would assist my answer to you. His intense occupations of several sorts, and particularly the constant attention required to the edition of his grandfather's writings, may explain the delay in hearing from him. I understand, also, that he has himself written to you on that subject, and with a view to a French edition. I am not able to say what will be the success of the publication here. The prospect is in some respects encouraging, but I fear much short of the desideratum for balancing the Monticello affairs. Much of the landed estate, indeed, is still unsold; but such is the extreme depreciation of that species of property, and the unexampled defect of purchasers, that a very restricted reliance can be placed on that resource. Mrs. Randolph, with her family, will soon remove to the city of Washington; uniting in an establishment there with Mr. Trist, who married one of her daughters, and has a place in the Department of State yielding him about $1,400 per annum. This, with the interest, $1,200, from South Carolina and Louisiana donations, will, it is understood, be the sole dependence, scanty as it is.

Writings of Madison, Volume 4: 1829-1836, p.40

It has been generally known that Mr. Le Vasseur has prepared an account of your visit to the United States, and that a translation is in the press at Philadelphia. Of its progress I am not informed. I am aware of the delicacy of your situation, and take for granted that the author will himself have guarded it against the danger of indelicate suppositions of any sort.

Writings of Madison, Volume 4: 1829-1836, p.40

I shall commit this to my friend, Mr. Rives, for whom it will serve as an introduction, should it not be rendered superfluous by your personal recollections. He goes to France as the diplomatic representative of the United States, after having distinguished himself as a Legislative one at home. He possesses excellent talents, with amiable dispositions, and is worthy of the kindnesses which you love to bestow where they are due. I refer to him for the full information, which may be acceptable to you, on many subjects public and individual. Being of course in the confidence of the present Administration, he may know more than may be generally known of the Cabinet policy on subjects not under the seal of secrecy.

Writings of Madison, Volume 4: 1829-1836, p.41

I have been for some time past in bad health; for a few days quite ill. I am now considerably advanced in a recovery. I hope you continue to enjoy the full advantage of your fine constitution, and that you will live to witness an irreversible triumph everywhere of the cause to which you have ever been devoted.

Writings of Madison, Volume 4: 1829-1836, p.41

With my best regards for your estimable son, and best wishes for the domestic circle of which you are the centre, I renew the assurance of my constant and affectionate attachment.

To John Finch.

MONTPELLIER, June 20, 1829.

Writings of Madison, Volume 4: 1829-1836, p.41

DEAR SIR,—I received in due time your letter of May 10th, inclosing a continuation of your observations on the "Natural boundaries of Empires." The views you have taken of the subject give it certainly an attractive interest. But I must retain the impression that they may reasonably be qualified by the progress of bureau art in controuling the operation of physical causes.

Writings of Madison, Volume 4: 1829-1836, p.41

I should have sooner acknowledged your favor but for an indisposition, which proved tedious, and from which I am not yet entirely recovered.

Writings of Madison, Volume 4: 1829-1836, p.41

With cordial respects and good wishes.

To Albert Gallatin.

MONTPELLIER, July 13, 1829.

Writings of Madison, Volume 4: 1829-1836, p.41

DEAR SIR,—Learning from Mr. Rives that he expects to be in New York some days before his embarkation for France, I take the liberty of giving him a line for you. I need not refer to his high public standing, derived from the able part he has borne in public affairs, that being of course known to you; but as a friend and neighbour, I wish to bear my testimony to his great personal worth; and the rather, as his high respect for your character, and his just idea of your acquaintance with our relations with France, and the temper and views of its Government, will render any conversations thereon with which he may be favored particularly gratifying. Whatever confidence may be implied by the scope of any part of them will be in the safest hands, and turned to the best account.

Writings of Madison, Volume 4: 1829-1836, p.42

I pray you to be assured always of my great and affectionate esteem.

To Professor Tucker.

MONTPELLIER, July 20, 1829.

Writings of Madison, Volume 4: 1829-1836, p.42

DEAR SIR,—Inclosed is a copy of the original draft of the present Constitution of Virginia, from a printed copy, now perhaps a solitary relic. It may fill a few pages of the Museum, when not otherwise appropriated. Who the author of the draft was does not appear. Col. Geo. Mason is known to have been the most conspicuous member in discussing the subject and conducting it through the Convention.

Writings of Madison, Volume 4: 1829-1836, p.42

Do me the favor to send me the 2d N° of the Museum, which never came to hand, and to have me credited for the $5 in-closed. I am sorry that this neighbourhood furnishes as yet no subscriptions for the work.

To Joseph C. Cabell.

MONTPELLIER, Augt 16, 1829.

Writings of Madison, Volume 4: 1829-1836, p.42

DEAR SIR,—Your letter of the 5th found me under a return of indisposition which has not yet left me. To this cause you must ascribe the tardiness of my attention to it.

Writings of Madison, Volume 4: 1829-1836, p.43

Your speech, with the accompanying notes and documents, will make a very interesting and opportune publication. I think, with Mr. Johnson, that your view of the Virginia doctrine in '98-'99 is essentially correct, and easily guarded against any honest misconstructions. I have pencilled a very few inter-lineations and erasures, (easily removed if not approved,) having that object. I wish you to revise them with an eye to the language of Virginia in her proceedings of that epoch, happening to be without a remaining copy of them. I make the same request as to my remarks below, involving a reference to those proceedings. As to the two paragraphs in brackets, disliked by Mr. J., I am at some loss what to say. Though they may certainly be spared without leaving a flaw, the first of them, at least, is so well calculated to rescue the authority of Mr. Jefferson on the constitutionality of the tariff from the perverted and disrespectful use made of it, that I should hesitate in advising a suppression of it.

Writings of Madison, Volume 4: 1829-1836, p.43

On the subject of an arbiter or umpire, it might not be amiss, perhaps, to note at some place, that there can be none, external to the United States more than to individual States; nor within either, for those extreme cases of passive obedience and non-resistence which justify and require a resort to the original rights of the parties to the compact. But that in all cases, not of that extreme character, there is an arbiter or umpire as within the Governments of the States, so within that of the U. States in the authority constitutionally provided for deciding controversies concerning boundaries of right and power. The provision in the U. States is particularly stated in the Federalist, N° 39, p. 241, Gideon's edition.

Writings of Madison, Volume 4: 1829-1836, p.43

The tonnage and other duties for encouraging navigation are, in their immediate operation, as locally partial to Northern ship-owners, as a tariff on particular imports is partial to Northern manufacturers. Yet, South Carolina has uniformly favored the former as ultimately making us independent of foreign navigation, and, therefore, in reality of a national character. Ought she not, in like manner, to concur in encouraging manufactures, though immediately partial to some local intereats, in consideration of their ultimate effect in making the nation independent of foreign supplies; provided the encouragement be not unnecessarily unequal in the immediate operation, nor extended to articles not within the reason of the policy?

Writings of Madison, Volume 4: 1829-1836, p.44

On comparing the doctrine of Virginia in '98-'99 with that of the present day in S. Carolina, will it not be found that Virginia asserted that the States, as parties to the constitutional compact, had a right and were bound, in extreme cases only, and after a failure of all efforts for redress under the forms of the Constitution, to interpose in their sovereign capacity for the purpose of arresting the evil of usurpation and preserving the Constitution and Union? whereas the doctrine of the present day in S. Carolina asserts, that in a case of not greater magnitude than the degree of inequality in the operation of a tariff in favor of manufactures, she may of herself finally decide, by virtue of her sovereignty, that the Constitution has been violated; and that if not yielded to by the Federal Government, though supported by all the other States, she may rightfully resist it and withdraw herself from the Union.

Writings of Madison, Volume 4: 1829-1836, p.44

Is not the resolution of the Assembly at their last session against the tariff a departure from the ground taken at the preceding session? If my recollection does not err, the power of Congress to lay imposts was restricted at this session to the sole case of revenue. Their late resolution denies it only in the case of manufactures, tacitly admitting, according to the modifications of South Carolina, tonnage duties and duties counteracting foreign regulations. If the inconsistency be as I suppose, be so good as to favor me with a transcript of the resolutions of the penult session. Your letter returning those borrowed was duly received some time ago.

To Thomas S. Hinde.

MONTPELLIER, Aug. 17, 1829.

Writings of Madison, Volume 4: 1829-1836, p.44

DEAR SIR,—Your letter of July 23 was duly received, but at a time when I was under an indisposition, remains of which are still upon me. I know not whence the error originated that I was engaged in writing the history of our Country. It is true that some of my correspondences during a prolonged public life, with other manuscripts connected with important public transactions, are on my files, and may contribute materials for a historical pen. But a regular history of our Country, even during its Revolutionary and Independent character, would be a task forbidden by the age alone at which I returned to private life, and requiring lights on various subjects, which are gradually to be drawn from sources not yet opened for public use. The friendly tone of your letter has induced me to make these explanatory remarks, which, being meant for yourself only, I must request may be so considered.

Writings of Madison, Volume 4: 1829-1836, p.45

The authentic facts which it appears you happen to possess relating to the criminal enterprise in the West during the administration of Mr. Jefferson, must merit preservation as belonging to a history of that period; and if no repository more eligible occurs to you, a statement of them may find a place among my political papers. The result of that enterprise is among the auspicious pledges given by the genius of Republican institutions and the spirit of a free people, for future triumphs over dangers of every sort that may be encountered in our national career.

Writings of Madison, Volume 4: 1829-1836, p.45

I cannot be insensible to the motives which prompted the too partial views you have taken of my public services, and which claim from me the good wishes which I tender you.

To Joseph C. Cabell.

MONTPELLIER, Septr 7, 1829.

Writings of Madison, Volume 4: 1829-1836, p.45

DEAR SIR,—I received on the evening of Friday your two letters of Augt 30 and Sepr 1, with the copy of the Virginia proceedings in '98-'99, and the letters of "Hampden."

Writings of Madison, Volume 4: 1829-1836, p.45-p.46

When I looked over your manuscript pamphlet lately returned to you, my mind did not advert to a discrepancy in your recorded opinions, nor to the popularity of the rival jurisdiction claimed by the Court of Appeals. Your exchange of a hasty opinion for one resulting from fuller information and matured reflection might safely defy animadversion. But it is a more serious question, how far the advice of the two friends you have consulted, founded on the unanimous claim of the Court having Judge Roane at its head, ought to be disregarded; or how far it might be expedient, in the present temper of the country, to mingle that popular claim with the Tariff heresy, which is understood to be tottering in the public opinion, and to which your observations and references are calculated to give a very heavy blow. It were to be wished that the two Judges [Cabell and Coalter] could read your manuscript, and then decide on its aptitude for public use. Would it be impossible so to remould the Essay as to drop what might be offensive to the opponents of the necessary power of the Supreme Court of the U. States, but who are sound as to the Tariff power, retaining only what relates to the Tariff, or, at most, to the disorganizing doctrine which asserts a right in every State to withdraw itself from the Union? Were this a mere league, each of the parties would have an equal right to expound it; and, of course, there would be as much right in one to insist on the bargain, as in another to renounce it. But the Union of the States is, according to the Virginia doctrine in '98-'99, a Constitutional Union; and the right to judge in the last resort, concerning usurpations of power, affecting the validity of the Union, referred by that doctrine to the parties to the compact. On recurring to original principles, and to extreme cases, a single State might indeed be so oppressed as to be justified in shaking off the yoke; so might a single county of a State be, under an extremity of oppression. But until such justifications can be pleaded, the compact is obligatory in both cases. It may be difficult to do full justice to this branch of the subject, without involving the question between the State and Federal Judiciaries. But I am not sure that the plan of your pamphlet will not admit a separation. On this supposition, it might be well, as soon as the Tariff fever shall have spent itself, to take up both the Judicial and the anti-union heresies; on each of which you will have a field for instructive investigation, with the advantage of properly connecting them in their bearings.

Writings of Madison, Volume 4: 1829-1836, p.47

A political system that does not provide for a peaceable and effectual decision of all controversies arising among the parties is not a Government, but a mere treaty between independent nations, without any resort for terminating disputes but negotiation, and that failing, the sword. That the system of the U. States is, what it professes to be, a real Government, and not a nominal one only, is proved by the fact that it has all the practical attributes and organs of a real, though limited Government; a Legislative, Executive, and Judicial Department, with the physical means of executing the particular authorities assigned to it, on the individual citizens, in like manner as is done by other Governments. Those who would substitute negotiation for governmental authority, and rely on the former as an adequate resource, forget the essential difference between disputes to be settled by two branches of the same Government, as between the House of Lords and Commons in England, or the Senate and House of Representatives here, and disputes between different Governments. In the former case, as neither party can act without the other, necessity produces an adjustment. In the other case, each party having, in a Legislative, Executive, and Judicial Department of its own, the complete means of giving an independent effect to its will, no such necessity exists; and physical collisions are the natural result of conflicting pretensions.

Writings of Madison, Volume 4: 1829-1836, p.47

In the years 1819 and 1821, I had a very cordial correspondence with the author of "Hampden" and "Algernon Sydney," [Judge Roane.] Although we agreed generally in our views of certain doctrines of the Supreme Court of the United States, I was induced in my last letter to touch on the necessity of a definitive power, on questions between the U. States and the individual States, and the necessity of its being lodged in the former, where alone it could preserve the essential uniformity. I received no answer, which, indeed, was not required, my letter being an answer.

Writings of Madison, Volume 4: 1829-1836, p.48

I shall return the printed pamphlet as soon as I have read the letters of "Hampden" making a part of it.

Writings of Madison, Volume 4: 1829-1836, p.48

I have not the acts of the session in question; and will thank you, when you have the opportunity, to examine the preambles to the polemic resolutions of the Assembly, and let me know whether or not they present an inconsistency. If I mistake not, Governor Tyler's Message emphatically denounced all imposts on commerce not exclusively levied for the purposes of revenue.

Writings of Madison, Volume 4: 1829-1836, p.48

I return the letter of Mr. Morris, inclosed in yours received some time ago. Mr. Pollard ought to have been at no loss for my wish to ascertain the authorship of "The danger not over;" the tendency, if not the object, of the republication, with the suggestion that I had a hand in the paper, being to show an inconsistency between my opinion then and now on the subject of the Tariff power. It may not be amiss to receive the further explanations of Mr. Pollard. But I learn from Mr. Robert Taylor, who was a student of law at the time with Mr. Pendleton, that he saw a letter to him from Mr. Jefferson expressing a desire that he would take up his pen at the crisis; but without, as Mr. Taylor recollects, furnishing any particular ideas for it, or naming me on the occasion. I believe a copy of the letter is among Mr. Jefferson's papers, and that it corresponds with Mr. Taylor's account of it.

Writings of Madison, Volume 4: 1829-1836, p.48

I comply with your request to destroy your two letters; and, as this has been written in haste and with interruption of company, it will be best disposed of in the same way. Some of the passages in it called for more consideration and precision than I could bestow on them.

Writings of Madison, Volume 4: 1829-1836, p.48

P.S. Since the above was written, I have received yours of the 3d instant. There could not be a stronger proof of the obscurity of the passage it refers to than its not being intelligible to you. Its meaning is expressed in the slip of paper inclosed. The passage may be well enough dispensed with, as being developed in that marked above by.

Writings of Madison, Volume 4: 1829-1836, p.48-p.49

Copy of the slip: "Note that there can, of course, be no regular Arbiter or Umpire, under any governmental system, applicable to those extreme cases, or questions of passive obedience and non-resistence, which justify and require a resort to the original rights of the parties to the system or compact; but that in all cases not of that extreme character, there is and must be an Arbiter or Umpire in the constitutional authority provided for deciding questions concerning the boundaries of right and power. The particular provision in the Constitution of the United States is in the authority of the Supreme Court, as stated in the 'Federalist,' No. 39."

Speech in the Virginia State Convention of 1829-'30,

on the Question of the Ratio of Representation

in the Two Branches of the Legislature.

DECEMBER 2, 1829.

Writings of Madison, Volume 4: 1829-1836, p.51

Mr. MADISON rose and addressed the Chair; the members rushed from their scats and crowded around him:

Writings of Madison, Volume 4: 1829-1836, p.51

Although the actual posture of the subject before the Committee might admit a full survey of it, it is not my purpose, in rising, to enter into the wide field of discussion, which has called forth a display of intellectual resources and varied powers of eloquence that any country might be proud of, and which I have witnessed with the highest gratification. Having been, for a very long period, withdrawn from any participation in proceedings of deliberative bodies, and under other disqualifications now, of which I am deeply sensible, though, perhaps, less sensible than others may perceive that I ought to be, I shall not attempt more than a few observations, which may suggest the views I have taken of the subject, and which will consume but little of the time of the Committee, now become precious. It is sufficiently obvious, that persons and property are the two great subjects on which Governments are to act; and that the rights of persons, and the rights of property, are the objects, for the protection of which Government was instituted. These rights cannot well be separated. The personal right to acquire property, which is a natural right, gives to property, when acquired, a right to protection, as a social right. The essence of Government is power; and power, lodged as it must be in human hands, will ever be liable to abuse. In Monarchies, the interests and happiness of all may be sacrificed to the caprice and passion of a despot. In Aristocracies, the rights and welfare of the many may be sacrificed to the pride and cupidity of the few. In Republics, the great danger is, that the majority may not sufficiently respect the rights of the minority. Some gentlemen, consulting the purity and generosity of their own minds, without adverting to the lessons of experience, would find a security against that danger in our social feelings; in a respect for character; in the dictates of the monitor within; in the interests of individuals; in the aggregate interests of the community. But man is known to be a selfish as well as a social being. Respect for character, though often a salutary restraint, is but too often overruled by other motives. When numbers of men act in a body, respect for character is often lost, just in proportion as it is necessary to control what is not right. We all know that conscience is not a sufficient safeguard; and besides, that conscience itself may be deluded; may be misled, by an unconscious bias, into acts which an enlightened conscience would forbid. As to the permanent interest of individuals in the aggregate interests of the community, and in the proverbial maxim, that honesty is the best policy, present temptation is too often found to be an over-match for those considerations. These favourable attributes of the human character are all valuable, as auxiliaries; but they will not serve as a substitute for the coercive provisions belonging to Government and Law. They will always, in proportion as they prevail, be favourable to a mild administration of both; but they can never be relied on as a guaranty of the rights of the minority against a majority disposed to take unjust advantage of its power. The only effectual safeguard to the rights of the minority must be laid in such a basis and structure of the Government itself as may afford, in a certain degree, directly or indirectly, a defensive authority in behalf of a minority having right on its side.

Writings of Madison, Volume 4: 1829-1836, p.52

To come more nearly to the subject before the Committee, viz: that peculiar feature in our community which calls for a peculiar division in the basis of our Government, I mean the coloured part of our population. It is apprehended, if the power of the Commonwealth shall be in the hands of a majority, who have no interest in this species of property, that, from the facility with which it may be oppressed by excessive taxation, injustice may be done to its owners. It would seem, therefore, if we can incorporate that interest into the basis of our system, it will be the most apposite and effectual security that can be devised. Such an arrangement is recommended to me by many very important considerations. It is due to justice; due to humanity; due to truth; to the sympathies of our nature; in fine, to our character as a people, both abroad and at home, that they should be considered, as much as possible, in the light of human beings, and not as mere property. As such, they are acted upon by our laws, and have an interest in our laws. They may be considered as making a part, though a degraded part, of the families to which they belong.

Writings of Madison, Volume 4: 1829-1836, p.53

If they had the complexion of the Serfs in the north of Europe, or of the Villeins, formerly in England; in other terms, if they were of our own complexion, much of the difficulty would be removed. But the mere circumstance of complexion cannot deprive them of the character of men. The Federal number, as it is called, is particularly recommended to attention in forming a basis of representation, by its simplicity, its certainty, its stability, and its permanency. Other expedients for securing justice in the case of taxation, while they amount in pecuniary effect to the same thing, have been found liable to great objections; and I do not believe that a majority of this Convention is disposed to adopt them, if they can find a substitute they can approve. Nor is it a small recommendation of the Federal number, in my view, that it is in conformity to the ratio recognised in the Federal Constitution. The cases, it is true, are not precisely the same, but there is more of analogy than might at first be supposed. If the coloured population were equally diffused through the State, the analogy would fail; but existing as it does, in large masses, in particular parts of it, the distinction between the different parts of the State resembles that between the slaveholding and non-slaveholding States; and, if we reject a doctrine in our own State, whilst we claim the benefit of it in our relations to other States, other disagreeable consequences may be added to the charge of inconsistency which will be brought against us. If the example of our sister States is to have weight, we find that in Georgia the Federal number is made the basis of representation in both branches of their Legislature; and I do not learn that any dissatisfaction or inconvenience has flowed from its adoption. I wish we could know more of the manner in which particular organizations of Government operate in other parts of the United States. There would be less danger of being misled into error, and we should have the advantage of their experience as well as our own. In the case I mention, there can, I believe, be no error.

Writings of Madison, Volume 4: 1829-1836, p.54

Whether, therefore, we be fixing a basis of representation for the one branch or the other of our Legislature, or for both, in a combination with other principles, the Federal ratio is a favourite resource with me. It entered into my earliest views of the subject before this Convention was assembled; and though I have kept my mind open, have listened to every proposition which has been advanced, and given to them all a candid consideration, I must say, that, in my judgment, we shall act wisely in preferring it to others which have been brought before us. Should the Federal number be made to enter into the basis in one branch of the Legislature and not into the other, such an arrangement might prove favourable to the slaves themselves. It may be, and I think it has been suggested, that those who have themselves no interest in this species of property, are apt to sympathize with the slaves more than may be the case with their masters; and would, therefore, be disposed, when they had the ascendency, to protect them from laws of an oppressive character; whilst the masters, who have a common interest with the slaves, against undue taxation, which must be paid out of their labour, will be their protectors when they have the ascendency.

Writings of Madison, Volume 4: 1829-1836, p.54-p.55

The Convention is now arrived at a point where we must agree on some common ground, all sides relaxing in their opinions, not changing, but mutually surrendering a part of them. In framing a Constitution, great difficulties are necessarily to be overcome; and nothing can ever overcome them but a spirit of compromise. Other nations are surprised at nothing so much as our having been able to form Constitutions in the manner which has been exemplified in this country. Even the Union of so many States is, in the eyes of the world, a wonder; the harmonious establishment of a common Government over them all, a miracle. I cannot but flatter myself, that, without a miracle, we shall be able to arrange all difficulties. I never have despaired, notwithstanding all the threatening appearances we have passed through. I have now more than a hope—a consoling confidence that we shall at last find that our labours have not been in vain.

1830

LETTERS.

To C. J. Ingersoll.

RICHMOND, Jany 8, 1830.

Writings of Madison, Volume 4: 1829-1836, p.57

DEAR SIR,—Yours of December 26 was duly received, and I should have yielded less to the causes of delay in acknowledging it, had my recollections furnished any particular information on the subject of it; and my present situation does not permit the searches which might aid them.

Writings of Madison, Volume 4: 1829-1836, p.57

It would seem that the exercise of Executive power in the cases referred to, without the intervention of the Judiciary, was regarded as warranted by the law of nations as part of the social law; and that the State Executives became the Federal instruments, by virtue of their authority over the militia. If the term "instructed a was used in the call on them, it is one that would not be relished now by some of them at least.

Writings of Madison, Volume 4: 1829-1836, p.57

Will not the debate on the case of Robbins, particularly the speech of the [present?] C. Justice, disclosed the probable grounds on which the Federal Executive proceeded? I have not the means of consulting that source of information, but am under the impression that the cases hinged on analogous principles.

Writings of Madison, Volume 4: 1829-1836, p.57

Our Convention is now in the pangs of parturition. Whether the result is to be an abortion, or an offspring worthy of life, will shortly be determined. The radical cause of our difficulties has been the coloured population, which happens to lie in one geographical half of the State, and to have been the great object of taxation. Compromising efforts required by this peculiarity have checked the projects and votes in a very curious and, to strangers, unintelligible manner. The main object with many has been to produce modifications that would be likely to get through the Convention, and not be rejected by the people; and, at the same time, be better than the existing Constitution, which has real as well as unpopular deformities that would not long be borne without very exciting attempts for a plenipotentiary revision of them.

To N. P. Trist.

FEBRUARY —, 1830.

Writings of Madison, Volume 4: 1829-1836, p.58

DR SIR,—I return the paper enclosed in yours of the 6th. I have found in it the proofs of ability for such discussions which I should have anticipated. As I understand your discriminating view (and it seems to be clearly expressed) of the Virginia documents in '98-'99, it rescues them from the hands which have misconstrued and misapplied them. The meaning collected from the general scope, and from a collation of the several parts, ought not to be affected by a particular word or phrase not irreconcilable with all the rest, and not made more precise, because no danger of their being misunderstood was thought of.

Writings of Madison, Volume 4: 1829-1836, p.58

You will pardon me for observing that you seem to have supposed a greater ignorance, at the commencement of the contest with G. Britain, of the doctrines of self-government, than was the fact. The controversial papers of the epoch show it. The date of the Virginia Declaration of Rights would itself be a witness. The merit of the founders of our Republics lies in the more accurate views and the practical application of the doctrines. The rights of man as the foundation of just Government had been long understood; but the superstructures projected had been sadly defective. Hume himself was among these bungling lawgivers.

To General Lafayette.

FEBY 1, 1830.

Writings of Madison, Volume 4: 1829-1836, p.58

MY DEAR FRIEND,—This late acknowledgment of your letter of Sepr 28 is the effect of its reaching me at Richmond, where every moment of my time was, in some way or other, exacted by my public situation, and of the accumulated arrears of a private nature requiring my attention.

Writings of Madison, Volume 4: 1829-1836, p.59

The Convention, which called forth your interesting remarks and generous solicitudes, was pregnant with difficulties of various sorts, and, at times, of ominous aspects. Besides the ordinary conflicts of opinions concerning the structure of Government, the peculiarity of local interests, real or supposed, and, above all, the case of our coloured population, which happens to be confined to a geographical half of the State, and to have been a disproportionate object of taxation, were sources of jealousy and collisions which infected the proceedings throughout, and were finally overcome by a small majority only. Every concession of private opinion, not morally inadmissible, became necessary, in order to prevent an abortion discreditable to the body and to the State, and inflicting a stain on the great cause of self-government. With all the compromising expedients employed, and which finally obtained a successful vote within the Convention, it remains to be seen what will be the fate which awaits the recommended plan on its submission to the people. It makes the appeal to them under the disadvantage of being stamped with the dissent of the members of the Convention representing the ultramontane part of the State, the part which had called loudest for, and contributed most to, the experiment for amending the Constitution. But, on the other hand, it alleviates greatly where it does not remove the objections which had been urged, and justly urged, by that part; whilst the other part of the State, which was opposed to any change, will regard the result as an obstacle to another Convention which might bring about greater and more obnoxious innovations. On the whole, the probability is, that the Constitution as amended will be sanctioned by the popular votes, and that by a considerable majority. Should this prove to be the case, the peculiar difficulties which will have been overcome ought to render the experiment a new evidence of the capacity of men for self-government, instead of an argument in the hands of those who deny and calumniate it. The Convention was composed of the elite of the community, and exhibited great talents in the discussions belonging to the subject. Mr. Monroe, and still more, myself, were too mindful of the years over our heads to take any active part in them. The same consideration was felt by Mr. Marshall. I may add, that each of us was somewhat lettered by the known, and in some important instances by the expressed, will of our immediate constituents.

Writings of Madison, Volume 4: 1829-1836, p.60

Your anticipations with regard to the slavery among us were the natural offspring of your just principles and laudable sympathies; but I am sorry to say that the occasion which led to them proved to be little fitted for the slightest interposition on that subject. A sensibility, morbid in the highest degree, was never more awakened among those who have the largest stake in that species of interest, and the most violent against any governmental movement in relation to it. The excitability at the moment, happened, also, to be not a little augmented by party questions between the South and the North, and the efforts used to make the circumstance common to the former a sympathetic bond of co-operation. I scarcely express myself too strongly in saying, that any allusion in the Convention to the subject you have so much at heart would have been a spark to a mass of gunpowder. It is certain, nevertheless, that time, the "great Innovator," is not idle in its salutary preparations. The Colonization Society are becoming more and more one of its agents. Outlets for the freed blacks are alone wanted for a rapid erasure of the blot from our Republican character.

Writings of Madison, Volume 4: 1829-1836, p.60

I observe in the foreign journals the continued struggle you glance at between the good and evil principles on your side of the Atlantic. The manifestations of the former, on your visit to the south of France, are very encouraging, notwithstanding the little successes of the latter at the Central Theatre. Your friends see, with the greatest pleasure, in such incidents the confidence and affection which bind your fellow-citizens to you, and the deep interest your country has in the continuance of your life and health.

Writings of Madison, Volume 4: 1829-1836, p.60

I had wished to say something on other topics; but having been so long without thanking you for your last kind letter, I will now hasten the assurances of my unalterable attachment and my ardent wishes for your happiness, in which Mrs. M. joins me, as she does in the offer of cordial salutations to your highly valued son and our common friend Col. Le Vasseur.

To. N. P. Trist.

MONTPELLIER, Feb. 15, 1830.

Writings of Madison, Volume 4: 1829-1836, p.61

DEAR SIR,—I have received your favours of —, and have looked over the remarks enclosed in them, meant as an introduction to an explanatory comment on the proceedings of Virginia in 1798-'99, occasioned by the alien and sedition laws.

Writings of Madison, Volume 4: 1829-1836, p.61

It was certainly not the object of the member who prepared the documents in question to assert, nor does the fair import of them, as he believes, assert a right in the parties to the Constitution of the United States individually to annul within themselves acts of the Federal Government, or to withdraw from the Union; nor was it within the scope of those documents to discuss the extreme cases in which such rights might result from a kind or degree of oppression extinguishing all constitutional compacts and obligations.

Writings of Madison, Volume 4: 1829-1836, p.61

It has been too much the case in expounding the Constitution of the United States, that its meaning has been sought, not in its peculiar and unprecedented modifications of power, but by viewing it, some through the medium of a simple Government, others through that of a mere league of Governments. It is neither the one nor the other, but essentially different from both. It must, consequently, be its own interpreter. No other Government can furnish a key to its true character. Other Governments present an individual and indivisible sovereignty. The Constitution of the United States divides the sovereignty; the portions surrendered by the States composing the Federal sovereignty over specified subjects; the portions retained forming the sovereignty of each over the residuary subjects within its sphere. If sovereignty cannot be thus divided, the political system of the United States is a chimera, mocking the vain pretensions of human wisdom. If it can be so divided, the system ought to have a fair opportunity of fulfilling the wishes and expectations which cling to the experiment.

Writings of Madison, Volume 4: 1829-1836, p.62

Nothing can be more clear than that the Constitution of the United States has created a Government, in as strict a sense of the term as the governments of the States created by their respective constitutions. The Federal Government has, like the State governments, its Legislative, its Executive, and its Judiciary departments. It has, like them, acknowledged cases in which the powers of these departments are to operate; and the operation is to be directly on persons and things in the one Government as in the others. If in some cases the jurisdiction is concurrent as it is in others exclusive, this is one of the features constituting the peculiarity of the system.

Writings of Madison, Volume 4: 1829-1836, p.62

In forming this compound scheme of Government, it was impossible to lose sight of the question, What was to be done in the event of controversies, which could not fail to occur, concerning the partition line between the powers belonging to the Federal and to the State governments? That some provision ought to be made, was as obvious and as essential as the task itself was difficult and delicate.

Writings of Madison, Volume 4: 1829-1836, p.62

That the final decision of such controversies, if left to each of the thirteen, now twenty-four, members of the Union, must produce a different Constitution and different laws in the States, was certain; and that such differences must be destructive of the common Government and of the Union itself, was equally certain. The decision of questions between the common agents of the whole and of the parts could only proceed from the whole—that is, from a collective, not a separate, authority of the parts.

Writings of Madison, Volume 4: 1829-1836, p.62

The question then presenting itself could only relate to the least objectionable mode of providing for such occurrences under the collective authority.

Writings of Madison, Volume 4: 1829-1836, p.62

The provision immediately and ordinarily relied on is manifestly the Supreme Court of the United States, clothed as it is with a jurisdiction "in controversies to which the United States shall be a party," the court itself being so constituted as to render it independent and impartial in its decisions [see Federalist, No. ix, p. 241;] while other and ulterior resorts would remain, in the elective process, in the hands of the people themselves, the joint constituents of the parties, and in the provision made by the Constitution for amending itself. All other resorts are extra and ultra constitutional, corresponding to the ultima ratio of nations renouncing the ordinary relations of peace.

Writings of Madison, Volume 4: 1829-1836, p.63

If the Supreme Court of the United States be found or deemed not sufficiently independent and impartial for the trust committed to it, a better tribunal is a desideratum. But, whatever this may be, it must necessarily derive its authority from the whole, not from the parts; from the States in some collective, not individual capacity. And as some such tribunal is a vital element, it sine qua non, in an efficient and permanent Government, the tribunal existing must be acquiesced in until it better or more satisfactory one can be substituted.

Writings of Madison, Volume 4: 1829-1836, p.63

Although the old idea of a compact between the Government and the people be justly exploded, the idea of a compact among those who are parties to a Government is a fundamental principle of free Government.

Writings of Madison, Volume 4: 1829-1836, p.63

The original compact is the one implied or presumed, but nowhere reduced to writing, by which a people agree to form one society. The next is a compact, here for the first time reduced to writing, by which the people in their social state agree to it Government over them. These two compacts may be considered as blended in the Constitution of the United States, which recognises a union or society of States, and makes it the basis of the Government formed by the parties to it.

Writings of Madison, Volume 4: 1829-1836, p.63

It is the nature and essence of a compact, that it is equally obligatory on the parties to it, and, of course, that no one of them can be liberated therefrom without the consent of the others, or such a violation or abuse of it by the others as will amount to a dissolution of the compact.

Writings of Madison, Volume 4: 1829-1836, p.63

Applying this view of the subject to a single community, it results, that the compact being between the individuals composing it, no individual or set of individuals can at pleasure break off and set up for themselves, without such a violation of the compact as absolves them from its obligations. It follows, at the same time, that, in the event of such a violation, the suffering party, rather than longer yield a passive obedience, may justly shake off the yoke, and can only be restrained from the attempt by a want of physical strength for the purpose. The case of individuals expatriating themselves, that is, leaving their country in its territorial as well as its social and political sense, may well be deemed a reasonable privilege, or, rather, as a right impliedly reserved. And even in this case, equitable conditions have been annexed to the right, which qualify the exercise of it.\*

Writings of Madison, Volume 4: 1829-1836, p.64

Applying a like view of the subject to the case of the United States, it results, that the compact being among individuals as imbodied into States, no State can at pleasure release itself therefrom and set up for itself. The compact can only be dissolved by the consent of the other parties, or by usurpations or abuses of power justly having that effect. It will hardly be contended that there is anything in the terms or nature of the compact authorizing a party to dissolve it at pleasure.

Writings of Madison, Volume 4: 1829-1836, p.64

It is, indeed, inseparable from the nature of a compact, that there is as much right on one side to expound it, and to insist on its fulfilment according to that exposition, as there is on the other so to expound it as to furnish a release from it; and that an attempt to annul it by one of the parties may present to the other an option of acquiescing in the annulment, or of preventing it, as the one or the other course may be deemed the lesser evil. This is a consideration which ought deeply to impress itself on every patriotic mind, as the strongest dissuasion from unnecessary approaches to such a crisis. What would be the Condition of the States attached to the Union and its Government, and regarding both as essential to their well-being, if a State placed in the midst of them were to renounce its federal obligations, and erect itself into an independent and alien nation? Could the States north and south of Virginia, Pennsylvania, or New York, or of some other States, however small, remain associated and enjoy their present happiness, if geographically, politically, and practically thrown apart by such a breach in the chain which unites their interests and binds them together as neighbours and fellow-citizens? It could not be. The innovation would be fatal to the Federal Government, fatal to the Union, and fatal to the hopes of liberty and humanity, and presents a catastrophe at which all ought to shudder.

Writings of Madison, Volume 4: 1829-1836, p.65

Without identifying the case of the United States with that of individual Statics, there is at least an instructive analogy between them. What would be the condition of the State of New York, of Massachusetts, or of Pennsylvania, for example, if portions containing their great commercial cities, invoking original rights as paramount to social and constitutional compacts, should erect themselves into distinct and absolute sovereignties? In so doing they would do no more, unless justified by an intolerable oppression, than would be done by an individual State, as a portion of the Union, in separating itself, without a like cause, from the other portions. Nor would greater evils be inflicted by such a mutilation of a State on some of its parts, than might be felt by some of the States from a Separation of its neighbours into absolute and alien sovereignties.

Writings of Madison, Volume 4: 1829-1836, p.65

Even in the case of a mere league between nations absolutely independent of each other, neither party has a right to dissolve it at pleasure, each having an equal right to expound its obligations, and neither, consequently, a greater right to pronounce the compact void than the other has to insist on the mutual execution of it. [See, in Mr. Jefferson's volumes, his letters to J. M., Mr. Monroe, and Col. Carrington.]

Writings of Madison, Volume 4: 1829-1836, p.65

Having suffered my pen to take this ramble over a subject engaging so much of your attention, I will not withhold the notes made by it from your perusal. But being aware that, without more development and precision, they may in some instances be liable to misapprehension or misconstruction, I will ask the favour of you to return the letter after it has passed under your partial and confidential eye.

Writings of Madison, Volume 4: 1829-1836, p.65

I have made no secret of my surprise and sorrow at the proceedings in South Carolina, which are understood to assert a right to annul the acts of Congress within the State, and even to secede from the Union itself. But I am unwilling to enter the political field with the "telum imbelle" which alone I could wield. The task of combating such unhappy aberrations belongs to other hands. A man whose years have but reached the canonical three-score-and-ten (and mine are much beyond the number) should distrust himself, whether distrusted by his friends or not, and should never forget that his arguments, whatever they may be, will be answered by allusions to the date of his birth.

Writings of Madison, Volume 4: 1829-1836, p.65

With affectionate respects,

To Robert Lee.

MONTPELLIER, February 22, 1830.

Writings of Madison, Volume 4: 1829-1836, p.66

DEAR SIR,—I have duly received your letter of the 12th. The motive and the matter of it might claim for the request it makes a degree of attention from which my age, now approaching the eightieth year, may not only excuse but properly restrain me. Under any circumstances, I ought not to offer opinions on such subjects without the reasonings on which they rest, and this, under existing circumstances, is a task which I wish not to undertake.

Writings of Madison, Volume 4: 1829-1836, p.66

The question of re-eligibility in the case of a President of the United States admits of rival views, and is the more delicate because it cannot be decided with equal lights from actual experiment. In general, it may be observed, that the evils most complained of are less connected with that particular question than with the process of electing the Chief Magistrate, and the powers vested in him. Among these, the appointing power is the most operative in relation to the purity of Government and the tranquillity of republican Government, and it is not easy to find a depository for it more free from the dangers of abuse. The powers and patronage of a Chief Magistrate, whether elected for a shorter term and re-eligible for a second, or for a longer, without that capacity, might not, in their effect, be very materially different, though the difference might not be unimportant.

Writings of Madison, Volume 4: 1829-1836, p.67

It should not be forgotten that many inconveniences are inseparable from the peculiarity of a federal system of Government, while such a Government is essential to the complete success of republicanism in any form.

Writings of Madison, Volume 4: 1829-1836, p.67

Were I not aware that there is nothing in these brief and broken ideas that could suggest a public use of them, I should not fail to combine an intimation against it, with the return of my good wishes and friendly salutations, which I pray you to accept.

To Mr. McDuffie.

Writings of Madison, Volume 4: 1829-1836, p.67

J. Madison presents his best respects to Mr. McDuffie and returns his thanks for the copy of the "Report on the state of the Public Finances," politely sent him.

Writings of Madison, Volume 4: 1829-1836, p.67

A perusal of the Report has left him under a just impression of the marked ability with which it is drawn up. He must be permitted, at the same time, to say, that the theoretic views taken of some branches of the subject discussed, particularly that of a Tariff for the encouragement of domestic manufactures, appear to be too exclusive of the restrictions and exceptions required by more practical views of it. The unqualified theory of "Let us alone," presupposes a perpetual peace, and universal freedom of commerce among nations, making them, in certain economical respects, but one and the same nation. A nation that does not provide in some measure against the effect of wars, and the policy of other nations, on its commerce and manufactures, necessarily exposes these interests to the caprice and casualty of events. The extent and the mode of provision proper to be made are fair questions for examination, and unavoidable sources of conflicting opinions, not to say possible sources of oppressive decisions.

MONTPELLIER, Mar. 30, 1830.

To Jared Sparks.

MONTPELLIER, April 8th, 1830.

Writings of Madison, Volume 4: 1829-1836, p.68

DR SIR,—Your favor of March 8 came duly to hand, and I congratulate you on your success at London and Paris in obtaining materials nowhere else to be found, and so essential to the history of our Revolution.

Writings of Madison, Volume 4: 1829-1836, p.68

I have been looking over such of the letters of General Washington to me, as do not appear on his files. They amount to 28, besides some small confidential notes. Most of the letters are of some importance; some of them are peculiarly delicate, and some equally important and delicate. To make extracts from them is a task I should not wish to undertake. To forward to you the whole for that purpose through the hazards of the mail is liable to the objection, that, as no copies exist, a loss of the originals would be fatal. Under these circumstances it occurs that you may be able to spare a few days for a trip from Washington to Montpelier, where you can review the whole, in affording an opportunity for which I shall think myself justified by the confidence reposed in you by those to whom the memory of Washington was most dear, and by the entire confidence felt by myself. If, on examining the papers, you should find more than you can conveniently extract, I will have the copies made of what you may mark for the purpose, and endeavor to procure for them some unexceptionable conveyance.

Writings of Madison, Volume 4: 1829-1836, p.68

Until I learn whether I shall have the pleasure of seeing you, I retain the packet received through Col. Storrow; which is ready to be returned, either personally or through the channel you pointed out.

To Mrs. E. Coolidge.

MONTPELLIER, Apl 8th, 1830.

Writings of Madison, Volume 4: 1829-1836, p.68

MY DEAR MADAM,—Your acceptable favor of March 20th came duly to hand, and with it the anticipated review of the published correspondence of your grandfather. The author of the review has given evidence not only of a candid mind rescued from preconceived error, but of a critical judgment and an accomplished pen. The light which pierced the film over his eyes cannot fail to produce a like revolution in other minds equally capable of comprehending the various merits which give lustre to the volumes reviewed, and incapable of withholding the tribute due to them.

Writings of Madison, Volume 4: 1829-1836, p.69

The reviewer has, I observe, taken particular notice of a letter to me, which presents a view, at once original and profound, of the relations between one generation and another. It must be admitted, as he remarks, that there would be difficulties in reducing it fully to practice. But it affords a practical lesson well according with the policy of free nations. Having lately found, among other fugitive scraps, one in which the subject was contemplated, I venture to inclose a copy of it. It was printed many years ago, as its date shews; but I am not able to furnish any other than a manuscript copy.

Writings of Madison, Volume 4: 1829-1836, p.69

Mrs. Madison, whose affection for you cannot change, bids me say that she will only permit this small expression of it through me. For myself, my dear madam, I pray you to be assured that her feelings are equally mine, and that they will always be enlivened by your relation to a friend whose memory can never cease to be dear to me. We unite in offering our best respects to Mr. Coolidge, and in every wish for the happiness of you both.

To Edward Everett.

MONTPELLIER, Apl 8, 1830.

Writings of Madison, Volume 4: 1829-1836, p.69

DEAR SIR,—I Consult the wishes of Mr. Sparks in making you a channel of communication with him. Should he not have arrived at Washington, be so good as to retain the inclosed letter till you can deliver it in person, or till otherwise advised by him or by me.

Writings of Madison, Volume 4: 1829-1836, p.69

I take this occasion, sir, to thank you for the copies of Mr. Webster's and Mr. Sprague's late speeches. They do honor, both of them, to the national councils. Mr. Webster's is such as was to be expected. To Mr. Sprague's I cannot apply the same remark, not having had the same previous knowledge of his Parliamentary powers.

Writings of Madison, Volume 4: 1829-1836, p.70

If the able debates on Mr. Foot's resolution have thrown lights on some constitutional questions, they shew errors which have their sources in an oblivion of explanatory circumstances, and in the silent innovations of time on the meaning of words and phrases.

To Professor Tucker.

MONTPELLIER, Apl 30, 1830.

Writings of Madison, Volume 4: 1829-1836, p.70

DR SIR,—I have received yours of March 29, in which you intimate your purpose of undertaking a biography of Mr. Jefferson. It will be a good subject in good hands; and I wish you may succeed in procuring the means of doing full justice to both. I know not that I shall be able to make any important contributions. I was a stranger to Mr. Jefferson till he took his seat, in 1776, in the first Legislature under the Constitution of Virginia, formed in that year. The acquaintance with him then made was very slight. During a part of the time he was Governor I was a member of the Council. Our acquaintance then became intimate, and a friendship took place which was one for life.

Writings of Madison, Volume 4: 1829-1836, p.70

From this sketch you will perceive that I can know nothing of the first half of his career; and during the other half the materials for a biographer are to be found chiefly in the public archives, and among his voluminous manuscripts, partly in print, partly in the hands of his legatee. All these, with the connecting links and appropriate reflections, cannot fail to supply what will make a work highly interesting in itself, and be a rich offering to a future historian.

Writings of Madison, Volume 4: 1829-1836, p.70

I hope you will also find a due portion of the anecdotic spices and gems with which you will well know bow to sprinkle such a work. Should any occur to me or be recalled by particular enquiries, it will give me great pleasure to comply with your wishes. Mr. Jefferson's letters to me amount to hundreds; but they have not been looked into for a long time, with the exception of a few of latter dates. As he kept copies of all his letters throughout the period, the originals of those to me exist, of course, elsewhere.

Writings of Madison, Volume 4: 1829-1836, p.71

My eye fell lately on the enclosed paper. It is already in obscurity, and may soon be in oblivion. The Ceracchi named was an artist celebrated by his genius, and who was thought a rival, in embryo, to Canova, and doomed to the guillotine as the author or patron, guilty or suspected, of the infernal machine for destroying Bonaparte. I knew him well, having been a lodger in the same house with him, and much teased by his eager hopes, on which I constantly threw cold water, of obtaining the aid of Congress for his grand project. Having failed in this chance, he was advised by me and others to make the experiment of subscriptions, with the most auspicious names heading the list; and considering the general influence of Washington and the particular influence of Hamilton on the corps of speculators then suddenly enriched by the funding system, the prospect was encouraging; but just as the circular address was about to be despatched, it was put into his head that the scheme was merely to get rid of his importunities, and being of the genus irritabile, he suddenly went off in anger and disgust, leaving behind him heavy drafts on General Washington, Mr. Jefferson, &c., &c., for the busts, &c., he had presented to them. His drafts were not the effect of avarice, but of his wants, all his resources having been exhausted in the tedious pursuit of his object. He was an enthusiastic worshipper of Liberty and Fame; and his whole soul was bent on securing the latter by rearing a monument to the former, which he considered as personified in the American Republic. Attempts were made to engage him for a statue of General W., but he would not stoop to that.

To E. Everett.

MONTPELLIER, April , 1830.

Writings of Madison, Volume 4: 1829-1836, p.72

DEAR SIR,—Your favour of the 11th was duly received. I had noticed the stress laid in a late debate on the proceedings of the Virginia Legislature in '98-'99 as supporting the nullifying doctrine, so called, and of a frequent reference also to my participation in those proceedings. But although regretting the erroneous views taken of them, and not making a secret of my opinions, I was unwilling to obtrude any public explanations for reasons which may occur; for two, more particularly: 1. That other errors were occasionally observed in other cases in which I was referred to as a party or witness, and an interposition in one case might be thought to require it equally in others. 2. That I could not be unaware that my voluntary appearance before the public on such occasions would produce adversary comments, obliging me either to surrender a good cause or entangle myself in controversies against which my age was a warning. Before I received your letter I had been drawn, by a request from a distinguished advocate\* of the nullifying doctrine and some others associated with it, into a sketch of my views of them, and feeling a like obligation to respect your wish, I take the liberty of fulfilling it in the way most convenient to myself, by inclosing a copy, by a borrowed pen, of as much of that communication as will answer the purpose. I am sensible, at the same time, that there may be some awkwardness in this course, especially as I know not, as yet, the reception given to the communication, nor the degree in which the correspondence may be regarded as confidential. I will ask the favour of you, therefore, to let the present be so understood. I thank you, sir, for the copy of Mr. Clayton's speech. It certainly places ——————————— with others which have justly attracted the flattering notice of the public.

Writings of Madison, Volume 4: 1829-1836, p.72

No notice has been taken in the inclosed paper of the fact that the present charge of usurpations and abuses of power is, not that they are measures of the Government violating the will of the constituents, as was the case with the alien and seditions acts, but that they are measures of a majority of the constituents themselves, oppressing the minority through the forms of the Government. This distinction would lead to very different views of the topics under discussion. It is connected with the fundamental principles of Republican Government, and with the question of comparative danger of oppressive majorities from the sphere and structure of the General Government and from those of the particular Governments.

To M. L. Hurlbert.

MONTPELLIER, May, 1830.

Writings of Madison, Volume 4: 1829-1836, p.73

I received, sir, though not exactly in due time, your letter of April 25, with a copy of your pamphlet, on the subject of which you request my opinions.

Writings of Madison, Volume 4: 1829-1836, p.73

With a request opening so wide a field, I could not undertake a full compliance without forgetting the age at which it finds me, and that I have other engagements precluding such a task. I must hope, therefore, you will accept, in place of it, a few remarks, which, though not adapted to the use you had contemplated, may manifest my respect for your wishes and for the subject which prompted them.

Writings of Madison, Volume 4: 1829-1836, p.73

The pamphlet certainly evinces a very strong pen, and talents adequate to the discussion of constitutional topics of the most interesting class. But in doing it this justice, and adding with pleasure that it contains much matter with which my views of the Constitution of the United States accord, I must add, also, that it contains views of the Constitution from which mine widely differ.

Writings of Madison, Volume 4: 1829-1836, p.73

I refer particularly to the construction you seem to put on the introductory clause, "we the people," &c., and on the phrases "common defence and general welfare." Either of these, if taken as a measure of the powers of the General Government, would supersede the elaborate specifications which compose the body of the instrument, in contravention to the fairest rules of interpretation. And if I am to answer your appeal to me as a witness, I must say that the real measure of the powers meant to be granted to Congress by the Convention, as I understood and believe, is to be sought in the specifications, to be expounded, indeed, not with the strictness applied to an ordinary statute by a court of law, nor, on the other hand, with a latitude that, under the name of means for carrying into execution a limited Government, would transform it into a Government without limits.

Writings of Madison, Volume 4: 1829-1836, p.74

But whatever respect may be thought due to the intention of the Convention which prepared and proposed the Constitution, as presumptive evidence of the general understanding at the time of the language used, it must be kept in mind that the only authoritative intentions were those of the people of the States, as expressed through the Conventions which ratified the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.74

That in a Constitution so new and so complicated, there should be occasional difficulties and differences in the practical expositions of it, can surprise no one; and this must continue to be the case, as happens to new laws on complex subjects, until a course of practice of sufficient uniformity and duration to carry with it the public sanction shall settle doubtful or contested meanings.

Writings of Madison, Volume 4: 1829-1836, p.74

As there are legal rules for interpreting laws, there must be analogous rules for interpreting constitutions; and among the obvious and just guides applicable to the Constitution of the United States may be mentioned—

Writings of Madison, Volume 4: 1829-1836, p.74

1. The evils and defects for curing which the Constitution was called for and introduced.

Writings of Madison, Volume 4: 1829-1836, p.74

2. The comments prevailing at the time it was adopted.

Writings of Madison, Volume 4: 1829-1836, p.74

3. The early, deliberate, and continued practice under the Constitution, as preferable to constructions adapted on the spur of occasions, and subject to the vicissitudes of party or personal ascendencies.

Writings of Madison, Volume 4: 1829-1836, p.74

On recurring to the origin of the Constitution and examining the structure of the Government, we perceive that it is neither a Federal Government, created by the State governments, like the revolutionary Congress, nor a consolidated Government (as that term is now applied,) created by the people of the United States as one community, and, as such, acting by a numerical majority of the whole.

Writings of Madison, Volume 4: 1829-1836, p.75

The facts of the case which must decide its true character, a character without a prototype, are, that the Constitution was created by the people, but by the people as composing distinct States, and acting by a majority in each; that, being derived from the same source as the constitutions of the States, it has within each State the same authority as the constitution of the State, and is as much a constitution, in the strict sense of the term, as the constitution of the State; that, being a compact among the States in their highest sovereign capacity, and constituting the people thereof one people for certain purposes, it is not revocable or alterable at the will of the States individually, as the constitution of a State is revocable and alterable at its individual will:

Writings of Madison, Volume 4: 1829-1836, p.75

That the sovereign or supreme powers of government are divided into the separate depositories of the Government of the United States and the governments of the individual States:

Writings of Madison, Volume 4: 1829-1836, p.75

That the Government of the United States is a government, in as strict a sense of the term, as the governments of the States; being, like them, organized into a Legislative, Executive, and Judiciary department, operating, like them, directly on persons and things, and having, like them, the command of a physical force for executing the powers committed to it:

Writings of Madison, Volume 4: 1829-1836, p.75

That the supreme powers of government being divided between different governments, and controversies as to the landmarks of jurisdiction being unavoidable, provision for a peaceable and authoritative decision of them was obviously essential:

Writings of Madison, Volume 4: 1829-1836, p.75

That, to leave this decision to the States, numerous as they were, and with a prospective increase, would evidently result in conflicting decisions subversive of the common Government and of the Union itself:

Writings of Madison, Volume 4: 1829-1836, p.75

That, according to the actual provision against such calamities, the Constitution and laws of the United States are declared to be paramount to those of the individual States, and an appellate supremacy is vested in the judicial power of the United States:

Writings of Madison, Volume 4: 1829-1836, p.76

That, as safeguards against usurpations and abuses of power by the Government of the United States, the members of its Legislative and the head of its Executive department are eligible by, and responsible to, the people of the States or the Legislatures of the States; and as well the Judicial as the Executive functionaries, including the head, are impeachable by the Representatives of the people in one branch of the Legislature of the United States, and triable by the Representatives of the States in the other branch:

Writings of Madison, Volume 4: 1829-1836, p.76

States can, through forms of the constitutional elective provisions, control the General Government. This has no agency in electing State governments, and can only control them through the functionaries, particularly the Judiciary, of the General Government:

Writings of Madison, Volume 4: 1829-1836, p.76

That in case of an experienced inadequacy of these provisions, an ulterior resort is provided in amendments attainable by an intervention of the States, which may better adapt the Constitution for the purposes of its creation.

Writings of Madison, Volume 4: 1829-1836, p.76

Should all these provisions fail, and a degree of oppression ensue, rendering resistence and revolution a lesser evil than a longer passive obedience, there can remain but the ultima ratio, applicable to extreme cases, whether between nations or the component parts of them.

Writings of Madison, Volume 4: 1829-1836, p.76

Such, sir, I take to be an outline view, though an imperfect one, of the political system presented in the Constitution of the United States. Whether it be the best system that might have been devised, or what the improvements that might be made in it, are questions equally beyond the scope of your letter and that of the answer, with which I pray you to accept my respects and good wishes.

To James Hillhouse.

MONTPELLIER, May—, 1830.

Writings of Madison, Volume 4: 1829-1836, p.77

DEAR SIR,—I have received your letter of the 10th instant, with the pamphlet containing the proposed amendments of the Constitution of the United States, on which you request my opinion and remarks.

Writings of Madison, Volume 4: 1829-1836, p.77

Whatever pleasure might be felt in a fuller compliance with your request, I must avail myself of the pleas of the age I have reached, and of the control of other engagements, for not venturing on more than the few observations suggested by a perusal of what you have submitted to the public.

Writings of Madison, Volume 4: 1829-1836, p.77

I readily acknowledge the ingenuity which devised the plan you recommend, and the strength of reasoning with which you support it. I cannot, however, but regard it as liable to the following remarks:

Writings of Madison, Volume 4: 1829-1836, p.77

1. The first that occurs is, that the large States would not exchange the proportional agency they now have in the appointment of the Chief Magistrate, for a mode placing the largest and smallest States on a perfect equality in that cardinal transaction. New York has in it, even now, more than thirteen times the weight of several of the States, and other States according to their magnitudes would decide on the change with correspondent calculations and feelings.

Writings of Madison, Volume 4: 1829-1836, p.77

The difficulty of reconciling the larger States to the equality in the Senate, is known to have been the most threatening that was encountered in framing the Constitution. It is known, also, that the powers committed to that body, comprehending, as they do, Legislative, Executive, and Judicial functions, was among the most serious objections, with many, to the adoption of the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.77

2. As the President elect would generally be without any previous evidence of national confidence, and have been in responsible relations only to a particular State, there might be danger of State partialities, and a certainty of injurious suspicions of them.

Writings of Madison, Volume 4: 1829-1836, p.77

3. Considering the ordinary composition of the Senate, and the number (in a little time nearly fifty) out of which a single one was to be taken by pure chance, it must often happen that the winner of the prize would want some of the qualities necessary to command the respect of the nation, and possibly be marked with some of an opposite tendency. On a review of the composition of that body, through the successive periods of its existence (antecedent to the present, which may be an exception,) how often will names present themselves which would be seen with mortified feelings at the head of the nation! It might happen, it is true, that, in the choice of Senators, an eventual elevation to that important trust might produce more circumspection in the State Legislatures. But so remote a contingency could not be expected to have any great influence; besides that, there might be States not furnishing at the time characters which would satisfy the pride and inspire the confidence of the States and of the People.

Writings of Madison, Volume 4: 1829-1836, p.78

4. A President not appointed by the nation, and without the weight derived from its selection and confidence, could not afford the advantage expected from the qualified negative on the acts of the Legislative branch of the Government. He might either shrink from the delicacy of such an interposition, or it might be overruled with too little hesitation by the body checked in its career.

Writings of Madison, Volume 4: 1829-1836, p.78

5. In the vicissitudes of party, adverse views and feelings will exist between the Senate and President. Under the amendments proposed, a spirit of opposition in the former to the latter would probably be more frequent than heretofore. In such a state of things, how apt might the Senate be to embarrass the President, by refusing to concur in the removal of an obnoxious officer! how prone would be a refractory officer, having powerful friends in the Senate, to take shelter under that authority, and bid defiance to the President! and, with such discord and anarchy in the Executive department, how impaired would be the security for a due execution of the laws!

Writings of Madison, Volume 4: 1829-1836, p.78

6. On the supposition that the above objection would be overbalanced by the advantage of reducing the power and the patronage now attached to the Presidential office, it has generally been admitted, that the heads of departments at least, who are at once the associates and the organs of the Chief Magistrate, ought to be well disposed towards him, and not independent of him. What would be the situation of the President, and what might be the effect on the Executive business, if those immediately around him, and in daily consultation with him, could, however adverse to him in their feelings and their views, be fastened upon him by a Senate disposed to take side with them? The harmony so expedient between the President and heads of departments, and among the latter themselves, has been too liable to interruption under an organization apparently so well providing against it.

Writings of Madison, Volume 4: 1829-1836, p.79

I am aware that some of these objections might be mitigated, if not removed; but not, I suspect, in a degree to render the proposed modification of the Executive department an eligible substitute for the one existing: at the same time, I am duly sensible of the evils incident to the existing one, and that a solid improvement of it is a desideratum that ought to be welcomed by all enlightened patriots.

Writings of Madison, Volume 4: 1829-1836, p.79

In the mean time, I cannot feel all the alarm you express at the prospect for the future as reflected from the mirror of the past. It will be a rare case that the Presidential contest will not issue in a choice that will not discredit the station, and not be acquiesced in by the unsuccessful party, foreseeing, as it must do, the appeal to be again made at no very distant day to the will of the nation. As long as the country shall be exempt from a military force, powerful in itself and combined with a powerful faction, liberty and peace will find safeguards in the elective resource and the spirit of the people. The dangers which threaten our political system, least remote, are perhaps of other sorts and from other sources.

Writings of Madison, Volume 4: 1829-1836, p.79

I will only add to these remarks what is, indeed, sufficiently evident, that they are too hasty and too crude for any other than a private, and that an indulgent eye.

Writings of Madison, Volume 4: 1829-1836, p.79

Mrs. Madison is highly gratified by your kind expressions towards her, and begs you to be assured that she still feels for you that affectionate friendship with which you impressed her many years ago. Permit me to join her in best wishes for your health and every other happiness.

To Edward Livingston.

MAY 8, 1830.

Writings of Madison, Volume 4: 1829-1836, p.80

DEAR SIR,—Your letter of April 29, with a copy of your speech, was duly received.

Writings of Madison, Volume 4: 1829-1836, p.80

You have succeeded better in your interpretation of the proceedings of the Virginia Legislature in 1798 and 1799 than those who have seen in them a coincidence with the nullifying doctrine, so called. This doctrine, as new to me as it was to you, derives no support from the best contemporary elucidations of those proceedings, the debates on the resolutions, the address of the Legislature to its constituents, and the scope of the objections made by the Legislatures of the other States, whose concurrence in the resolutions was invited and refused.

Writings of Madison, Volume 4: 1829-1836, p.80

The error in the comments on the Virginia proceedings has arisen from a failure to distinguish between what is declaratory of opinion and what is ipso facto executory; between the right of the parties to the Constitution and of a single party; and between resorts within the purview of the Constitution and the ultima ratio which appeals from a Constitution, cancelled by its abuses, to original rights paramount to all constitutions.

Writings of Madison, Volume 4: 1829-1836, p.80

I thank you, sir, for a communication which I owe to your politeness and your friendly recollections. It presents very able views of several very interesting subjects, and merits the attention and perusal which, I doubt not, it will generally receive.

Writings of Madison, Volume 4: 1829-1836, p.80

Mrs. Madison, though a stranger, as I am, to Mrs. Livingston and your daughter, joins in the offer to them and yourself of the cordial respects and good wishes which we pray may be accepted.

To George M'Duffie.

MAY 8, 1830.

Writings of Madison, Volume 4: 1829-1836, p.81

DEAR SIR,—I have received a copy of the late report on the Bank of the United States, and finding, by the name on the envelope, that I am indebted for the communication to your politeness, I tender you my thanks for it. The document contains very interesting and instructive views of the subject, particularly of the objectionable features in the substitute proposed for the existing bank.

Writings of Madison, Volume 4: 1829-1836, p.81

I am glad to find that the report sanctions the sufficiency of the course and character of the precedents which I had regarded as overruling individual judgments in expounding the Constitution. You are not aware, perhaps, of a circumstance weighing against the plea, that the chain of precedents was broken by the negative on a bank bill, by the casting vote of the President of the Senate, given expressly on the ground that the bill was not authorized by the Constitution. The circumstance alluded to is, that the equality of votes, which threw the casting one on the Chair, was the result of a union of a number of members who objected to the expediency only of the bill, with those who opposed it on constitutional grounds. On a naked question of constitutionality, it is understood that there would have been a majority who made no objection on that score; [the journals of the Senate may yet test the fact.]

Writings of Madison, Volume 4: 1829-1836, p.81

Will you permit me, sir, to suggest for consideration, whether the report, [p. 9, 10,] in the position and reasoning applied to the effect of a change in the quantity, on the value of a currency, sufficiently distinguishes between a specie currency and a currency not convertible into specie? The latter being of local circulation only, must, unless the local use for it increase or diminish with the increase or decrease of its quantity, be changeable in its value as the quantity of the currency changes. The metals, on the other hand, having a universal currency, would not be equally affected by local changes in their circulating amount. A surplus, instead of producing a proportional depreciation at home, might bear the expense of transportation, and avail itself of its current value abroad.

Writings of Madison, Volume 4: 1829-1836, p.82

If I have misconstrued the meaning of the report, you will be good enough to pardon the error, and to accept, with a repetition of my thanks, assurances of my great and cordial respect.

To President Monroe.

MONTPELLIER, May 18, 1830.

Writings of Madison, Volume 4: 1829-1836, p.82

DEAR SIR,—I have just received yours of the 13th. We had been led to hope that your health was better re-established than you represent it. As it is progressive, and your constitution, though, like mine, the worse for wear, has remains of good stamina, I will not despair of the pleasure of seeing you in July, and of making our visit together to the University. Should prudence forbid such a journey, I think you ought not to resign the trust. It is probable there will be a quorum without you, and I would prefer the risk of a failure to a loss of your name and your future aid. I should myself resign, but for considerations belonging to you as well as myself. I do not think your weakness, unless positively disabling you for the journey, should deter you from it. The moderate exercise in a carriage and a change of air, with a cheerful meeting with your friends, may stimulate your convalescence. You have heretofore found the experiment beneficial.

Writings of Madison, Volume 4: 1829-1836, p.82

I feel the value of the interest you take in my health. It was in an improved state when I reached home, notwithstanding the fatiguing session of the Convention and the exposure on the route. But I found the neighborhood under a visitation of the influenza, and I had a relapse from which I suffered considerably. I have for some time, however, been regaining what I lost, and look forward to the discharge, in July, of my duty as a Visitor, and, let me repeat, not without the hope of your being able to do the same.

Writings of Madison, Volume 4: 1829-1836, p.82

You will recollect that the Law Chair is to be filled, and I am very sorry to say that no candidates have been yet brought into view. I have not received a line from any of our colleagues in Orange as to my circular on the subject.

Writings of Madison, Volume 4: 1829-1836, p.83

The Constitution seems sure of a very considerable majority, but has encountered a very angry and active opposition in the trans-Alleghany district. Unless the census should prove that the share of representation allotted to it is a fair one, there will be a strenuous effort for another Convention.

Writings of Madison, Volume 4: 1829-1836, p.83

Mr. Sparks, who is editing the Diplomatic Correspondence during the Confederation, and is charged with the Washington papers, was lately with me, and is, I find, possessed of a great and valuable mass of official information relating to the Cabinet policy of G. Britain and France during our Revolutionary period, having been allowed access to the secret archives of both, and even to take copies from them. He says he has ascertained from British as well as French evidence, that Mr. Jay was entirely misled in the views he had taken of the course pursued by the French Government in the negotiations for peace. On my alluding to the coincidence of Rayneval's statements to you, with the lights he had procured, he appeared particularly anxious to see the statement, and as I presumed it would be useful to truth and justice in a historical work he meditates, I ventured even to let him take a copy from mine, but with an understanding that he was to make no public use of it without your consent. If I have taken too great a liberty the copy will be returned. He says, that the more he traced the conduct of Franklin the more he found it worthy of his high character for wisdom and patriotism.

Writings of Madison, Volume 4: 1829-1836, p.83

We offer our joint regards to Mrs. M. and yourself, with our hopes that you will have received favorable accounts from all the absentees of the family.

To Thomas Ritchie.

Writings of Madison, Volume 4: 1829-1836, p.83

J. Madison, with his respects to Mr. Ritchie, remarks that a marginal note in the Enquirer of the 18th infers, from the pages of Helvidius, that J. Madison solemnly protested against the "Proclamation of Neutrality," as it has been called. The Protest was not against the Proclamation, but against the Executive Prerogative, attempted to be engrafted on it in the publication of Pacificus, to which that of Helvidius was an answer. The latter justified the proclamation in its true construction. There was nothing, therefore, in the Protest adverse to the act of General Washington or the participation of Mr. Jefferson in it. If Mr. Ritchie, on recurring to Helvidius, particularly the introductory and last letter, should be satisfied that an error has been committed, he will of course correct, it; which may be done without reference to the suggestion of J. Madison, who does not wish to obtrude, unnecessarily, public explanations, leaving room for erroneous inferences from silence in other cases.

MONTPELLIER, May 24, 1830.

To Daniel Webster.

MONTPELLIER, May 27, 1830.

Writings of Madison, Volume 4: 1829-1836, p.84

DEAR SIR,—I received by the mail of yesterday your favor of the 24th, accompanied by a copy of your late speech, for which I return my thanks. I had before received more than one copy from other sources, and had read the speech with a full sense of its powerful bearing on the subjects discussed, and particularly its overwhelming effect on the nullifying doctrine of South Carolina. Although I have not concealed my opinions of that doc- trine, and of the use made of the proceedings of Virginia,\* in 1798-99, I have been unwilling to make a public exhibition of them, as well from the consideration that it might appear obtrusive, as that it might enlist me as a newspaper polemic, and lay me under an obligation to correct errors in other cases in which I was concerned, or by my silence admit that they were not errors. I had, however, been led by a letter from a distinguished champion of the new doctrine, to explain my views of the subject somewhat at large, and in an answer afterwards to a letter from Mr. Everett, to enclose a copy of them. For a particular reason assigned to Mr. E., I asked the favor of him not to regard it as for public use. Taking for granted that you are in friendship with him, I beg leave to refer you to that communication, as an economy for my pen. The reference will remove the scruple he might otherwise feel in submitting it to your perusal.

Writings of Madison, Volume 4: 1829-1836, p.85

The actual system of Government for the United States is so unexampled in its origin, so complex in its structure, and so peculiar in some of its features, that in describing it the political vocabulary does not furnish terms sufficiently distinctive and appropriate, without a detailed resort to the facts of the case. With that aid I have endeavored to sketch the system which I understand to constitute the people of the several States one people for certain purposes, with a Government competent to the effectuation of them.

Writings of Madison, Volume 4: 1829-1836, p.85

Mrs. M. joins me in the acknowledgment and sincere return of your friendly recollections, with the addition of the respects and good wishes which we pray may be tendered to Mrs. Webster.

To Joseph C. Cabell.

MAY 31, 1830.

Writings of Madison, Volume 4: 1829-1836, p.85

DEAR SIR,—I received yesterday yours of the 26th. Having never concealed my opinion of the nullifying doctrine of South Carolina, I did not regard the allusion to it in the Whig, especially as the manner of the allusion showed that I did not obtrude it. I should have regretted a publication of my letters, because they did not combine with the opinion the views of the subject which support it. I have latterly been drawn into a correspondence with an advocate of the doctrine, which led me to a review of it in some extent, and particularly to a vindication of the proceedings of Virginia in 1798-99, against the misuse made of them. You will see in vol. iii, page 429, of Mr. Jefferson's Correspondence, a letter to W. C. Nicholas, proving that he had nothing to do with the Kentucky resolutions of 1799, in which the word "nullification" is found. The resolutions of that State in 1798, which were drawn by him, and have been republished with the proceedings of Virginia, do not contain that or any equivalent word.\*

Writings of Madison, Volume 4: 1829-1836, p.86

That you may see the views I have taken of the aberrations of South Carolina, I enclose an extract from the correspondence above referred to. Should you undertake an investigation of the subject, it may point your attention to particular sources of information that might escape you. But I must apprize you that an insuperable bar to any public use of the extract is opposed by the peculiar footing on which the correspondence in question rests.

Writings of Madison, Volume 4: 1829-1836, p.86

I observe that the President, in his late veto, has seen in mine of 1817, against internal improvements by Congress, a concurrence in the power to appropriate money for the purpose. Not finding the message which he cites, I can only say that my meaning must have been unfortunately expressed or is very strangely misinterpreted. The veto on my part certainly contemplated the appropriation of money as well as the operative and jurisdictional branches of the power. And, as far as I have references to the message, it has never been otherwise understood.

Writings of Madison, Volume 4: 1829-1836, p.86

Your letter contains the only name yet brought into view for the chair vacated by Mr. Lomax. All our colleagues have been silent on that point. I hope there will be a full meeting of the Board in July, though I fear Mr. Monroe's feeble health will detain him from it. Until I have the pleasure of seeing you accept my cordial salutations.

To N. P. Trist.

MONTPELLIER, June 3d, 1830.

Writings of Madison, Volume 4: 1829-1836, p.87

DEAR SIR,—Your favor of May 29 was duly received. The construction put, in the President's Message, on the veto in 1817 against the power of Congress as to internal improvements, could not fail to surprise me. To my consciousness that the veto was meant to deny as well the appropriating as the executing and jurisdictional branches of the power, was added the fact that, as far as has ever fallen under my notice, the references to the veto have, without a single previous exception, so understood it. It happens, odd as it may seem, that I cannot find among my papers, printed or manuscript, a copy of the Message. The edition of State Papers by Waite, which I have, is not brought down to that date. I cannot, therefore, ascertain from the entire text whether the fault in any degree lies there. I feel much confidence that the misconstruction is the effect of a too slight and hasty examination of the document. I am sorry on every account for the error, and am aware of what I owe to the kind sensibility which prompted your wish to correct it. As this will probably be done from some quarter or other through the gazettes, and justice, as far as I am concerned, will be involved in the correction, I hope you will consult in this, and in all cases, rather the delicacy of your position than the friendly impulses which ought to be under its control.

Writings of Madison, Volume 4: 1829-1836, p.87

Since my letter to you on the nullifying doctrine, I have been led into correspondences in which some additional views of the subject were introduced. The two facts I am induced to mention are: 1. That the printed address of the Virginia Assembly in '98 to the people, gives no countenance to the doctrine any more than the printed debates on the resolutions. 2. That the term "nullification" in the Kentucky resolutions belongs to those of '99, with which Mr. Jefferson had nothing to do, as is proved by his letter to Mr. W. C. Nicholas, in vol. 3, p. 429, of his Correspondence. The resolutions of '98 drawn by him contain neither that nor any equivalent term.\*

To M. Van Buren.

MONTPELLIER, June 3, 1830.

Writings of Madison, Volume 4: 1829-1836, p.88

J. Madison has duly received the copy of the President's Message forwarded by Mr. Van Buren. In returning his thanks for this polite attention, he regrets the necessity of observing that the Message has not rightly conceived the intention of J. M. in his veto in 1817, on the bill relating to internal improvements. It was an object of the veto to deny to Congress as well the appropriating power as the executing and jurisdictional branches of it. And it is believed that this was the general understanding at the time, and has continued to be so, according to the references occasionally made to the document. Whether the language employed duly conveyed the meaning of which J. M. retains the consciousness, is a question on which he does not presume to judge for others.

Writings of Madison, Volume 4: 1829-1836, p.88

Relying on the candour to which these remarks are addressed, he tenders to Mr. Van Buren renewed assurances of his high esteem and good wishes.

To General W. H. Harrison.

MONTPELLIER, June 5, 1830.

Writings of Madison, Volume 4: 1829-1836, p.88

DR SIR,—I received in due time the copy of your "Remarks on charges made against you during your diplomatic residence in Colombia," but have been prevented by ill health and other causes from an earlier acknowledgment of your politeness. I now tender you my thanks for the communication. The remarks are not only acceptable to your friends as they relate to yourself, but valuable as illustrating the state of things in a quarter where everything is made interesting by its relation to the cause of self-government. It is a happy reflection, that whilst the final success of the experiment there, will be among the strongest supports of the cause, a failure can be fairly explained by the unfortunate peculiarity of circumstances under which the experiment is made. Whatever may have been the different views taken of the letter to Bolivar, none can contest the intellectual and literary merit stamped upon it, or be insensible to the Republican feelings which prompted it.

Writings of Madison, Volume 4: 1829-1836, p.89

With a repetition of my thanks, I pray you to accept my high esteem and cordial respects.

To M. Van Buren.

MONTPELLIER, July 5, 1830.

Writings of Madison, Volume 4: 1829-1836, p.89

DEAR SIR,—Your letter of June 9 came duly to hand. On the subject of the discrepancy between the construction put by the Message of the President on the veto of 1817 and the intention of its author, the President will of course consult his own view of the case. For myself, I am aware that the document must speak for itself, and that that intention cannot be substituted for the established rules of interpretation.

Writings of Madison, Volume 4: 1829-1836, p.89

The several points on which you desire my ideas are necessarily vague, and the observations on them cannot well be otherwise. They are suggested by a respect for your request rather than by a hope that they can assist the object of it.

Writings of Madison, Volume 4: 1829-1836, p.89

"Point 1. The establishment of some rule which shall give the greatest practicable precision to the power of appropriating money to objects of general concern."

Writings of Madison, Volume 4: 1829-1836, p.89

The rule must refer, it is presumed, either to the objects of appropriation or to the apportionment of the money.

Writings of Madison, Volume 4: 1829-1836, p.89

A specification of the objects of general concern, in terms as definite as may be, seems to be the rule most applicable; thus roads simply, if for all the uses of roads; or roads, post and military, if limited to those uses; or post roads only, if so limited; thus canals, either generally or for specified uses; so again education, as limited to a university, or extended to seminaries of other denominations.

Writings of Madison, Volume 4: 1829-1836, p.89

As to the apportionment of the money, no rule can exclude legislative discretion but that of distribution among the States according to their presumed contributions; that is, to their ratio of representation in Congress. The advantages of this rule are its certainty and its apparent equity. The objections to it may be, that, on one hand, it would increase the comparative agency of the Federal Government, and, on the other, that the money might not be expended on objects of general concern; the interest of particular States not happening to coincide with the general interest in relation to improvements within such States.

Writings of Madison, Volume 4: 1829-1836, p.90

"2. A rule for the government of grants for light-houses, and the improvement of harbours and rivers, which will avoid the objects which it is desirable to exclude from the present action of the Government, and, at the same time, do what is imperiously required by a regard to the general commerce of the country."

Writings of Madison, Volume 4: 1829-1836, p.90

National grants in these cases seem to admit no possible rule of discrimination, but as the objects may be of national or local character. The difficulty lies here, as in all cases where the degree and not the nature of the case is to govern the decision. In the extremes, the judgment is easily formed; as between removing obstructions in the Mississippi, the highway of commerce for half the nation, and a like operation giving but little extension to the navigable use of a river, itself of confined use. In the intermediate cases, legislative discretion, and, consequently, legislative errors and partialities, are unavoidable. Some control is attainable in doubtful cases from preliminary investigations and reports by disinterested and responsible agents.

Writings of Madison, Volume 4: 1829-1836, p.90

In defraying the expense of internal improvements, strict justice would require that a part only, and not the whole, should be borne by the nation. Take, for examples, the harbors of New York and New Orleans. However important, in a commercial view, they may be to the other portions of the Union, the States to which they belong must derive a peculiar as well as a common advantage from improvements made in them, and could afford, therefore, to combine with grants from the common treasury, proportional contributions from their own. On this principle it is that the practice has prevailed in the States (as it has done with Congress) of dividing the expense of certain improvements between the funds of the State and the contributions of those locally interested in them.

Writings of Madison, Volume 4: 1829-1836, p.91

Extravagant and disproportionate expenditures on harbors, light-houses, and other arrangements on the seaboard, ought certainly to be controlled as much as possible. But it seems not to be sufficiently recollected, that in relation to our foreign commerce, the burden and benefit of accommodating and protecting it necessarily go together, and must do so as long and as far as the public revenue continues to be drawn through the customhouse. Whatever gives facility and security to navigation, cheapens imports; and all who consume them, wherever residing, are alike interested in what has that effect. If they consume, they ought, as they now do, to pay. If they do not consume, they do not pay. The consumer in the most inland State derives the same advantage from the necessary and prudent expenditures for the security of our foreign navigation as the consumer in a maritime State. Other local expenditures have not, of themselves, a correspondent operation.

Writings of Madison, Volume 4: 1829-1836, p.91

"3. The expediency of refusing all appropriations for internal improvements (other than those of the character last referred to, if they can be so called) until the national debt is paid, as well on account of the sufficiency of that motive, as to give time for the adoption of some constitutional or other arrangement by which the whole subject may be placed on better grounds; an arrangement which will never be seriously attempted as long as scattering appropriations are made, and the scramble for them thereby encouraged."

Writings of Madison, Volume 4: 1829-1836, p.91

The expediency of refusing appropriations, with a view to the previous discharge of the public debt, involves considerations which can be best weighed and compared at the focus of lights on the subject. A distant view like mine can only suggest the. remark, too vague to be of value, that a material delay ought not to be incurred for objects not both important and urgent; nor such objects to be neglected in order to avoid an immaterial delay. This is, indeed, but the amount of the exception glanced at in your parenthesis.

Writings of Madison, Volume 4: 1829-1836, p.91

The mortifying scenes connected with a surplus revenue are the natural offspring of a surplus, and cannot, perhaps, be entirely prevented by any plan of appropriation which allows a scope to legislative discretion. The evil will have a powerful control in the pervading dislike to taxes even the most indirect. The taxes lately repealed are an index of it. Were the whole revenue expended on internal improvements drawn from direct taxation, there would be danger of too much parsimony rather than too much profusion at the treasury.

Writings of Madison, Volume 4: 1829-1836, p.92

"4. The strong objections which exist against subscriptions to the stock of private companies by the United States."

Writings of Madison, Volume 4: 1829-1836, p.92

The objections are, doubtless, in many respects strong. Yet cases might present themselves which might not be favoured by the State, while the concurring agency of an undertaking company would be desirable in a national view. There was a time, it is said, when the State of Delaware, influenced by the profits of a portage between the Delaware and Chesapeake, was unfriendly to the canal, now forming so important a link of internal communication between the North and the South. Undertakings by private companies carry with them a presumptive evidence of utility, and the private stakes in them some security for economy in the execution, the want of which is the bane of public undertakings. Still the importunities of private companies cannot be listened to with more caution than prudence requires.

Writings of Madison, Volume 4: 1829-1836, p.92

I have, as you know, never considered the powers claimed for Congress over roads and canals as within the grants of the Constitution. But such improvements being justly ranked among the greatest advantages and best evidences of good Government; and having, moreover, with us the peculiar recommendation of binding the several parts of the Union more firmly together, I have always thought the power ought to be possessed by the common Government; which commands the least unpopular and most productive sources of revenue, and can alone select improvements with an eye to the national good. The States are restricted in their pecuniary resources; and roads and canals most important in a national view might not be important to the State or States possessing the domain and the soil, or might even be deemed disadvantageous; and, on the most favourable supposition, might require a concert of means and regulations among several States not easily effected, nor unlikely to be altogether omitted.

Writings of Madison, Volume 4: 1829-1836, p.93

These considerations have pleaded with me in favour of the policy of vesting in Congress an authority over internal improvements. I am sensible, at the same time, of the magnitude of the trust, as well as of the difficulty of executing it properly, and the greater difficulty of executing it satisfactorily.

Writings of Madison, Volume 4: 1829-1836, p.93

On the supposition of a due establishment of the power in Congress, one of the modes of using it might be to apportion a reasonable share of the disposable revenue of the United States among the States, to be applied by them to cases of State concern; with a reserved discretion in Congress to effectuate improvements of general concern, which the States might not be able or not disposed to provide for.

Writings of Madison, Volume 4: 1829-1836, p.93

If Congress do not mean to throw away the rich fund inherent in the public lands, would not the sales of them, after their liberation from the original pledge, be aptly appropriated to objects of internal improvement? And why not, also, with a supply of competent authority, to the removal to better situations of the free black as well as red population, objects con-fessedly of national importance and desirable to all parties? But I am travelling out of the subject before me.

Writings of Madison, Volume 4: 1829-1836, p.93

The date of your letter reminds me of the delay of the answer. The delay has been occasioned by interruptions of my health; and the answer, such as it is, is offered in the same confidence in which it was asked.

Writings of Madison, Volume 4: 1829-1836, p.93

With great esteem and cordial salutations.

To Baron Hyde De Neuville.

MONTPELLIER, July 26th, 1830.

Writings of Madison, Volume 4: 1829-1836, p.93

DEAR SIR,—I have received, through Monsieur Chersant, for which I am indebted to your politeness, the two pamphlets: one, "Discours d'ouverture, prononcé à la seance générale," &c., &c.; the other, "De la question Portugaise." I cannot return my thanks for them without remarking, that the first is equally distinguished by its instructive and by its philanthropic views; and that the second is a proof that the young claimant of the throne of Portugal could not have been favored with a better informed or more eloquent advocate.

Writings of Madison, Volume 4: 1829-1836, p.94

I am induced by the interest you take in whatever concerns our country, to inclose a copy of the new Constitution adopted by Virginia. It has just received the popular sanction by votes of about 25,000 against 15,000, and will be carried into execution within the present year. As must happen in such cases, it is the offspring of mutual concessions of opinions and interests, and the parent of some dissatisfactions. But the American people are too well schooled in the duty and practice of submitting to the will of the majority to permit any serious uneasiness on that account.

Writings of Madison, Volume 4: 1829-1836, p.94

Mrs. Madison writes a few lines to the Baroness. In the cordial regards they express I beg leave to join, as she does, in the sentiments of esteem and good wishes of which I pray you to accept the sincere assurance.

To Edward Everett.

Writings of Madison, Volume 4: 1829-1836, p.94

J. Madison, with his best respects to Mr. Everett, thanks him for the copy of his "Address on the Centennial Anniversary of the arrival of Governor Winthrop at Charlestown."

Writings of Madison, Volume 4: 1829-1836, p.94

The theme, interesting as it is in itself, derives new attraction from the touching details and appropriate reflections woven into the address.

Writings of Madison, Volume 4: 1829-1836, p.94

J. M. takes this occasion of thanking Mr. Everett for the copy, also, of his very able speech on the Indian subject in the House of Representatives.

MONTPELLIER, Aug. 5, 1830.

To Edward Everett.

MONTPELLIER, Augt 20, 1830.

Writings of Madison, Volume 4: 1829-1836, p.106

DEAR SIR,—I have received yours of the 11th instant, and wish I could give the information it asks with the desired particularity and certainty.

Writings of Madison, Volume 4: 1829-1836, p.106

I believe, though I may possibly be wrong, that no answers to the Virginia Resolutions of '98 were given by the States, other than those enumerated in the pamphlet you have. I have not the means of ascertaining the fact. If any instructions were given by the Legislature to the Senators in Congress beyond the' transmission of the Resolutions, they must be found in the Journals of the proper year, which I do not possess. I have only a broken set which does not contain them. A complete set has latterly been collected and published, but no copy, as far as I know, is at present within my reach.

Writings of Madison, Volume 4: 1829-1836, p.106

There is not, I am persuaded, the slightest ground for supposing that Mr. Jefferson departed from his purpose not to furnish Kentucky with a set of Resolutions for the year '99. It is certain that he penned the Resolutions of '98, and, probably, in the terms in which they passed. It was in those of '99 that the word "nullification" appears.\*

Writings of Madison, Volume 4: 1829-1836, p.107

Finding among my pamphlets a copy of the debates in the Virginia House of Delegates on the Resolutions of '98, and one of an address of the two Houses to their constituents on the occasion, I enclose them for your perusal; and I add another, though it is less likely to be new to you, the "Report of a Committee of the S. Carolina House of Representatives, Decr 9, 1828," in which the nullifying doctrine is stated in the precise form in which it is now asserted. There was a protest by the minority in the Virginia Legislature of '98 against the Resolutions, but I have no copy. The matter of it may be inferred from the speeches in the Debates. I was not a member in that year, though the penman of the Resolutions, as now supposed.

Writings of Madison, Volume 4: 1829-1836, p.107

Previous to the receipt of your letter above acknowledged, that of the 7th had come safe to hand. The use you wish to make of the copy of the letter to which it refers, has become particularly liable to an objection which lately supervened. A letter from my correspondent says that he is not satisfied with my views of the subject, and that he means to give me a fuller explanation of his own; intimating, at the same time, that I have not seized, in one instance, what was intended by him. These circumstances alone would render a public use of the copy in question indelicate at least. I must, therefore, undertake a letter to yourself, with such variations as will make it a letter per se; although the unsettled state in which my health has been left by a bilious attack during a late visit to our University unfits me not a little for executing the task in the manner that might be wished.

To Thomas W. Gilmer.

SEPT 6, 1830.

Writings of Madison, Volume 4: 1829-1836, p.107

DR SIR,—I received by the last mail yours of August 31. I concur with you entirely in the expediency of promoting, as much as possible, a sympathy between the incipient and the finishing establishments provided for public education; and in the particular expedient you suggest, of providing for a complete education at the public expense. Such a provision made a part of a bill for the "diffusion of knowledge" in the code prepared by Mr. Jefferson, Mr. Wythe, and Mr. Pendleton, between the years 1776 and 1779. The bill proposed to carry the selected youths through the several gradations of schools, from the lowest to the highest; and it deserves consideration, whether, instead of an immediate transition from the primary schools to the University, it would not be better to substitute a preparatory course at some intermediate seminary, chosen with the approbation of the parents or guardians. One of the recommendations of this benevolent provision in behalf of native genius is, as you observe, the nursery it would form for competent teachers in the primary schools. But it may be questionable whether a compulsive destination of them to that service would, in practice, answer expectation. The other prospects opened to their presumed talents and acquirements might make them reluctant, and therefore the less eligible agents.

Writings of Madison, Volume 4: 1829-1836, p.108

As it is probable that the case of the primary schools will be among the objects taken up at the next session of the Legislature, I am glad to find you are turning your attention so particularly to it, and that the aid of the Faculty is so attainable. A satisfactory plan for primary schools is certainly a vital desideratum in our Republics, and is at the same time found to be a difficult one everywhere. It might be useful to consult, as far as there may be opportunities, the different modifications presented in the laws of different States. The New England, New York, and Pennsylvania examples may possibly afford useful hints. There has lately, I believe, been a plan discussed, if not adopted by the Legislature of Maryland, where the situation is more analogous than that of the more Northern States to the situation of Virginia. the most serious difficulty in all the Southern States results from the character of their population and the want of density in the free part of it. This I take to be the main cause of the little success of the experiment now on foot with us. I hope that some improvements may be devised that will render it less inadequate to its object; and I should be proud of sharing in the merit; but my age, the unsettled state of my health, my limited acquaintance with the local circumstances to be accommodated, and my inexperience of the principles, dispositions, and views which prevail in the Legislative Body, unfit me for the flattering co-operation you would assign me. The task, I am persuaded, will be left in hands much better in all those respects.

Writings of Madison, Volume 4: 1829-1836, p.109

I think, with you, also, that it will be useful as well as honorable for the University that it should be understood to take a warm interest in the primary schools, and that the judgment of those most immediately connected with it, and presumably most cognizant of the subject of education, accords with any particular plan for improving them. But, I submit for consideration, whether a direct proposition, volunteered from that quarter, would not be less eligible than such explanations and assurances on the subject as would be appropriate from the representatives of the district in the Legislative Councils. But on this point your knowledge of the temper and sensibilities prevailing in them make you a better judge than I am.

To Edward Everett.

SEPTEMBER 10, 1830.

Writings of Madison, Volume 4: 1829-1836, p.109

DR SIR,—Since my letter, in which I expressed a belief that there was no ground for supposing that the Kentucky Resolutions of 1799, in which the term "nullification" appears, were drawn by Mr. Jefferson, I infer from a manuscript paper containing the term just noticed, that although he probably had no agency in the draft, nor even any knowledge of it at the time, yet that the term was borrowed from that source. It may not be safe, therefore, to rely on his to Mr. W. C. Nicholas, printed in his Memoir and Correspondence, as a proof that he had no connexion with, or responsibility for, the use of such a term on such an occasion. Still, I believe that he did not attach to it the idea of a constitutional right in the sense of South Carolina, but that of a natural one in eases justly appealing to it.

To N. P. Trist.

MONTPELLIER, Septr 23d, 1830.

Writings of Madison, Volume 4: 1829-1836, p.110

DR SIR,—Yours of the 21st was received yesterday. On the question of recalling your communication for the National In-telligencer I submit the following statement:

Writings of Madison, Volume 4: 1829-1836, p.110

In a letter, lately noticed, from Mr. Jefferson, dated November 17, 1799, he "incloses me a copy of the draught of the Kentucky Resolves," (a press copy of his own manuscript.) Not a word of explanation is mentioned. It was probably sent, and possibly at my request, in consequence of my being a member elect of the Virginia Legislature of 1799, which would have to vindicate its contemporary Resolutions of '98. It is remarkable that the paper differs both from the Kentucky Resolutions of '98 and from those of '99. It agrees with the former, in the main, and must have been the pattern of the Resolutions of that year, but contains passages omitted in them, which employ the terms nullification and nullifying; and it differs in the quantity of matter from the Resolutions of '99, but agrees with them in a passage which employs that language, and would seem to have been the origin of it. I conjecture that the correspondent in Kentucky, Col. George Nicholas, probably might think it better to leave out particular parts of the draught than risk a mis-construction or misapplication of them; and that the paper might, notwithstanding, be within the reach and use of the Legislature of '99, and furnish the phraseology containing the term "nullification." Whether Mr. Jefferson had noted the difference between his draught and the Resolutions of '98 (he could not have seen those of '99, which passed Novr 14,) does not appear. His files, particularly his correspondence with Kentucky, must throw light on the whole subject. This aspect of the case seems to favor a recall of the communication if practicable. Though it be true that Mr. Jefferson did not draught the Resolutions of '99, yet a denial of it, simply, might imply more than would be consistent with a knowledge of what is here stated.

Writings of Madison, Volume 4: 1829-1836, p.111

I find by a receipt from Donoho, the collector of G. & S., that $12 will be due them on October 19 next, and inclose $10, leaving the addition to be supplied by the little balance from Nich-olls. But I am really ashamed to trouble you with such trifles.

Writings of Madison, Volume 4: 1829-1836, p.111

I thank you for the essay on "Distress for rent in Virginia." I have not yet read it, and cannot say when I shall be able to do so, though I anticipate an analytic and accurate view of the subject, instructive to better lawyers than I am.

To Mrs. Margaret H. Smith.

SEPTEMBER—, 1830.

Writings of Madison, Volume 4: 1829-1836, p.111

I have received, my dear madam, the very friendly, and, I must add, very flattering letter, in which you wish from my own hand some reminiscence marking the early relations between Mr. Jefferson and myself, and involving some anecdote concerning him that may have a place in a manuscript volume you are preparing as a legacy for your son.

Writings of Madison, Volume 4: 1829-1836, p.111

I was a stranger to Mr. Jefferson [till] the year 1776, when he took his seat in the first Legislature under the Constitution of Virginia, then newly formed; being at the time myself a member of that Body, and for the first time a member of any public Body. The acquaintance made with him on that occasion was very slight; the distance between our ages being considerable, and other distances much more so. During part of the time whilst he was Governor of the State, a service to which he was called not long after, I had a seat in the Council, associated with him. Our acquaintance then became intimate, and a friendship was formed which was for life, and which was never interrupted in the slightest degree for a single moment.

Writings of Madison, Volume 4: 1829-1836, p.111

Among the occasions which made us immediate companions was the trip in 1791 to the borders of Canada, to which you refer. According to an understanding between us, the observations in our way through the northern parts of New York and the newly settled vicinity of Vermont, to be noted by him, were of a miscellaneous cast, and part at least noted on the birch bark of which you speak. the few observations devolving on me related chiefly to agricultural and economic objects. On recurring to them, I find the only interest they contain is in the comparison they may afford of the infant State with the present growth of the settlements through which we passed; and I am sorry that my memory does not suggest any particular anecdote, to which yours must have alluded.

Writings of Madison, Volume 4: 1829-1836, p.112

The scenes and subjects which had occurred during the session of Congress which had just terminated at our departure from New York, entered of course into our itinerary conversations. In one of those scenes, a dinner party, at which both of us were present, I recollect now, though not perhaps adverted to then, an incident, which, as it is characteristic of Mr. Jefferson, I will substitute for a more exact compliance with your request.

Writings of Madison, Volume 4: 1829-1836, p.112

The new Constitution of the U. States having been just put into operation, forms of Government were the uppermost topics everywhere, more especially at a convivial board; and the question being started as to the best mode of providing the Executive chief, it was, among other opinions, boldly advanced that a hereditary designation was preferable to any elective process that could be devised. At the close of an eloquent effusion against the agitations and animosities of a popular choice, and in behalf of birth, as, on the whole, affording even a better chance for a suitable head of the Government, Mr. Jefferson, with a smile, remarked that he had heard of a University somewhere in which the Professorship of Mathematics was hereditary. The reply, received with acclamations, was a coup de grace to the anti-republican heretic.

Writings of Madison, Volume 4: 1829-1836, p.112

Whilst your affection is preparing from other sources an instructive bequest for your son, I must be allowed to congratulate him on the precious inheritance he will enjoy in the examples on which his filial feelings will most delight to dwell.

Writings of Madison, Volume 4: 1829-1836, p.112

Mrs. Madison failed to obtain the two prints she intended for you, but will renew her efforts to fulfil her promise. The only drawing of our house is that by Dr Thornton, and is without the wings now making part of it.

Writings of Madison, Volume 4: 1829-1836, p.113

Be pleased, my dear madam, to express to Mr. Smith the particular esteem I have ever felt for the lights of his mind and the purity of his principles, and to accept for him and yourself my cordial salutations. Mrs. M., who has lately been seriously ill, but is now recovering, desires me to assure you of her affectionate friendship, and joins me in wishing for the entire circle of your family every happiness.

Writings of Madison, Volume 4: 1829-1836, p.113

Fearing that the delay may do me injustice, I must in explanation remark that your letter found me in a bad state of health, and that before I could avail myself of its improvement to dispose of accumulated arrears of pressing sorts, the illness of Mrs. M. drew off my attention from every other consideration. I ought, perhaps, to have another fear, that of being charged with affectation in the microscopic hand in which I write. But the explanation is easy: the fingers, stiffened by age, make smaller strokes, as the feet from the same cause take shorter steps. I hope you will live to verify my sincerity.

To William Wirt.

MONTPELLIER, Octr 1, 1830.

Writings of Madison, Volume 4: 1829-1836, p.113

DEAR SIR,—I have received the copy of your "address" to the two societies of Rutgers College, and that of your "opinion" on the case of the Cherokees, for both of which I return my thanks.

Writings of Madison, Volume 4: 1829-1836, p.113

The address chose, certainly, a good subject, and made good use of it. And the views you have presented of the question between Georgia and the Cherokees are a sufficient pledge, if there were no others, to those sons of the forest, now the pupils of civilization, that justice will be done to their cause, whether the forum for its final hearing be a Federal court, the American public, or the civilized world.

Writings of Madison, Volume 4: 1829-1836, p.113

I cannot but regret some of the argumentative appeals which have been made to the minds of the Indians. What, they may say, have we to do with the Federal Constitution or the relations formed by it between the Union and its members? We were no parties to the compact, and cannot be affected by it. And as to the charter of the King of England, is it not as much a mockery to them as the Bull of a Pope, dividing the world of discovery between the Spaniards and the Portuguese, was held to be by the nations who disowned and disdained his authority?

Writings of Madison, Volume 4: 1829-1836, p.114

The plea, with the best aspect, for dispossessing Indians of the lands on which they have lived, is, that by not incorporating their labour, and associating fixed improvements with the soil, they have not appropriated it to themselves, nor made the destined use of its capacity for increasing the number and the enjoyments of the human race. But this plea, whatever original force be allowed to it, is here repelled by the fact that the Indians are making the very use of that capacity which the plea requires, enforced by the other fact, that the claimants themselves, by their counsels, their authorized and their effective aids, have promoted that happy change in the condition of the Indians which is now turned against them.

Writings of Madison, Volume 4: 1829-1836, p.114

The most difficult problem is, that of reconciling their interests with their rights. It is so evident that they can never be tranquil or happy within the bounds of a State, either in a separate or subject character, that a removal to another home, if a good one can be found, may well be the wish of their best friends. But the removal ought to be made voluntary by adequate inducements, present and prospective; and no means ought to be grudged which such a measure may require.

To Jared Sparks.

OCTOBER 5th, 1830.

Writings of Madison, Volume 4: 1829-1836, p.114

DEAR SIR,—Your letter of July 16 was duly received. The acknowledgment of it has awaited your return from your tour to Quebec, which, I presume, has by this time taken place.

Writings of Madison, Volume 4: 1829-1836, p.115

Inclosed is the exact copy you wish of the draught of an address prepared for President Washington, at his request, in the year 1792, when he meditated a retirement at the expiration of his first term. You will observe that (with a few verbal exceptions) it differs from the extract enclosed in your letter only in the provisional paragraphs, which had become inapplicable to the period and plan of his communication to Col. Hamilton.

Writings of Madison, Volume 4: 1829-1836, p.115

The N° of the North American Review for January last being, I find, a duplicate, I return it. the pages to which you refer throw a valuable light on a transaction which was taking historical root, in a shape unjust as well as erroneous. Did you ever notice the "Life of Mr. Jay" in Delaplaine's biographical works? The materials of it were evidently derived from the papers, if not from the pen of Mr. Jay, and are marked by the misconceptions into which he had fallen. It may be incidentally noted as one of the confirmations of the fallibility of Hamilton's memory in allotting the N°s in the "Federalist" to the respective writers, that one of them, N° 64, which appears, by Delaplaine, to have been written by Mr. Jay, as it certainly was, is put on the list of Mr. Hamilton, as was not less certainly the case with a number of others written by another hand.

Writings of Madison, Volume 4: 1829-1836, p.115

Previous to the receipt of your letter I had received one from Mr. Monroe, to whom I had mentioned the liberty I had taken with Rayneval's memoir. I inclose the part of his letter answering that part of mine.

To Edward Everett.

Writings of Madison, Volume 4: 1829-1836, p.115

MONTPELLIER, Octr 7, 1830. DEAR SIR,—I have received your favor of the 28th ult., with a copy of the chapter from the North American Review for this month. I have read the review of the Debates with great pleasure. It must diffuse light on the subject of them everywhere; and would make an overwhelming impression where it is most needed if the delirious excitement were not, it would seem, an overmatch for reason and truth.

Writings of Madison, Volume 4: 1829-1836, p.116

The only inaccuracies observable in my printed letter are a few slight ones, chargeable, probably, on the transcript from the original draught. The principal one is an omission in the last paragraph of page 84, of the words "with these distinctions in view and" before the words "with an attention always." The meaning is not altered by the omission, but without such a break in the sentence a bungling, if not obscure, aspect is given to it.

Writings of Madison, Volume 4: 1829-1836, p.116

You will excuse me for suggesting that you have erred in stating that I wrote the greatest part of the "Federalist;" a greater number of the papers were written by Col. Hamilton, as will be seen by the correct distribution of them in the Washington edition, by Gideon. A very few of the numbers were from the third hand.

To M. Van Buren.

OCTOBER 9, 1830.

Writings of Madison, Volume 4: 1829-1836, p.116

DEAR SIR,—I received your letter of July 30 in due time, but have taken advantage of the permitted delay in answering it. Although I have again turned in my thoughts the subjects of your preceding letter, on which "any farther remarks from me would be acceptable" I do not find that I can add anything material to what is said in my letter of July 5, or in former ones. Particular cases of local improvements or establishments having immediate relation to external commerce and navigation will continue to produce questions of difficulty, either constitutional or as to utility or impartiality, which can only be decided according to their respective merits. No general rule, founded on precise definitions, is, perhaps, possible; certainly none that relates to such cases as those of light-houses, which must depend on the evidence before the competent authority. In procuring that evidence, it will, of course, be incumbent on that authority to employ means and precautions most appropriate.

Writings of Madison, Volume 4: 1829-1836, p.116

With regard to the veto of 1817, I wish it to be understood that I have no particular solicitude; nor can the President be under any obligation to notice the subject, if his construction of the language of the document be unchanged. My notice of it to you, when acknowledging the receipt of the message you politely enclosed to me, was necessary to guard my consistency against an inference from my silence.

Writings of Madison, Volume 4: 1829-1836, p.117

With regret that I cannot make you a more important communication, I renew the assurances of my great esteem and my cordial salutations.

To Henry Clay.

MONTPELLIER, October 9, 1830.

Writings of Madison, Volume 4: 1829-1836, p.117

DEAR SIR,—I have just been favoured with yours of the 22d ult., inclosing a copy of your address delivered at Cincinnati.

Writings of Madison, Volume 4: 1829-1836, p.117

Without concurring in everything that is said, I feel what is due to the ability and eloquence which distinguish the whole. the rescue of the Resolutions of Kentucky in '98-'99, from the misconstructions of them, was very apropos; that authority being particularly relied on as an ægis to the nullifying doctrine which, notwithstanding its hideous aspect and fatal tendency, has captivated so many honest minds. In a late letter to one of my correspondents, I was led to the like task of vindicating the proceedings of Virginia in those years. I would gladly send you a copy if I had a suitable one. But as the letter is appended to the North American Review for this month, you will probably have an early opportunity of seeing it.

Writings of Madison, Volume 4: 1829-1836, p.117

With my thanks, sir, for your obliging communication, I beg you to accept assurances of my great and cordial esteem, in which Mrs. Madison joins me, as I do her, in the best regards which she offers to Mrs. Clay.

To William Wirt.

OCTOBER 12, 1830.

Writings of Madison, Volume 4: 1829-1836, p.117

DR SIR,—I have received yours of the 5th. The explanation of your motives in not declining the cause of the Cherokees was not needed. Of their purity it was impossible for me to entertain a doubt. From the aspect of the public proceedings towards the Indians within the bounds of the States, there is much danger that the character of our country will suffer, and I do not know that any formal discussion of the case can make it worse, whilst, by bringing into full view the difficulties and alternatives which beset it, those proceedings may possibly be mitigated in the eyes of the world.

Writings of Madison, Volume 4: 1829-1836, p.118

The circumstance seeming most to impair the national character of the Indians, is the admitted restriction on the sale of their lands. May not the restriction be regarded as taking effect against and through the purchasers? It is plainly rightful against such as are subject to the Government imposing the restriction, and made so against the subjects of all the powers connected with this Continent, by the common understanding among them, that the subjccts of each should in that respect be under the control of the others. With respect to individuals, if such there be, who belong to powers not parties to that sanction, or who are in a state of expatriation, the restriction must be resolved into an interposition, benevolent as well as provident, against frauds on the ignorance or other infirmities characterizing the savage modes of life.

To C. J. Ingersoll, Clem. C. Biddle, Rich. Peters,

Committee of the Penn Society.

Writings of Madison, Volume 4: 1829-1836, p.118

J. Madison has received the polite invitation of the "Penn Society" to their anniversary dinner on the 25th instant. Being under the necessity of denying himself the pleasure of accepting it, he complies with the requested alternative by offering a toast: "The immortal memory of Penn, who subdued the ferocity of savages by his virtues, and enlightened the civilized world by his institutions."

MONTPELLIER, Oct. 13, 1830.

To —— ———.

MONTPELLIER, November 8, 1830.

Writings of Madison, Volume 4: 1829-1836, p.119

I received, my dear sir, by the last mail, yours of the 4th instant.

Writings of Madison, Volume 4: 1829-1836, p.119

I cannot but think that you have not fully understood Mr. Stevenson, or, perhaps, that he has not fully explained himself, on the subject of the judicial power of the United States. Limited as this may be in criminal cases, he would himself, I presume, not deny it in some of those you mention, and for some of your reasons in favour of it. The most delicate part of the Federal Constitution, and that on which candid commentators are least unanimous, is the relation between the Federal and State courts, and the line dividing the eases within their respective jurisdictions. It was not my purpose to discuss and discriminate these cases, but to show the necessity of a power to decide on conflicting claims; and that this must belong to a forum under the general authority, it being presumed that this would refuse a cognizance of eases not within its sphere; and that a usurpation of it, like other usurpations by that or by other departments of the Government, would be open for whatever remedies, regular or extreme, the occasions might call for. I was not unaware of the sensitiveness of very many and the errors of not a few in this quarter, on this particular subject, but supposed that my view of it was guarded against necessary offence to either class. It would seem, from several notices of it in the newspapers, that it has not been so fortunate. The writers, as yet, are more disposed to charge it with a departure from the report of 1799 than to investigate its unconstitutionality, and, in some instances, without a correct exposition of either the report or the letter.

To Andrew Stevenson.

MONTPELLIER, NOV. 27, 1830.

Writings of Madison, Volume 4: 1829-1836, p.120

MY DEAR SIR,—I have received your letter of the 20th, with a just sensibility of the kind feelings it expresses, and, I hope you will not doubt, with an unfeigned reciprocity of them. The more of frankness you put into observations on the subjects which entered into our late conversations, the more acceptable as well as valuable they will be, that being a quality without which no interchange of thoughts can be profitable to either party, and with which it may be so to one or the other, and possibly to both.

Writings of Madison, Volume 4: 1829-1836, p.120

I enclose the letter which particularly complies with the object of yours. The view it takes of the origin and innocence of the phrase "common defence and general welfare" is what was taken in the Federalist and in the report of 1799, and, I believe, wherever else I may have had occasion to speak of the clause containing the terms.

Writings of Madison, Volume 4: 1829-1836, p.120

I have omitted a vindication of the true punctuation of the clause,\* because I now take for certain that the original document, signed by the members of the Convention, is in the Department of State, and that it testifies for itself against the erroneous editions of the text in that particular. Should it appear that the document is not there, or that the error had slipped into it, the materials in my hands to which you refer will amount, I think, to a proof outweighing even that authority. It would seem a little strange, if the original Constitution be in the Department of State, that it has hitherto escaped notice. But it is to be explained, I presume, by the fact that it was not among the papers relating to the Constitution left with General Washington, and there deposited by him; but, having been sent from the Convention to the old Congress, lay among the mass of papers handed over on the expiration of the latter to that Department. On your arrival at Washington, you will be able personally, or by a friend having more leisure, to satisfy yourself on these points.

Writings of Madison, Volume 4: 1829-1836, p.121

It appears, as you foretold, that my letter in the Northern Review has encountered newspaper criticism; but as yet, little, if at all, I believe, on the ground looked for. In some instances both the letter and the report of 1799 are misunderstood, and in none that I have seen has the distinction been properly kept in view between the authority of a higher tribunal to decide on the extent of its own jurisdiction, compared with that of other tribunals, and its claim of jurisdiction in any particular case or description of cases as within that extent; it being presumed that, if not within the extent of its jurisdiction, it will be pronounced coram non judice; and it being understood that, if not so, it will be a case of usurpation, and to be treated as such.

Writings of Madison, Volume 4: 1829-1836, p.121

Mrs. Madison charges me with her most affectionate regards to Mrs. Stevenson, in which I beg leave to unite with her, as she does with me, in cordial salutations and all good wishes for yourself.

To Andrew Stevenson.

MONTPELLIER, NOV. 27, 1830.

Writings of Madison, Volume 4: 1829-1836, p.121

DEAR SIR,—I have received your very friendly favor of the 20th instant, referring to a conversation when I had lately the pleasure of a visit from you, in which you mentioned your belief that the terms "common defence and general welfare," in the eighth section of the first article of the Constitution of the United States, were still regarded by some as conveying to Congress a substantive and indefinite power, and in which I communicated my views of the introduction and occasion of the terms, as precluding that comment on them; and you express a wish that I would repeat those views in the answer to your letter.

Writings of Madison, Volume 4: 1829-1836, p.121

However disinclined to the discussion of such topics, at a time when it is so difficult to separate, in the minds of many, questions purely constitutional from the party polemics of the day, I yield to the precedents which you think I have imposed on myself, and to the consideration that, without relying on my personal recollections, which your partiality over-values, I shall derive my construction of the passage in question from sources of information and evidence known or accessible to all who feel the importance of the subject, and are disposed to give it a patient examination.

Writings of Madison, Volume 4: 1829-1836, p.122

In tracing the history and determining the import of the terms "common defence and general welfare," as found in the text of the Constitution, the following lights are furnished by the printed journal of the Convention which formed it:

Writings of Madison, Volume 4: 1829-1836, p.122

The terms appear in the general propositions offered May 29, as a basis for the incipient deliberations, the first of which "Resolved, that the articles of the Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution, namely, common defence, security of liberty, and general welfare." On the day following, the proposition was exchanged for, "Resolved, that a Union of the States merely Federal will not accomplish the objects proposed by the Articles of the Confederation, namely, common defence, security of liberty, and general welfare."

Writings of Madison, Volume 4: 1829-1836, p.122

The inference from the use here made of the terms, and from the proceedings on the subsequent propositions, is, that although common defence and general welfare were objects of the Confederation, they were limited objects, which ought to be enlarged by an enlargement of the particular powers to which they were limited, and to be accomplished by a change in the structure of the Union from a form merely Federal to one partly national; and as these general terms are prefixed in the like relation to the several legislative powers in the new charter as they were in the old, they must be understood to be under like limitations in the new as in the old.

Writings of Madison, Volume 4: 1829-1836, p.122

In the course of the proceedings between the 30th of May and the 6th of August, the terms common defence and general welfare, as well as other equivalent terms, must have been dropped; for they do not appear in the draught of a Constitution reported on that day by a committee appointed to prepare one in detail, the clause in which those terms were afterward inserted being in the draught simply, "The Legislature of the United States shall have power to lay and collect taxes, duties, imposts, and excises."

Writings of Madison, Volume 4: 1829-1836, p.123

The manner in which the terms became transplanted from the old into the new system of Government, is explained by a course somewhat adventitiously given to the proceedings of the Convention.

Writings of Madison, Volume 4: 1829-1836, p.123

On the 18th of August, among other propositions referred to the committee which had reported the draught, was one "to secure the payment of the public debt;" and

Writings of Madison, Volume 4: 1829-1836, p.123

On the same day was appointed a committee of eleven members, (one from each State,) "to consider the necessity and expediency of the debts of the several States being assumed by the United States."

Writings of Madison, Volume 4: 1829-1836, p.123

On the 21st of August, this last committee reported a clause in the words following: "The Legislature of the United States shall have power to fulfil the engagements which have been entered into by Congress, and to discharge as well the debts of the United States as the debts incurred by the several States during the late war, for the common defence and general welfare;" conforming herein to the eighth of the Articles of Confederation, the language of which is, that "all charges of war, and all other expenses that shall be incurred for the common defence and general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common Treasury," &c.

Writings of Madison, Volume 4: 1829-1836, p.123

On the 22d of August, the committee of five reported, among other additions to the clause, "giving power to lay and collect taxes, imposts, and excises," a clause in the words following, "for payment of the debts and necessary expenses," with a proviso qualifying the duration of revenue laws.

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This report being taken up, it was moved, as an amendment, that the clause should read, "the Legislature shall fulfil the engagements and discharge the debts of the United States."

Writings of Madison, Volume 4: 1829-1836, p.123

It was then moved to strike out "discharge the debts," and insert, "liquidate the claims;" which being rejected, the amendment was agreed to as proposed, viz: "The Legislature shall fulfil the engagements and discharge the debts of the United States."

Writings of Madison, Volume 4: 1829-1836, p.124

On the 23d of August the clause was made to read, "The Legislature shall fulfil the engagements and discharge the debts of the United States, and shall have the power to lay and collect taxes, duties, imposts, and excises," the two powers relating to taxes and debts being merely transposed.

Writings of Madison, Volume 4: 1829-1836, p.124

On the 25th of August the clause was again altered so as to read, "All debts contracted and engagements entered into by, or under the authority of Congress, [the Revolutionary Congress,] shall be as valid under this Constitution as under the Confederation."

Writings of Madison, Volume 4: 1829-1836, p.124

This amendment was followed by a proposition, referring to the powers to lay and collect taxes, &c., and to discharge the debts, [old debts,] to add, "for payment of said debts, and for defraying the expenses that shall be incurred for the common defence and general welfare." The proposition was disagreed to, one State only voting for it.

Writings of Madison, Volume 4: 1829-1836, p.124

September 4, the committee of eleven reported the following modification: "The Legislature shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare;" thus retaining the terms of the Articles of Confederation, and covering, by the general term "debts," those of the old Congress.

Writings of Madison, Volume 4: 1829-1836, p.124

A special provision in this mode could not have been necessary for the debts of the new Congress; for a power to provide money, and a power to perform certain acts, of which money is the ordinary and appropriate means, must of course carry with them a power to pay the expense of performing the acts. Nor was any special provision for debts proposed till the case of the revolutionary debts was brought into view; and it is a fair presumption, from the course of the varied propositions which have been noticed, that but for the old debts, and their association with the terms "common defence and general welfare," the clause would have remained as reported in the first draught of a Constitution, expressing generally, "a power in Congress to lay and collect taxes, duties, imposts, and excises," without any addition of the phrase, "to provide for the common defence and general welfare." With this addition, indeed, the language of the clause being in conformity with that of the clause in the Articles of Confederation, it would be qualified, as in those articles, by the specification of powers subjoined to it. But there is sufficient reason to suppose that the terms in question would not have been introduced but for the introduction of the old debts, with which they happened to stand in a familiar though inoperative relation. Thus introduced, however, they passed undisturbed through the subsequent stages of the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.125

If it be asked why the terms "common defence and general welfare," if not meant to convey the comprehensive power which, taken literally, they express, were not qualified and explained by some reference to the particular powers subjoined, the answer is at hand, that although it might easily have been done, and experience shows it might be well if it had been done, yet the omission is accounted for by an inattention to the phraseology, occasioned doubtless by its identity with the harmless character attached to it in the instrument from which it was borrowed.

Writings of Madison, Volume 4: 1829-1836, p.125

But may it not be asked with infinitely more propriety, and without the possibility of a satisfactory answer, why, if the terms were meant to embrace not only all the powers particularly expressed, but the indefinite power which has been claimed under them, the intention was not so declared? why, on that supposition, so much critical labour was employed in enumerating the particular powers, and in defining and limiting their extent?

Writings of Madison, Volume 4: 1829-1836, p.125

The variations and vicissitudes in the modification of the clause in which the terms "common defence and general welfare" appear, are remarkable, and to be no otherwise explained than by differences of opinion concerning the necessity or the form of a constitutional provision for the debts of the Revolution; some of the members apprehending improper claims for losses by depeciated emissions of bills of credit; others an evasion of proper claims, if not positively brought within the authorized functions of the new Government; and others again considering the past debts of the United States as sufficiently secured by the principle that no change in the Government could change the obligations of the nation. Besides the indications in the journal, the history of the period sanctions this explanation.

Writings of Madison, Volume 4: 1829-1836, p.126

But it is to be emphatically remarked, that in the multitude of motions, propositions, and amendments, there is not a single one having reference to the terms "common defence and general welfare," unless we were so to understand the proposition containing them made on August 25, which was disagreed to by all the States except one.

Writings of Madison, Volume 4: 1829-1836, p.126

The obvious conclusion to which we are brought is, that these terms, copied from the Articles of Confederation, were regarded in the new as in the old instrument, merely as general terms, explained and limited by the subjoined specifications, and therefore requiring no critical attention or studied precaution.

Writings of Madison, Volume 4: 1829-1836, p.126

If the practice of the revolutionary Congress be pleaded in opposition to this view of the case, the plea is met by the notoriety that on several accounts the practice of that body is not the expositor of the "Articles of Confederation." These articles were not in force till they were finally ratified by Maryland in 1781. Prior to that event, the power of Congress was measured by the exigencies of the war, and derived its sanction from the acquiescence of the States. After that event, habit and a continued expediency, amounting often to a real or apparent necessity, prolonged the exercise of an undefined authority; which was the more readily overlooked, as the members of the body held their seats during pleasure; as its acts, particularly after the failure of the bills of credit, depended for their efficacy on the will of the States, and as its general impotency became manifest. Examples of departure from the prescribed rule are too well known to require proof. The case of the old Bank of North America might be cited as a memorable one. The incorporating ordinance grew out of the inferred necessity of such an institution to carry on the war, by aiding the finances, which were starving under the neglect or inability of the States to furnish their assessed quotas. Congress was at the time so much aware of the deficient authority, that they recommended it to the State Legislatures to pass laws giving due effect to the ordinance, which was done by Pennsylvania and several other States. In a little time, however, so much dissatisfaction arose in Pennsylvania, where the bank was located, that it was proposed to repeal the law of the State in support of it. This brought on attempts to vindicate the adequacy of the power of Congress to incorporate such an institution. Mr. Wilson, justly distinguished for his intellectual powers, being deeply impressed with the importance of a bank at such a crisis, published a small pamphlet, entitled "Considerations on the Bank of North America," in which he endeavoured to derive the power from the nature of the union in which the colonies were declared and became independent States; and also from the tenor of the "Articles of Confederation" themselves. But what is particularly worthy of notice is, that with all his anxious search in those articles for such a power, he never glanced at the terms "common defence and general welfare" as a source of it. He rather chose to rest the claim on a recital in the text, "that, for the more convenient management of the general interests of the United States, delegates shall be annually appointed to meet in Congress, which, he said, implied that the United States had general rights, general powers, and general obligations, not derived from any particular State, nor from all the particular States taken separately, but resulting from the union of the whole," these general powers not being controlled by the article declaring that each State retained all powers not granted by the articles, because "the individual States never possessed and could not retain a general power over the others."

Writings of Madison, Volume 4: 1829-1836, p.127

The authority and argument here resorted to, if proving the ingenuity and patriotic anxiety of the author on one hand, show sufficiently on the other that the terms common defence and general welfare could not, according to the known acceptation of them, avail his object.

Writings of Madison, Volume 4: 1829-1836, p.128

That the terms in question were not suspected in the Convention which formed the Constitution of any such meaning as has been constructively applied to them, may be pronounced with entire confidence; for it exceeds the possibility of belief, that the known advocates in the Convention for a jealous grant and cautious definition of Federal powers should have silently permitted the introduction of words or phrases in a sense rendering fruitless the restrictions and definitions elaborated by them.

Writings of Madison, Volume 4: 1829-1836, p.128

Consider for a moment the immeasurable difference between the Constitution limited in its powers to the enumerated objects, and expounded as it would be by the import claimed for the phraseology in question. The difference is equivalent to two Constitutions, of characters essentially contrasted with each other—the one possessing powers confined to certain specified cases, the other extended to all cases whatsoever; for what is the case that would not be embraced by a general power to raise money, a power to provide for the general welfare, and a power to pass all laws necessary and proper to carry these powers into execution; all such provisions and laws superseding, at the same time, all local laws and constitutions at variance with them? Can less be said, with the evidence before us furnished by the journal of the Convention itself, than that it is impossible that such a Constitution as the latter would have been recommended to the States by all the members of that body whose names were subscribed to the instrument?

Writings of Madison, Volume 4: 1829-1836, p.128

Passing from this view of the sense in which the terms common defence and general welfare were used by the framers of the Constitution, let us look for that in which they must have been understood by the Conventions, or, rather, by the people, who, through their Conventions, accepted and ratified it. And here the evidence is, if possible, still more irresistible, that the terms could not have been regarded as giving a scope to Federal legislation infinitely more objectionable than any of the specified powers which produced such strenuous opposition, and calls for amendments which might be safeguards against the dangers apprehended from them.

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Without recurring to the published debates of those Conventions, which, as far as they can be relied on for accuracy, would, it is believed, not impair the evidence furnished by their recorded proceedings, it will suffice to consult the list of amendments proposed by such of the Conventions as considered the powers granted to the new Government too extensive or not safely defined.

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Besides the restrictive and explanatory amendments to the text of the Constitution, it may be observed, that a long list was premised, under the name and in the nature of "declarations of rights;" all of them indicating a jealousy of the Federal powers, and an anxiety to multiply securities against a constructive enlargement of them. But the appeal is more particularly made to the number and nature of the amendments proposed to be made specific and integral parts of the constitutional text.

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No less than seven States, it appears, concurred in adding to their ratifications a series of amendments which they deemed requisite. Of these amendments, nine were proposed by the Convention of Massachusetts, five by that of South Carolina, twelve by that of New Hampshire, twenty by that of Virginia, thirty-three by that of New York, twenty-six by that of North Carolina, twenty-one by that of Rhode Island.

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Here are a majority of the States proposing amendments, in one instance thirty-three by a single State; all of them intended to circumscribe the powers granted to the General Government, by explanations, restrictions, or prohibitions, without including a single proposition from a single State referring to the terms common defence and general welfare; which, if understood to convey the asserted power, could not have failed to be the power most strenuously aimed at, because evidently more alarming in its range than all the powers objected to put together; and that the terms should have passed altogether unnoticed by the many eyes which saw danger in terms and phrases employed in some of the most minute and limited of the enumerated powers, must be regarded as a demonstration that it was taken for granted that the terms were harmless, because explained and limited, as in the "Articles of Confederation," by the enumerated powers which followed them.

Writings of Madison, Volume 4: 1829-1836, p.130

A like demonstration that these terms were not understood in any sense that could invest Congress with powers not otherwise bestowed by the constitutional charter, may be found in what passed in the first session of the first Congress, when the subject of amendments was taken up, with the conciliatory view of freeing the Constitution from objections which had been made to the extent of its powers, or to the unguarded terms employed in describing them. Not only were the terms "common defence and general welfare" unnoticed in the long list of amendments brought forward in the outset, but the journals of Congress show that, in the progress of the discussions, not a single proposition was made in either branch of the Legislature which referred to the phrase as admitting a constructive enlargement of the granted powers, and requiring an amendment guarding against it. Such a forbearance and silence on such an occasion, and among so many members who belonged to the part of the nation which called for explanatory and restrictive amendments, and who had been elected as known advocates for them, cannot be accounted for without supposing that the terms "common defence and general welfare" were not at that time deemed susceptible of any such construction as has since been applied to them.

Writings of Madison, Volume 4: 1829-1836, p.130

It may be thought, perhaps, due to the subject, to advert to a letter of October 5, 1787, to Samuel Adams, and another of October 16, of the same year, to the Governor of Virginia, from R. H. Lee, in both of which it is seen that the terms had attracted his notice, and were apprehended by him "to submit to Congress every object of human legislation." But it is particularly worthy of remark, that, although a member of the Senate of the United States when amendments of the Constitution were before that house, and sundry additions and alterations were there made to the list sent from the other, no notice was taken of those terms as pregnant with danger. It must be inferred, that the opinion formed by the distinguished member at the first view of the Constitution, and before it had been fully discussed and elucidated, had been changed into a conviction that the terms did not fairly admit the construction he had originally put on them, and therefore needed no explanatory precaution against it.

Writings of Madison, Volume 4: 1829-1836, p.131

Allow me, my dear sir, to express on this occasion, what I always feel, an anxious hope that, as our Constitution rests on a middle ground between a form wholly national and one merely federal, and on a division of the powers of Government between the States in their united character and in their individual characters, this peculiarity of the system will be kept in view, as a key to the sound interpretation of the instrument, and a warning against any doctrine that would either enable the States to invalidate the powers of the United States, or confer all power on them.

Writings of Madison, Volume 4: 1829-1836, p.131

I close these remarks, which I fear may be found tedious, with assurances of my great esteem and best regards.

Writings of Madison, Volume 4: 1829-1836, p.131

Memorandum not used in letter to Mr. Stevenson.

Writings of Madison, Volume 4: 1829-1836, p.131

These observations will be concluded with a notice of the argument in favour of the grant of a full power to provide for common defence and general welfare, drawn from the punctuation in some editions of the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.131

According to one mode of presenting the text, it reads as follows: "Congress shall have power—To lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises, shall be uniform." To another mode, the same with commas vice semicolons.

Writings of Madison, Volume 4: 1829-1836, p.131

According to the other mode, the text stands thus: "Congress shall have power; To lay and collect taxes, duties, imposts, and excises: To pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States."

Writings of Madison, Volume 4: 1829-1836, p.131

And from this view of the text, it is inferred that the latter sentence conveys a distinct substantive power to provide for the common defence and general welfare.

Writings of Madison, Volume 4: 1829-1836, p.132

Without inquiring how far the text in this form would convey the power in question; or admitting that any mode of presenting or distributing the terms could invalidate the evidence which has been exhibited, that it was not the intention of the general or of the State Conventions to express, by the use of the terms common defence and general welfare, a substantive and indefinite power; or to imply that the general terms were not to be explained and limited by the specified powers succeeding them, in like manner as they were explained and limited in the former Articles of Confederation from which the terms were taken; it happens that the authenticity of the punctuation which preserves the unity of the clause can be as satisfactorily shown, as the true intention of the parties to the Constitution has been shown in the language used by them.

Writings of Madison, Volume 4: 1829-1836, p.132

The only instance of a division of the clause afforded by the journal of the Convention is in the draught of a Constitution reported by a committee of five members, and entered on the 12th of September.

Writings of Madison, Volume 4: 1829-1836, p.132

But that this must have been an erratum of the pen or of the press, may be inferred from the circumstance, that, in a copy of that report, printed at the time for the use of the members, and now in my possession, the text is so printed as to unite the parts in one substantive clause; an inference favoured also by a previous report of September 4, by a committee of eleven, in which the parts of the clause are united, not separated.

Writings of Madison, Volume 4: 1829-1836, p.132

And that the true reading of the Constitution, as it passed, is that which unites the parts, is abundantly attested by the following facts:

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1. Such is the form of the text in the Constitution printed at the close of the Convention, after being signed by the members, of which a copy is also now in my possession.

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2. The case is the same in the Constitution from the Convention to the old Congress, as printed on their journal of September 28, 1787, and transmitted by that body to the Legislatures of the several States.

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3. The case is the same in the copies of the transmitted Constitution, as printed by the ratifying States, several of which have been examined; and it is a presumption that there is no variation in the others.

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The text is in the same form in an edition of the Constitution published in 1814, by order of the Senate; as also in the Constitution as prefixed to the edition of the laws of the United States; in fact, the proviso for uniformity is itself a proof of identity of them.

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It might, indeed, be added, that in the journal of September 14, the clause to which the proviso was annexed, now a part of the Constitution, viz: "but all duties, imposts, and excises, shall be uniform throughout the United States," is called the "first," of course a "single" clause. And it is obvious that the uniformity required by the proviso implies that what it referred to was a part of the same clause with the proviso, not an antecedent clause altogether separated from it.

Writings of Madison, Volume 4: 1829-1836, p.133

Should it be not contested that the original Constitution, in its engrossed or enrolled state, with the names of the subscribing members affixed thereto, presents the text in the same form, that alone must extinguish the argument in question.

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If, contrary to every ground of confidence, the text, in its original enrolled document, should not coincide with these multiplied examples, the first question would be of comparative probability of error, even in the enrolled document, and in the number and variety of the concurring examples in opposition to it.

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And a second question, whether the construction put on the text, in any of its forms or punctuations, ought to have the weight of a feather against the solid and diversified proofs which have been pointed out, of the meaning of the parties to the Constitution.

Supplement to the letter of

November 27, 1830, to A. Stevenson,

on the phrase "common defence an general welfare."—On the power of indefinite appropriation of money by Congress.

Writings of Madison, Volume 4: 1829-1836, p.134

It is not to be forgotten, that a distinction has been introduced between a power merely to appropriate money to the common defence and general welfare, and a power to employ all the means of giving full effect to objects embraced by the terms.

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1. the first observation to be here made is, that an express power to appropriate money authorized to be raised, to objects authorized to be provided for, could not, as seems to have been supposed, be at all necessary; and that the insertion of the power "to pay the debts," &c., is not to be referred to that cause. It has been seen, that the particular expression of the power originated in a cautious regard to debts of the United States antecedent to the radical change in the Federal Government; and that, but for that consideration, no particular expression of an appropriating power would probably have been thought of. An express power to raise money, and an express power (for example) to raise an army, would surely imply a power to use the money for that purpose. And if a doubt could possibly arise as to the implication, it would be completely removed by the express power to pass all laws necessary and proper in such cases.

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2. But admitting the distinction as alleged, the appropriating power to all objects of "common defence and general welfare" is itself of sufficient magnitude to render the preceding views of the subject applicable to it. Is it credible that such a power would have been unnoticed and unopposed in the Federal Convention? in the State Conventions, which contended for, and proposed restrictive and explanatory amendments? and in the Congress of 1789, which recommended so many of these amendments? A power to impose unlimited taxes for unlimited purposes could never have escaped the sagacity and jealousy which were awakened to the many inferior and minute powers which were criticised and combated in those public bodies.

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3. A power to appropriate money, without a power to apply it in execution of the object of appropriation, could have no effect but to lock it up from public use altogether; and if the appropriating power carries with it the power of application and execution, the distinction vanishes. The power, therefore, means nothing, or what is worse than nothing, or it is the same thing with the sweeping power "to provide for the common defence and general welfare."

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4. To avoid this dilemma, the consent of the States is introduced as justifying the exercise of the power in the full extent within their respective limits. But it would be a new doctrine, that an extra-constitutional consent of the parties to a Constitution could amplify the jurisdiction of the constituted Government. And if this could not be done by the concurring consents of all the States, what is to be said of the doctrine that the consent of an individual State could authorize the application of money belonging to all the States to its individual purposes? Whatever be the presumption that the Government of the whole would not abuse such an authority by a partiality in expending the public treasure, it is not the less necessary to prove the existence of the power. The Constitution is a limited one, possessing no power not actually given, and carrying on the face of it a distrust of power beyond the distrust indicated by the ordinary forms of free Government.

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The peculiar structure of the Government, which combines an equal representation of unequal numbers in one branch of the Legislature, with an equal representation of equal numbers in the other, and the peculiarity which invests the Government with selected powers only, not intrusting it even with every power withdrawn from the local governments, prove not only an apprehension of abuse from ambition or corruption in those administering the Government, but of oppression or injustice from the separate interests or views of the constituent bodies themselves, taking effect through the administration of the Government. These peculiarities were thought to be safeguards due to minorities having peculiar interests or institutions at stake, against majorities who might be tempted by interest or other motives to invade them; and all such minorities, however composed, act with consistency in opposing a latitude of construction, particularly that which has been applied to the terms "common defence and general welfare," which would impair the security intended for minor parties. Whether the distrustful precaution interwoven in the Constitution was or was not in every instance necessary; or how far, with certain modifications, any farther powers might be safely and usefully granted, are questions which were open for those who framed the great Federal Charter, and are still open to those who aim at improving it. But while it remains as it is, its true import ought to be faithfully observed; and those who have most to fear from constructive innovations ought to be most vigilant in making head against them.

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But it would seem that a resort to the consent of the State Legislatures, as a sanction to the appropriating power, is so far from being admissible in this case, that it is precluded by the fact that the Constitution has expressly provided for the cases where that consent was to sanction and extend the power of the national Legislature. How can it be imagined that the Constitution, when pointing out the cases where such an effect was to be produced, should have deemed it necessary to be positive and precise with respect to such minute spots as forts, &c., and have left the general effect ascribed to such consent to an argumentative, or, rather, to an arbitrary construction? And here again an appeal may be made to the incredibility that such a mode of enlarging the sphere of federal legislation should have been unnoticed in the ordeals through which the Constitution passed, by those who were alarmed at many of its powers bearing no comparison with that source of power in point of importance.

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5. Put the case that money is appropriated to a canal\* to be cut within a particular State; how and by whom, it may be asked, is the money to be applied and the work to be executed? By agents under the authority of the General Government? then the power is no longer a mere appropriating power. By agents under the authority of the States? then the State becomes either a branch or a functionary of the Executive authority of the United States; an incongruity that speaks for itself.

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6. The distinction between a pecuniary power only, and a plenary power "to provide for the common defence and general welfare," is frustrated by another reply to which it is liable. For if the clause be not a mere introduction to the enumerated powers, and restricted to them, the power to provide for the common defence and general welfare stands as a distinct substantive power, the first on the list of legislative powers; and not only involving all the powers incident to its execution, but coming within the purview of the clause concluding the list, which expressly declares that Congress may make all laws necessary and proper to carry into execution the foregoing powers vested in Congress.

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The result of this investigation is, that the terms "common defence and general welfare" owed their induction into the text of the Constitution to their connexion in the "Articles of Confederation," from which they were copied, with the debts contracted by the old Congress, and to be provided for by the new Congress; and are used in the one instrument as in the other, as general terms, limited and explained by the particular clauses subjoined to the clause containing them; that in this light they were viewed throughout the recorded proceedings of the Convention which flamed the Constitution; that the same was the light in which they were viewed by the State Conventions which ratified the Constitution, as is shown by the records of their proceedings; and that such was the case also in the first Congress under the Constitution, according to the evidence of their journals, when digesting the amendments afterward made to the Constitution. It equally appears that the alleged power to appropriate money to the "common defence and general welfare" is either a dead letter, or swells into an unlimited power to provide for unlimited purposes, by all the means necessary and proper for those purposes. And it results finally, that if the Constitution does not give to Congress the unqualified power to provide for the common defence and general welfare, the defect cannot be supplied by the consent of the States, unless given in the form prescribed by the Constitution itself for its own amendment.

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As the people of the United States enjoy the great merit of having established a system of Government on the basis of human rights, and of giving to it a form without example, which, as they believe, unites the greatest national strength with the best security for public order and individual liberty, they owe to themselves, to their posterity, and to the world, a preservation of the system in its purity, its symmetry, and its authenticity. This can only be done by a steady attention and sacred regard to the chartered boundaries between the portion of power vested in the Government over the whole, and the portion undivested from the several Governments over the parts composing the whole; and by a like attention and regard to the boundaries between the several departments, Legislative, Executive, and Judiciary, into which the aggregate power is divided. Without a steady eye to the landmarks between these departments, the danger is always to be apprehended, either of mutual encroachments and alternate ascendencies incompatible with the tranquil enjoyment of private rights, or of a concentration of all the departments of power into a single one, universally acknowledged to be fatal to public liberty.

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And without an equal watchfulness over the great landmarks between the General Government and the particular Governments, the danger is certainly not less, of either a gradual relaxation of the band which holds the latter together, leading to an entire separation, or of a gradual assumption of their powers by the former, leading to a consolidation of all the Governments into a single one.

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The two vital characteristics of the political system of the United States are, first, that the Government t holds its powers by a charter granted to it by the people; second, that the powers of Government are formed into two grand divisions—one vested in a Government over the whole community, the other in a number of independent Governments over its component parts. Hitherto charters have been written grants of privileges by Governments to the people. Here they are written grants of power by the people to their Governments.

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Hitherto, again, all the powers of Government have been, in effect, consolidated into one Government, tending to faction and a foreign yoke among a people within narrow limits, and to arbitrary rule among a people spread over an extensive region. Here the established system aspires to such a division and organization of power as will provide at once for its harmonious exercise on the true principles of liberty over the parts and over the whole, notwithstanding the great extent of the whole; the system, forming an innovation and an epoch in the science of Government not less honorable to the people to whom it owed its birth, than auspicious to the political welfare of all others who may imitate or adopt it.

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As the most arduous and delicate task in this great work lay in the untried demarkation of the line which divides the general and the particular Governments by an enumeration and definition of the powers of the former, more especially the legislative powers; and as the success of this new scheme of polity essentially depends on the faithful observance of this partition of powers, the friends of the scheme, or rather the friends of liberty and of man, cannot be too often earnestly exhorted to be watchful in marking and controling encroachments by either of the Governments on the domain of the other.

To J. K. Tefft.

DECEMBER 3d. 1830.

Writings of Madison, Volume 4: 1829-1836, p.139

SIR,—In the year 1828 I received from J. V. Bevan sundry numbers of the "Savannah Georgian," containing continuations of the notes of Major Pierce in the Federal Convention of 1787. They were probably sent on account of a marginal suggestion of inconsistency between language held by me in the Convention with regard to the Executive veto, and the use made of the power by myself, when in the Executive Administration. The inconsistency is done away by the distinction, not adverted to, between an absolute veto, to which the language was applied, and the qualified veto which was exercised.

To James Maury.

MONTPELLIER, Decr 10, 1830.

Writings of Madison, Volume 4: 1829-1836, p.140

MY DEAR SIR,—Your intelligent and interesting ——— whom I had the pleasure of seeing in Richmond during the Convention, and should have seen with greater pleasure at Montpelier, has probably given you some account of the proceedings of that body, which had occasional aspects a little ominous, but which terminated in a Constitution, which few deny to be a great improvement of the old one, though not a few beyond the mountains murmur at, as short of a just reform. In the northwestern counties on the Ohio, there has been so much excitement, that a project was formed to annex themselves to the State of Maryland; but there is little danger that it will be pursued into serious consequences. The most disagreeable feature in our general affairs is the discontent in the Southern States, Virginia included, with the Tariff and the expenditures on Roads and Canals. In South Carolina the spirit has been so violent, as to engender doctrines of the most menacing tendency. Happily she is not supported in them, even by the States most sympathizing with her complaints, and I trust all our difficulties will gradually yield to the patriotic considerations which have been so remedial in former instances.

To General La Fayette.

MONTPELLIER, Decr 12, 1830.

Writings of Madison, Volume 4: 1829-1836, p.141

MY DEAR SIR,—Your letter of July 10th, by Ruggi, was lately forwarded to me. He is now at Charlottesville, hoping that he will not suffer from a credulity, jusqu'a bonhommie, and calling on me "eveiller l'apathie nationale." I have reminded him of the error, apparently without remedy, of his precipitancy in the outset, and of his perseverance for so many years without seeking the information on which it ought to have depended. I have communicated the case, including your letter, to Mr. Jefferson Randolph, and my readiness to aid in any thing that may be deemed proper. But I am sure that, in the existing circumstances of the country, nothing can be done or prudently attempted in pursuance of the original object.

Writings of Madison, Volume 4: 1829-1836, p.141-p.142

I have hitherto forborne, my dear friend, to add to the epistolary mass with which you could not fail to be overwhelmed; well assured that you need not be told how much I have felt with you, and for you, in the crisis produced by the three glorious days of July. The reception given to the event here is shown by the celebrations in the towns which have spoken for the nation. Your friends were aware of your delicate relation to the choice of a substitute for the dethroned Government. I believe I may say, that with few, if any, exceptions, they had more confidence in your patriotic discretion than in their own pretensions to judge on the question. And now that your view of it is known, they take for granted that what was best to be done is what was done. For myself, Republican as I am, I easily conceive that the Constitutional Monarchy adopted may be as necessary to the actual condition of France, internal and external, as Mr. Jefferson thought the system which left Louis XVI on the throne was an eligible accommodation to the then state of things. It may, also, be more easy, if expedient, to descend to a more popular form than to control the tendency of a premature experiment to confusion, and its usual result, in arbitrary Government. If all hereditary ingredients were to be dispensed with, a federal mixture would present itself as worthy of favorable consideration. I have been confirmed in my original opinion, that it will improve any Republic, and that it is essential to one in a country like France. If, on one hand, more of central authority would be required by the powerful nations bearing on her, on the other the same peculiarity would operate in controlling the self-sufficiency and centrifugal tendency of the component parts, and permit a greater share of local authority to be safely left with them. Our system is occasionally producing questions concerning the boundary between the General and the local governments. A late one, little anticipated, has sprung up in South Carolina, where a right in a single State to annul an act of Congress is maintained with a warmth proportioned to its want of strength. Strange as the doctrine is, it has led to a serious discussion, embracing other constitutional topics. I have been drawn into it by appeals to the proceedings of Virginia on a former occasion, in which I bore a noted part; and would send you a pamphlet, to which is appended what I had to say, but that you ought not to be abstracted for a moment from the great task on hand. In the contingency of a practical question of a Government involving the element of Federalism, every light reflected from our experiment may have a degree of interest. Mrs. Madison values too much your kind remembrances not to offer the sincerest returns of them. Heaven bless you, my dear friend, and the cause to which you are yourself a blessing.

1831

To Richard Rush.

Writings of Madison, Volume 4: 1829-1836, p.142

I thank you, my dear sir, for the ————, kindly put under a cover to me. It derives particular interest from the columns subscribed "Temple." I had seen the preceding, bearing that felicitous name, with a ready inference of the real one. The general character of the Whig party in England is as eloquently painted as the position and perplexity of its leaders now in power are accurately delineated. There is certainly too much of nobility, though it be Whig nobility, in the Administration, to flatter the popular hopes; and too much of the spirit of the last in the head of it to meet that of the nation on any ground on which reform can be stationary. Much, however, will depend, for a time, at least, on external experiments and examples. The Government in its actual form of King, Lords, and Commons, is stronger in the opinions and feelings of the people than that of any of the absolute Monarchies; and though not so strong as these in military establishments, (as long as the materials of such establishments can be relied on,) it is more so in the moral and political apparatus which upholds it. Little time will substitute certainty for conjectures as to the course which the pilot will steer; whether little or much will be required to determine the port that will finally be entered is less certain.

Writings of Madison, Volume 4: 1829-1836, p.143

We were disappointed, as well as sorry, to hear of your migration in a Northern direction, before, with Mrs. Rush, you had made the promised trip in the opposite one. The distance, however, is not such as to make us despond of that gratification. In the mean time, Mrs. Madison unites in renewed assurances to you both of our affectionate remembrances and of all our best wishes.

To Reynolds Chapman.

JANUARY 6, 1831.

Writings of Madison, Volume 4: 1829-1836, p.143

DEAR SIR,—I have received yours, enclosing the manuscript of J. M. Patton, on the subject of which it is intimated that my opinion would be acceptable.

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The paper affords sufficient indication of the talents ascribed to the author. Of his honourable principles I believe no one doubts. And with these qualifications for serving his country, it may be well for it that he is making its institutions and interests objects of systematic attention. It is with pleasure, therefore, that I comply, however imperfectly, with the request in your letter, regretting only that the compliance is so imperfect, and that it may less accord in some respects with the ideas of Mr. Patton than might be agreeable to both of us. I am persuaded, nevertheless, that his candour will be equal to my frankness.

Writings of Madison, Volume 4: 1829-1836, p.144

For my opinion on a tariff for the encouragement of domestic manufactures I may refer to my letters to Mr. Cabell in 1828, which will show the ground on which I maintained its constitutionality. It avoids the question quo animo? in using an impost for another purpose than revenue; a question which, though not in such a case within a judicial purview, would be asked and pressed in discussions appealing to public opinion.

Writings of Madison, Volume 4: 1829-1836, p.144

If a duty can be constitutionally laid on imports, not for the purpose of revenue, which may be reduced or destroyed by the duty, but as a means of retaliating the commercial regulations of foreign countries, which regulations have for their object, sometimes their sole object, the encouragement of their manufactures, it would seem strange to infer that an impost for the encouragement of domestic manufactures was unconstitutional because it was not for the purpose of revenue; and the more strange, as an impost for the protection and encouragement of national manufactures is of much more general and familiar practice than as a retaliation of the injustice of foreign regulations of commerce. It deserves consideration whether there be not other cases in which an impost, not for revenue, must be admitted, or necessary interests be provided for by a more strained construction of the specified powers of Congress.

Writings of Madison, Volume 4: 1829-1836, p.144

With respect to the existing tariff, however justly it may be complained of in several respects, I cannot but view the evils Charged on it as greatly exaggerated. One cause of the excitement is an impression with many, that the whole amount paid by the consumers goes into the pockets of the manufacturers; while that is the case so far only as the articles are actually manufactured in the country, which in some instances is in a very inconsiderable proportion, the residue of the amount passing, like other taxes, into the public treasury, and to be replaced, if withdrawn, by other taxes. The other cause is the unequal operation of the tax, resulting from an unequal consumption of the article paying it in different sections; and in some instances, this is doubtless a striking effect of the existing tariff. But, to make a fair estimate of the evil, it must be inquired how far the sections, overburdened in some instances, may not be underburdened in others, so as to diminish, if not remove, the inequality. Unless a tariff be a compound one, it cannot, in such a country as this, be made equal either between different sections or among different classes of citizens; and as far as a compound tariff can be made to approach equality, it must be by such modifications as will balance inequalities against each other. The consumption of coarse woollens used by the negroes in the South may be greater than in the North, and the tariff on them be disproportionately felt in that section. Before the change in the duties on tea, coffee, and molasses, the greater consumption elsewhere of these articles, and of the article of sugar, from habit, and a population without slaves, might have gone far towards equalizing the burden; possibly have exceeded that effect.

Writings of Madison, Volume 4: 1829-1836, p.145

Be this as it may, I cannot but believe, whatever well-founded complaints may he against the tariff, that, as a cause of the general sufferings of the country, it has been vastly overrated; that, if wholly repealed, the limited relief would be a matter of surprise; and that, if the portion only having not revenue, but manufactures, for its object, were struck off, the general relief would be little felt.

Writings of Madison, Volume 4: 1829-1836, p.145

In looking for the great and radical causes of the pervading embarrassments, they present themselves at once: 1. In the fall almost to prostration in the price of land, evidently the effect of the quantity of cheap Western land in the market. 2. In the depreciating effect in the products of land, from the increased products resulting from the rapid increase of population, and the transfer of labour from a less productive to a more productive soil, not in effect more distant from the common markets.

Writings of Madison, Volume 4: 1829-1836, p.145

It is not wonderful that the price of tobacco should fall when the export through New Orleans has for the last three years added an annual average of near thirty thousand hogsheads to the export of the old tobacco States, or that the price of cotton should have felt a like effect from like causes. It has been admitted by the "Southern Review," that the fall of cotton occurred prior even to the tariff of 1824. The prices of both tobacco and flour have had a greater fall than that of cotton.

Writings of Madison, Volume 4: 1829-1836, p.146

To this solution of the problem of the depressed condition of the country may be added the fact, not peculiar to Virginia, that the fall in the prices of land and its products found the people much in debt, occasioned by the tempting liberality of the banks and the flattering anticipations of crops and prices.

Writings of Madison, Volume 4: 1829-1836, p.146

It may not be out of place to observe, that in deciding the general question of a protective policy, the public opinion is in danger of being unduly influenced by the actual state of things, as it may happen to be a period of war or of peace. In the former case, the departure from the "let alone" theory may be pressed too far. In the latter, the fair exceptions to it may be too much disregarded. The remark will be verified by comparing the public opinion on the subject, during the late war and at the close of it, with the change produced by the subsequent period of peace. It cannot be doubted, that on the return of a state of war, even should the United States not be a party, the reasonings against the protection of certain domestic manufactures would lose much of the public favour, perhaps too much, considering the increased ability of the United States to protect their foreign commerce, which would greatly diminish the risks and expense of transportation, though not the war prices in the manufacturing countries.

Writings of Madison, Volume 4: 1829-1836, p.146

For my general opinion on the question of internal improvements I may refer to the veto message against the "Bonus Bill," at the close of the session of Congress in March, 1817. The message denies the constitutionality as well of the appropriating as of the executing and jurisdictional branches of the power. And my opinion remains the same, subject, as heretofore, to the exception of particular cases, where a reading of the Constitution different from mine may have derived from a continued course or practical sanctions an authority sufficient to overrule individual constructions.

Writings of Madison, Volume 4: 1829-1836, p.147

It is not to be wondered that doubts and difficulties should occur in expounding the Constitution of the United States. Hitherto the aim, in well-organized Governments, has been to discriminate and distribute the legislative, executive, and judiciary powers; and these sometimes touch so closely, or, rather, run the one so much into the other, as to make the task difficult and leave the lines of division obscure. A settled practice, enlightened by occurring cases, and obviously conformable to the public good, can alone remove the obscurity. The case is parallel in new statutes on complex subjects.

Writings of Madison, Volume 4: 1829-1836, p.147

In the Constitution of the United States, where each of these powers is divided, and portions allotted to different governments, and where a language technically appropriate may be deficient, the wonder would be far greater if different rules of exposition were not applied to the text by different commentators.

Writings of Madison, Volume 4: 1829-1836, p.147

Thus it is found that, in the case of the legislative department particularly, where a division and definition of the powers according to their specific objects is most difficult, the instrument is read by some as if it were a Constitution for a single Government, with powers coextensive with the general welfare, and by others interpreted as if it were an ordinary statute, and with the strictness almost of a penal one.

Writings of Madison, Volume 4: 1829-1836, p.147

Between these adverse constructions an intermediate course must be the true one; and it is hoped that it will finally, if not otherwise settled, be prescribed by an amendment of the Constitution. In no case is a satisfactory one more desirable than in that of internal improvements, embracing roads, canals, lighthouses, harbours, rivers, and other lesser objects.

Writings of Madison, Volume 4: 1829-1836, p.147

With respect to post roads, the general view taken of them in the manuscript shows a way of thinking on the subject with which mine substantially accords. Roads, when plainly necessary for the march of troops and for military transportations, must speak for themselves as occasions arise.

Writings of Madison, Volume 4: 1829-1836, p.147

Canals, as an item in the general improvement of the country, have always appeared to me not to be embraced by the authority of Congress. It may be remarked that Mr. Hamilton, in his Report on the Bank, when enlarging the range of construction to the utmost of his ingenuity, admitted that canals were beyond the sphere of Federal legislation.

Writings of Madison, Volume 4: 1829-1836, p.148

Light-houses having a close and obvious relation to navigation and external commerce, and to the safety of public as well as private ships, and having received a positive sanction and general acquiescence from the commencement of the Federal Government, the constitutionality of them is, I presume, not now to be shaken, if it were ever much contested. It seems, however, that the power is liable to great abuse, and to call for the most careful and responsible scrutiny into every particular case before an application be complied with.

Writings of Madison, Volume 4: 1829-1836, p.148

Harbours, within the above character, seem to have a like claim on the Federal authority. But what an interval between such a harbour as that of New York or New Orleans and the mouth of a creek forming an outlet for the trade of a single State or part of a State into a navigable stream, and the principle of which would authorize the improvement of every road leading out of the State towards a destined market?

Writings of Madison, Volume 4: 1829-1836, p.148

What, again, the interval between clearing of its sawyers &c., the Mississippi, the commercial highway for half the nation, and removing obstructions by which the navigation of an inconsiderable stream may be extended a few miles only within a single State?

Writings of Madison, Volume 4: 1829-1836, p.148

The navigation of the Mississippi is so important in a national view, so essentially belongs to the foreign commerce of many

Writings of Madison, Volume 4: 1829-1836, p.148

States, and the task of freeing it from obstructions is so much beyond the means of a single State, and beyond a feasible concert of all who are interested in it, that claims on the authority and resources of the nation will continue to be, as they have been, irresistible. Those who regard it as a case not brought by these features within the legitimate powers of Congress, must, of course, oppose the claim, and with it every inferior claim. Those who admit the power as applicable to a case of that description, but disown it in every case not marked by adequate peculiarities, must find, as they can, a line separating this admissible class from the others; a necessity but too often to be encountered in a legislative career.

Writings of Madison, Volume 4: 1829-1836, p.149

Perhaps I ought not to omit the remark, that although I concur in the defect of powers in Congress on the subject of internal improvements, my abstract opinion has been, that, in the case of canals particularly, the power would have been properly vested in Congress. It was more than once proposed in the Convention of 1787, and rejected from an apprehension, chiefly, that it might prove an obstacle to the adoption of the Constitution. Such an addition to the Federal powers was thought to be strongly recommended by several considerations: 1. As Congress would possess, exclusively, the sources of revenue most productive and least unpopular, that body ought to provide and apply the means for the greatest and most costly works. 2. There would be cases where canals would be highly important in a national view, and not so in a local view. 3. Cases where, though highly important in a national view, they might violate the interest, real or supposed, of the State through which they would pass, of which an example might now be cited in the Chesapeake and Delaware canal, known to have been viewed in an unfavourable light by the State of Delaware. 4. There might be cases where canals, or a chain of canals, would pass through sundry States, and create a channel and outlet for their foreign commerce, forming at the same time a ligament for the Union, and extending the profitable intercourse of its members, and yet be of hopeless attainment if left to the limited faculties and joint exertions of the States possessing the authority.

Writings of Madison, Volume 4: 1829-1836, p.149

It cannot be denied, that the abuse to which the exercise of the power in question has appeared to be liable in the hands of Congress is a heavy weight in the scale opposed to it. But may not the evil have grown, in a great degree, out of a casual redundancy of revenue, and a temporary apathy to a burden bearing indirectly on the people, and mingled, moreover, with the discharge of debts of peculiar sanctity? It might not happen, under ordinary circumstances, that taxes even of the most disguised kind would escape a wakeful control on the imposition and application of them. The late reduction of duties on certain imports, and the calculated approach of an extinguishment of the public debt, have evidently turned the popular attention to the subject of taxes, in a degree quite new; and it is more likely to increase than to relax. In the event of an amendment of the Constitution, guards might be devised against a misuse of the power without defeating an important exercise of it. If I err or am too sanguine in the views I indulge, it must be ascribed to my conviction that canals, railroads, and turnpikes are at once the criteria of a wise policy and causes of national prosperity; that the want of them will be a reproach to our republican system, if excluding them; and that the exclusion, to a mortifying extent, will ensue, if the power be not lodged where alone it can have its due effect.

Writings of Madison, Volume 4: 1829-1836, p.150

Be assured of my great esteem, and accept my cordial salutations.

To Stephen Bates.

JANUARY 24th, 1831.

Writings of Madison, Volume 4: 1829-1836, p.150

DEAR SIR,—I received, long ago, your interesting favor on the 31st of October, with a pamphlet referred to, and I owe an apology for not sooner acknowledging it. I hope it will be a satisfactory one that the state of my health, crippled by a severe rheumatism, restricted my attention to what seemed to have immediate claims upon it, and in that light I did not view the subject of your communication, ignorant, as I was, of the true character of Masonry, and little informed, as I was, of the grounds on which its extermination was contended for; and incapable as I was, and am, in my situation of investigating the controversy. I never was a Mason, and no one, perhaps, could be more a stranger to the principles, rites, and fruits of the institution. I had never regarded it as dangerous or noxious; nor, on the other hand, as deriving importance from anything publicly known of it. From the number and character of those who now support the charges against Masonry, I cannot doubt that it is at least susceptible of abuses outweighing any advantages promised by its patrons.

Writings of Madison, Volume 4: 1829-1836, p.151

With this apologetic explanation, I tender you my respectful and cordial salutations.

To Robert Walsh.

JANY 25, 1831.

Writings of Madison, Volume 4: 1829-1836, p.151

SIR,—The National Gazette of Jany ——— contained a publication, edited since in a pamphlet form, from two sons of the late Mr. Bayard, its object being to vindicate the memory of their father against certain passages in the writings of Mr. Jefferson.

Writings of Madison, Volume 4: 1829-1836, p.151

The filial anxiety which prompted the publication was natural and highly commendable. But it is to be regretted that, in performing that duty, they have done great injustice to the memory of Mr. Jefferson, by the hasty and limited views taken of the evidence deducible from the sources to which they had appealed.

Writings of Madison, Volume 4: 1829-1836, p.151

The first passage on which they found their charges is in the following words:

Writings of Madison, Volume 4: 1829-1836, p.151

"February 12, 1801.—Edward Livingston tells me that Bayard applied to-day, or last night, to General Smith, and represented to him the expediency of coming over to the States who vote for Burr; that there was nothing in the way of appointment which he might not command, and particularly mentioned the Secretaryship of the Navy. Smith asked him if he was authorized to make the offer. He said he was authorized. Smith told this to Livingston, and to Wilson Carey Nicholas, who confirms it to me," &c. [See Jefferson's Memoirs, vol. 4, p. 515.]

Writings of Madison, Volume 4: 1829-1836, p.151

From this statement it appears that Mr. Jefferson was told by Mr. Livingston, that he had it from General Smith, that Mr. Bayard had applied to him [General Smith] with an offer of a high appointment, if he would come over from the Jefferson party and join that of the rival candidate for the Presidency. It appears that this information of Mr. Livingston was confirmed to Mr. Jefferson by Mr. W. C. Nicholas, who also said he had it from General Smith. It appears that the communication thus made to Mr. Jefferson was reduced by him to writing on the day on which it was made; and that the incident which was the subject of it took place on the morning of the same day, or, at farthest, on the night before. It is found, also, that what was in this case reduced to writing, made no part of what was first reduced to writing on 15th Apl, 1806, (see vol. 4, p. 521,) but that it was then expressly referred to, as having been reduced to writing at the time.

Writings of Madison, Volume 4: 1829-1836, p.152

Opposed to this Memorandum of Mr. Jefferson is: 1. the declaration of Mr. Livingston on the floor of the Senate of the U. States, after a lapse of about twenty-nine years, "that as to the precise question put to him, [touching the application of Mr. Bayard to General Smith,] he must say, that, having taxed his recollection as far as it could go, on so remote a transaction, he had no remembrance of it;" implying that he might have had a conversation with Mr. Jefferson relating to the remote transaction, not within the scope of the precise question. 2. The declaration of General Smith in the same place, and after the same lapse of time, "that he had not the most distant recollection that Mr. Bayard had ever made such a proposition to him;" adding, "that he never received from any man such a proposition."

Writings of Madison, Volume 4: 1829-1836, p.152

On comparing these declarations, made after an interval of so many years, with the statement of Mr. Jefferson reduced to writing, at the time, it is impossible to regard them as proof that communications were not made to him by Mr. Livingston and Mr. W. C. Nicholas, which he [Mr. Jefferson] understood to import that Mr. Bayard had made to General Smith the application as stated. And if Mr. Jefferson was under that impression, however erroneous it might be, his subsequent opinion and language in reference to Mr. Bayard are at once accounted for, without any resort to the imputations in the publication.

Writings of Madison, Volume 4: 1829-1836, p.152

That there has been great error somewhere is apparent; that respect for the several parties requires it to be viewed as involuntary, must be admitted; that, being involuntary, it must have proceeded from misapprehensions or failures of memory; that, there having been no interval for the failure of the memory of Mr. Jefferson, the error, if with him, must be ascribed to misapprehensions. the resulting question, therefore, is between the probability of misapprehensions by Mr. Jefferson of the statements made to him at the same time by Mr. Livingston and Mr. Nicholas, and the probability of misapprehensions or failures of memory in some one or more of the other parties. And the decision of this question must be left to an unbiased and intelligent public.

Writings of Madison, Volume 4: 1829-1836, p.153

The other passage is at page 521, vol. 4, of the Memoirs, and is as follows, under date of April 15, 1806. Referring to a previous conversation with Col. Burr, he says:

Writings of Madison, Volume 4: 1829-1836, p.153

"I did not commit these things to writing at the time, but I do it now, because, in a suit between him [Col. Burr] and Cheetham, he had a deposition of Mr. Bayard taken, which seems to have no relation to the suit, nor to any other object than to calumniate me. Bayard pretends to have addressed to me, during the pending of the Presidential election in Feby, 1801, through General Samuel Smith, certain conditions on which my election might be obtained; and that General Smith, after conversing with me, gave answers for me. This is absolutely false. No proposition of any kind was ever made to me on that occasion by General Smith, nor any answer authorized by me, and this fact General Smith affirms at this moment."

Writings of Madison, Volume 4: 1829-1836, p.153

The reply given to this memorandum by the authors of the publication is a reference to the depositions of Mr. Bayard and General Smith in the cause of Gillespie and Smith.

Writings of Madison, Volume 4: 1829-1836, p.153

It appears that Mr. Jefferson, attending merely to the matter of Mr. Bayard's deposition, did not distinguish between the suit of Burr and Cheetham and that of Gillespie and Smith, in the latter of which the deposition of General Smith as well as that of Mr. Bayard was taken.

Writings of Madison, Volume 4: 1829-1836, p.153

The part of the deposition of Mr. Bayard referred to by Mr. Jefferson is as follows:

Writings of Madison, Volume 4: 1829-1836, p.154

"I [Mr. B.] told him [General Smith] I should not be satisfied, nor agree to yield, till I had the assurance from Mr. Jefferson himself; but if he [General Smith] would consult Mr. Jefferson, and bring the assurance from him, the election should be ended. The General made no difficulty in consulting Mr. Jefferson, and proposed giving me his answer the next morning. The next day, upon our meeting, General Smith informed me that he had seen Mr. Jefferson and stated to him the points mentioned, and was authorized by him to say that they corresponded with his views and intentions, and that he [Mr. B.] might confide in him accordingly. The opposition of Vermont, &c., &c., was immediately withdrawn, and Mr. Jefferson made President by the vote of ten States."

Writings of Madison, Volume 4: 1829-1836, p.154

Here it is explicitly stated, on the authority of General Smith, that an assurance, in the nature of a pledge, was authorized by Mr. Jefferson to be given to Mr. Bayard, that he [Mr. Jefferson] would conform to the conditions on which his election was to be obtained.

Writings of Madison, Volume 4: 1829-1836, p.154

The terms used by Mr. Jefferson in denouncing the fact deposed by Mr. Bayard are accounted for by the odious light in which it presented itself; by his consciousness that he lead never authorized it; by the impressions, unfavorable to Mr. Bayard, which had been made upon him by the information, as he understood it, given him by Mr. Livingston and Mr. Nicholas; and especially by the denial of the fact by General Smith at the moment.

Writings of Madison, Volume 4: 1829-1836, p.154

Certain it is, that there is a direct contrariety between the deposition of Mr. Bayard and the memorandum of Mr. Jefferson, involving a question between General Smith and Mr. Bayard on the one hand, and between Mr. Jefferson and General Smith on the other.

Writings of Madison, Volume 4: 1829-1836, p.154

That Mr. Bayard understood General Smith to leave borne an authorized pledge from Mr. Jefferson, is attested by the fact that he proceeded forthwith to execute the purpose of which such a pledge was the condition.

Writings of Madison, Volume 4: 1829-1836, p.154

Passing to the deposition of General Smith, given twelve days after that of Mr. Bayard, and on the same day on which the memorandum of Mr. Jefferson is dated, let it be seen what light is furnished by that document.

Writings of Madison, Volume 4: 1829-1836, p.155

The assertion of Mr. Jefferson in the memorandum is, that no proposition of any kind was ever made to him, nor any answer authorized by him, "and this fact General Smith affirms to me at this moment."

Writings of Madison, Volume 4: 1829-1836, p.155

In accordance with this assertion of Mr. Jefferson and confirmation of General Smith is the passage in the deposition of General Smith, which declares "that he knew of no bargains or agreements which took place at the time of the ballotings," and the other passage, which states "that be [Mr. Jefferson] had told me [General S.] that any opinion he should give at this time might be attributed to improper motives. That to me [General Smith] he had no hesitation in saying that, as to the public debt, &c., &c., he had not changed his opinion," &c. This was so far from authorizing any use of what he said, that might be attributed to improper motives, that it was expressed as between themselves, and consequently with a view to guard against any such use.

Writings of Madison, Volume 4: 1829-1836, p.155

The passage in the deposition of General Smith on which particular reliance seems to be placed, as contradicting the statement of Mr. Jefferson, is the following:

Writings of Madison, Volume 4: 1829-1836, p.155

"He [Mr. B.] stated that he had it in his power (and was so disposed) to terminate the election, but he wished information as to Mr. Jefferson's opinions on certain subjects, and mentioned (I think) the same three points already alluded to, as asked by Col. Parker and General Dayton, and received from me the same answer in substance (if not in words) that I had given to General Dayton. He added a fourth, to wit: what would be Mr. Jefferson's conduct as to the public officers? He said he did not mean confidential officers; but, by way of elucidating his question, he added, such as Mr. Latimer, of Philadelphia, and Mr. McLane, of Delaware. I answered that I had never heard Mr. Jefferson say any thing on the subject. He requested that I would enquire and inform him the next day. I did so; and the next day (Saturday) told him, that Mr. Jefferson had said that he did not think such officers ought to be dismissed on political grounds only, except in cases where they had made improper use of their offices to force the officers under them to vote contrary to their judgments. That as to Mr. McLane, he had already been spoken to in his behalf by Major Eccleston; and from the character given him by that gentleman, he considered him a meritorious officer; of course that he would not be displaced, or ought not to be displaced. I further added, that Mr. Bayard might rest assured (or words to that effect) that Mr. Jefferson would conduct, as to those points, agreeably to the opinions I had stated as his. Mr. Bayard then said, we will give the vote on Monday, and we separated."

Writings of Madison, Volume 4: 1829-1836, p.156

Here it is to be observed, that General Smith does not say that he had made any proposition to Mr. Jefferson, or that he should communicate to Mr. Bayard the conversation then held with Mr. Jefferson.

Writings of Madison, Volume 4: 1829-1836, p.156

The expression having most the aspect of a pledge is, "he [Mr. Jefferson] considered him [Mr. McLane] a meritorious officer; of course that he would not be displaced, or ought not to be displaced," &c.

Writings of Madison, Volume 4: 1829-1836, p.156

It cannot be denied that the phrase admits the construction that "of course," &c., was a continuation of what was said by Mr. Jefferson, not the inference of General Smith. But to construe the expression as conveying a pledge from Mr. Jefferson is forbidden: 1. By the declaration of General Smith in the same deposition, that he [General S.] knew of no bargains or agreements which took place at the time of the balloting. 2. By the caution of Mr. Jefferson, as stated by General Smith, in expressing even his opinions at a time when they might be attributed to improper motives. 3. By the confirmation given by General Smith to Mr. Jefferson's denial of the fact that any proposition of any kind was ever made to him on any occasion by General Smith, or any answer authorized by him, [Mr. Jefferson.]

Writings of Madison, Volume 4: 1829-1836, p.156

It is true that Mr. Bayard, as already observed, must have understood General Smith in this conversation as meaning that he was authorized by Mr. Jefferson to say, "that the points mentioned [the conditions made by Mr. B.] corresponded with his [Mr. Jefferson's] views and intentions." But whether this discrepancy is to be explained by misapprehensions at the time, or by the lapse of nearly five years, the explanation cannot invalidate the positive denial of Mr. Jefferson that any such authority was given to General Smith, and his affirmance of the denial at the moment when it was put into the memorandum by Mr. Jefferson.

Writings of Madison, Volume 4: 1829-1836, p.157

It can never be admitted that the authority of the deliberate statement of Mr. Jefferson is impaired by its being without the sanction of an oath. Apart from its intrinsic sufficiency, no one can doubt that such a sanction would readily have been added on any occasion calling for it; and with the greater confidence, as the fact sworn to would have been reduced to writing at the time, an advantage always duly estimated in cases depending on the accuracy of recollection.

Writings of Madison, Volume 4: 1829-1836, p.157

The situation of Mr. Jefferson during the critical period of the Presidential contest in the House of Representatives was equally marked by its peculiarity and its importance. He saw the whole Government in a state of convulsion; he saw the danger of an absolute interregnum in its Executive branch, the consequences of which could not be foreseen; he saw what he regarded the will of the people about to be trampled upon, and the party whose ascendency he believed to be of vital importance to the cause of Republican Government attempted to be broken down; whilst the escape from all these dangers presented to him was through pledges which might be stigmatized as an ambitious intrigue and a purchase of success at the expense of those principles and feelings which he avowed and held inviolable. Happily, the course of circumstances fulfilled his patriotic wishes without the sacrifice which the accomplishment of them had scorned to require.

Writings of Madison, Volume 4: 1829-1836, p.157

The situation of Mr. Bayard was also peculiar and trying. He was justly struck with horror at the prospect of an interregnum in the Government, so full of evils and so fatal in its example; and he was scarcely less alarmed at the danger which threatened, what he held to be, a vital policy of his country. But holding, at the same time, in his hands the event on which every thing depended, he availed himself of the opportunity of terminating the crisis in a manner which prevented the calamity he most dreaded, and provided, as he believed, an adequate security against the other.

Writings of Madison, Volume 4: 1829-1836, p.158

Before dismissing the subject, a word may be proper with respect to the charge in the publication against Mr. Jefferson, of leaving the memorandum referring to Mr. Bayard's deposition for posthumous use, when the means of refuting it might be lost.

Writings of Madison, Volume 4: 1829-1836, p.158

The suit of Gillespie and Smith, which led to the deposition of Mr. Bayard, is said to have been a fictitious one, instituted for the purpose of obtaining and perpetuating testimony against the purity of Mr. Jefferson's conduct during the Presidential election in 1801. The cause, it is understood, never was brought to trial; and it is inferred, from a resort to the source which furnished the copies of the depositions of Mr. Bayard and General Smith, that the depositions were never published. Of their existence, however, (and in a custody supposed by Mr. Jefferson to be unfriendly,) and in the passage in that of Mr. Bayard testifying that he (Mr. Jefferson) had authorized General Smith to accede for him to certain conditions on which his election to the Presidency might be obtained, Mr. Jefferson, it seems, was apprized from some friendly quarter. With this knowledge of a shaft that might posthumously inflict a deep wound on his reputation, could he do less than provide a shield against it by recording with his own hand the falsity of the charge, and the affirmance of its falsity at the moment of his doing so, by the individual named as the authority for the charge? What is now before the public proves that a weapon was in reserve by which a posthumous assault on his reputation might be made; and if there be unfairness in the case let candor pronounce on which side it is chargeable—on that of Mr. Jefferson, not of the deponents, (doubtless involuntary,) but of the parties to the suit which rendered the precaution necessary.

To Robert Walsh.

Writings of Madison, Volume 4: 1829-1836, p.159

DEAR SIR,—The publication which gave rise to the inclosed observations having first appeared in the National Gazette, I ask the favor of you to allow them the advantage of issuing from the same source and of circulating through the same channel. I have thought it best to leave them without a name, that no feelings of any sort towards the writer may mingle themselves with the impressions made on the reader.

Writings of Madison, Volume 4: 1829-1836, p.159

I take the occasion, sir, to renew to you the assurances of my high esteem, with an offer of my cordial salutations.

To Mr. Walsh.

JANY 31, 1831.

Writings of Madison, Volume 4: 1829-1836, p.159

DEAR SIR,—I just discover that in the paper inclosed this morning for the National Gazette, a correction was not made, which, I presume, this will be in time to have supplied. I ask the favor, then, that in the 4th paragraph from the end the words "and he saw, at the same time, no escape from all these dangers, but," be erased, and "whilst the escape from these dangers, presented to him, was," be inserted.

To William H. Harrison.

MONTPELLIER, Feby 1, 1831.

Writings of Madison, Volume 4: 1829-1836, p.159

DEAR SIR,—I have received your letter of the 22d ulto, in which you request my opinion of the character and merits of General Pike.

Writings of Madison, Volume 4: 1829-1836, p.159

Having had but a very slight personal acquaintance with him, I cannot say more of his private character than that everything I recollect to have heard of it was favorable to it.

Writings of Madison, Volume 4: 1829-1836, p.159

Of his enterprising spirit, his distinguished gallantry, and his zealous services in his military career, there must, I presume, be sufficient evidence in public preservation. All the impressions I retain coincide with it; and I may add, that I always understood that he united with his military merits an exemplary devotion to the rights of his country, and to the free principles of its institutions.

Writings of Madison, Volume 4: 1829-1836, p.160

The universal sensation known to have been produced by his fall in the final display of his heroic courage, bore a signal testimony to the rank he held in the estimation and the hearts of his fellow-citizens.

Writings of Madison, Volume 4: 1829-1836, p.160

An earlier answer to your letter has been prevented by an indisposition, from which my recovery is far from being complete.

To C. J. Ingersoll.

MONTPELLIER, February 2, 1831.

Writings of Madison, Volume 4: 1829-1836, p.160

DEAR SIR,—I have received your letter of January 21, asking—

Writings of Madison, Volume 4: 1829-1836, p.160

1. Is there any State power to make Banks?

Writings of Madison, Volume 4: 1829-1836, p.160

2. Is the Federal power, as it has been exercised, or as proposed to be exercised by President Jackson, preferable?

Writings of Madison, Volume 4: 1829-1836, p.160

The evil which produced the prohibitory clause in the Constitution of the United States was the practice of the States in making bills of credit, and in some instances appraised property, "a legal tender." If the notes of the State Banks, therefore, whether chartered or unchartered, be made a legal tender, they are prohibited; if not made a legal tender, they do not fall within the prohibitory clause. The N° of the Federalist referred to was written with that view of the subject; and this, with probably other contemporary expositions, and the uninterrupted practice of the States in creating and permitting Banks, without marking their notes a legal tender, would seem to be a bar to the question if it were not inexpedient now to agitate it.

Writings of Madison, Volume 4: 1829-1836, p.160

A virtual and incidental enforcement of the depreciated notes of the State Banks, by their crowding out a sound medium, though a great evil, was not foreseen; and if it had been apprehended, it is questionable whether the Constitution of the United States, which had so many obstacles to encounter, would have ventured to guard against it by an additional obstacle. A virtual, and, it is hoped, an adequate remedy may hereafter be found in the refusal of State paper, when debased, in any of the Federal transactions, and in the control of the Federal Bank, this being itself controled from suspending its specie payments by the public authority.

Writings of Madison, Volume 4: 1829-1836, p.161

On the other question I readily decide against the project recommended by the President. Reasons, more than sufficient, appear to have been presented to the public in the reviews and other comments which it has called forth. How far a hint for it may have been taken from Mr. Jefferson I know not. The kindred ideas of the latter may be seen in his Memoirs, &c., vol. iv, p. 196, 207, 526, and his view of the State Banks, vol. iv, p. 199 and 220.

Writings of Madison, Volume 4: 1829-1836, p.161

There are sundry statutes of Virginia prohibiting the circulation of notes payable to bearer, whether issued by individuals or unchartered banks.

Writings of Madison, Volume 4: 1829-1836, p.161

These observations, little new or important as they may be, would have been more promptly furnished, but for an indisposition in which your letter found me, and which has not yet entirely left me. I hope this will find you in good health, and you have my best wishes for its continuance and the addition of every other blessing.

To Theodore Sedgwick, June.

MONTPELLIER, Feby 12, 1831.

Writings of Madison, Volume 4: 1829-1836, p.161

SIR,—I have received your letter of January 27, which was retarded a few days, by going in the first instance to Richmond. You ask "whether Mr. Livingston (formerly Governor of N. Jersey) took an active part in the debates, (of the Federal Convention in 1787,) and whether he was considered as having a leaning towards the Federal party and principles?" adding"that you will be obliged by any further information it may be in my power to give you."

Writings of Madison, Volume 4: 1829-1836, p.162

Mr. Livingston did not take his seat in the Convention till some progress had been made in the task committed to it; and he did not take an active part in its debates; but he was placed on important committees, where it may be presumed he had an agency and a due influence. He was personally unknown to many, perhaps most of the members; but there was a predisposition in all to manifest the respect due to the celebrity of his name.

Writings of Madison, Volume 4: 1829-1836, p.162

I am at a loss for a precise answer to the question whether he had a leaning to the Federal party and principles. Presuming that, by the party alluded to, is meant those in the Convention who favored a more enlarged, in contradistinction to those who favored a more restricted grant of powers to the Federal Government, I can only refer to the recorded votes which are now before the public; and these being by States, not by heads, individual opinions are not disclosed by them. The votes of N. Jersey corresponded generally with the plan offered by Mr. Patterson; but the main object of that being to secure to the smaller States an equality with the larger in the structure of the Government in opposition to the outline previously introduced, which had reversed the object, it is difficult to say what was the degree of power to which there might be an abstract leaning. The two subjects, the structure of the Government and the quantum of power entrusted to it, were more or less inseparable in the minds of all, as depending, a good deal, the one on the other. After the compromise, which gave the small States an equality in one branch of the Legislature, and the large States an inequality in the other branch, the abstract leaning of opinions would better appear. With those, however, who did not enter into debate, and whose votes could not be distinguished from those of their State colleagues, their opinions could only be known among themselves or to their particular friends.

Writings of Madison, Volume 4: 1829-1836, p.162

I know not, sir, that I can give you any of the further information you wish that is not attainable with more authenticity and particularity from other sources. My acquaintance with Governor Livingston was limited to an exchange of the common civilities, and these to the period of the Convention. In my youth I passed several years in the College of N. Jersey, of which he was a trustee, and where his two sons, William and the late member of the Supreme Court of the U. States, were fellow-students. I recollect to have seen him there in his capacity of trustee, and to have heard him always spoken of as among the distinguished lawyers, and as conspicuous among the literary patriots of N. Jersey. I recollect, particularly, that he was understood to be one of the authors of a work entitled "The Independent Reflector," and that some of the papers in it ascribed to him, being admired for the energy and eloquence of their composition, furnished occasionally to the students orations for the rostrum, which were alternately borrowed from books and composed by themselves.

Writings of Madison, Volume 4: 1829-1836, p.163

I regret, sir, that I have not been able to make a more important contribution for the biographical memoir you meditate. Wishing you all the success in other researches which the object of them merits, I tender you my respectful and friendly salutations.

To Robert Walsh.

FEBY 15, 1831.

Writings of Madison, Volume 4: 1829-1836, p.163

DR SIR,—I have duly received yours of the 10th instant. The posture of Mr. Jefferson in 180l was singularly delicate, and I thought the varied expression better fitted it than the text as it stood. I acquiesce, however, in your view of the case, the rather, as it avoids the awkwardness of a retrospective correction.

Writings of Madison, Volume 4: 1829-1836, p.163

I should not certainly, under any circumstances, distrust your observance of the rule of confidence. It will not be strange if conjectures as to the authorship of the vindication of Mr. Jefferson should, among others, light on me; though less for the reason you mention, than from motives to such an undertaking that might be thought appropriate to me.

Writings of Madison, Volume 4: 1829-1836, p.164

In noticing your friendly offer of the National Gazette for any use I may have for it, I feel it not improper to express my respect for the distinguished ability and the attractions by which it is characterized. The occasions on which I have yielded to calls on my pen have been rare, perhaps not enough so; and the channels for publication have been determined by the occasions themselves. I ought to hope that these have ceased, recollecting, as I do, that after the canonical age of three-score-and-ten, (and a few weeks will add another decade to mine,) a writer will find his arguments, whatever they be, answered with an "I wonder how old he is?"

Writings of Madison, Volume 4: 1829-1836, p.164

I congratulate you, sir, that it will be so long before you can receive such an answer, however convenient the refuge might be to the opponent.

To C. E. Haynes.

MONTPELLIER, Feb. 25, 1831.

Writings of Madison, Volume 4: 1829-1836, p.164

DEAR SIR,—I have received the copy of Judge Clayton's Review of the "Report of the Committee or Ways and Means," for which the envelope informs me that I am indebted to your politeness.

Writings of Madison, Volume 4: 1829-1836, p.164

A perusal of the review has left an impression highly favourable to the talents of the author and to the accomplishments of his pen. But I cannot concur in his views and reasonings on some of the material points in discussion; and I must be permitted to think he has done injustice in the remark, "that I seem to have surrendered all my early opinions at discretion."

Writings of Madison, Volume 4: 1829-1836, p.164

I am far from regarding a change of opinions, under the lights of experience and the results of improved reflection, as exposed to censure; and still farther from the vanity of supposing myself less in need of that privilege than others. But I had indulged the belief that there were few, if any, of my contemporaries, through the long period and varied scenes of my political life, to whom a mutability of opinion was less applicable, on the great constitutional questions which have agitated the public mind.

Writings of Madison, Volume 4: 1829-1836, p.165

The case to which the Judge more especially referred was, doubtless, that of the Bank, which I had originally opposed as unauthorized by the Constitution, and to which I at length gave my official assent. But even here the inconsistency is apparent only, not real; inasmuch as my abstract opinion of the text of the Constitution is not changed, and the assent was given in pursuance of my early and unchanged opinion, that, in the case of a Constitution as of a law, a course of authoritative expositions sufficiently deliberate, uniform, and settled, was an evidence of the public will necessarily overruling individual opinions. It cannot be less necessary that the meaning of a Constitution should be freed from uncertainty, than that the law should be so. That cases may occur which transcend all authority of precedents must be admitted, but they form exceptions which will speak for themselves and must justify themselves.

Writings of Madison, Volume 4: 1829-1836, p.165

I do not forget that the chain of sanctions to the bank power has been considered as broken by a veto of Vice President Clinton to a bill establishing a bank. But it is believed to be quite certain, that the equality of votes which referred the question to his casting vote was occasioned by a union of some, who disapproved the plan of the bank only, with those who denied its constitutionality; and that, on a naked question of constitutionality, a majority of the Senate would have added another sanction, as at a later period was done, to the validity of such an institution.

Writings of Madison, Volume 4: 1829-1836, p.165

If this explanation should be found obtrusive, I hope you will recollect that you have been accessory to it, and that it will not prevent an acceptance of the respectful salutations which are cordially offered.

To James Robertson.

MARCH 27, 1831.

Writings of Madison, Volume 4: 1829-1836, p.166

DEAR SIR,—I have received your letter of the 8th, but it was not until the 23d instant.

Writings of Madison, Volume 4: 1829-1836, p.166

The veil which was originally over the draught of the resolutions offered in 1798 to the Virginia Assembly having been long since removed, I may say, in answer to your inquiries, that it was penned by me; and that, as it went from me, the third resolution contained the word "alone," which was struck out by the House of Delegates. Why the alteration was made, I have no particular knowledge, not being a member at the time. I always viewed it as an error. The term was meant to confine the meaning of "parties to the constitutional compact" to the States in the capacity in which they formed the compact, in exclusion of the State governments which did not form it. And the use of the term "States" throughout in the plural number distinguished between the rights belonging to them in their collective, from those belonging to them in their individual capacities.

Writings of Madison, Volume 4: 1829-1836, p.166

With respect to the terms following the term "unconstitutional," viz., "not law, but null, void, and of no force or effect," which were stricken out of the seventh resolution, my memory cannot positively decide whether they were or were not in the original draught, and no copy of it appears to have been retained. On the presumption that they were in the draught as it went from me, I am confident that they must have been regarded only as giving accumulated emphasis to the declaration, that the alien and sedition acts had, in the opinion of the Assembly, violated the Constitution of the United States, and not that the addition of them could annul the acts or sanction a resistance of them. The resolution was expressly declaratory, and, proceeding from the Legislature only, which was not even a party to the Constitution, could be declaratory of opinion only.

Writings of Madison, Volume 4: 1829-1836, p.166

It may not be out of place here to remark, that if the insertion of those terms in the draught could have the effect of showing an inconsistency in its author, the striking them out would be a protest against the doctrine which has claimed the authority of Virginia in its support.

Writings of Madison, Volume 4: 1829-1836, p.167

If the third resolution be in any degree open to misconstruction on this point, the language and scope of the seventh ought to control it; and if a more explicit guard against misconstruction was not provided, it is explained in this, as in other cases of omission, by the entire absence of apprehension that it could be necessary. Who could, at that day, have foreseen some of the comments on the Constitution advanced at the present?

Writings of Madison, Volume 4: 1829-1836, p.167

The task you have in hand is an interesting one, the more so as there is certainly room for a more precise and regular history of the Articles of Confederation and of the Constitution of the United States than has yet appeared. I am not acquainted with Pitkin's work, and it was not within the scope of Marshall's Life of Washington to introduce more of constitutional history than was involved in his main subject. The journals of the State Legislatures, with the journal and debates of the State Conventions, and the journal and other printed accounts of the proceedings of the Federal Convention of 1787, are, of course, the primary sources of information. Some sketches of what passed in that Convention have found their way to the public, particularly those of Judge Yates and of Mr. Luther Martin. But the Judge, though a highly respectable man, was a zealous partisan, and has committed gross errors in his desultory notes. He left the Convention also before it had reached the stages of its deliberations in which the character of the body and the views of individuals were sufficiently developed. Mr. Martin, who was also present but a part of the time, betrays, in his communication to the Legislature of Maryland, feelings which had a discolouring effect on his statements. As it has become known that I was at much pains to preserve an account of what passed in the Convention, I ought perhaps to observe, that I have thought it becoming, in several views, that a publication of it should be at least of a posthumous date.

Writings of Madison, Volume 4: 1829-1836, p.167

I know not that I could refer you to any other appropriate sources of information which will not have occurred to you, or not fall within your obvious researches. The period which your plan embraces abounds with materials in pamphlets and in newspaper essays not published in that form. You would, doubtless, find it worth while to turn your attention to the collections of the historical societies now in print in some of the States. The library of Philadelphia is probably rich in pertinent materials. Its catalogue alone might point to such as are otherwise attainable. Although I might, with little risk, leave it to your own inference, I take the liberty of noting that this hasty compliance with your request is not for the public eye; adding only my sincere wishes for the success of the undertaking which led to it, and the offer of my friendly respects and salutations.

To Jared Sparks.

MONTPELLIER, April 8, 1831.

Writings of Madison, Volume 4: 1829-1836, p.168

DEAR SIR,—I have duly received your letter of March 30. In answer to your enquiries "respecting the part acted by Gouv-erneur Morris (whose life, you observe, you are writing) in the Federal Convention of 1787, and the political doctrines maintained by him," it may be justly said that he was an able, an eloquent, and an active member, and shared largely in the discussions succeeding the 1st of July, previous to which, with the exception of a few of the early days, he was absent.

Writings of Madison, Volume 4: 1829-1836, p.168

Whether he accorded precisely "with the political doctrines Of Hamilton" I cannot say. He certainly did not "incline to the Democratic side," and was very frank in avowing his opinions when most at variance with those prevailing in the Convention. He did not propose any outline of a Constitution, as was done by Hamilton; but he contended for certain articles, (a Senate for life, particularly,) which he held essential to the stability and energy of a Government capable of protecting the rights of property against the spirit of Democracy. He wished to make the weight of wealth to balance that of numbers, which he pronounced to be the only effectual security to each against the encroachments of the other.

Writings of Madison, Volume 4: 1829-1836, p.169

The finish given to the style and arrangement of the Constitution fairly belongs to the pen of Mr. Morris; the task having been probably handed over to him by the Chairman of the Committee, himself a highly respectable member, with the ready concurrence of the others. A better choice could not have been made, as the performance of the task proved. It is true that the state of the materials, consisting of a reported draught in detail, and subsequent resolutions accurately penned, and falling easily in their proper places, was a good preparation for the symmetry and phraseology of the instrument; but there was sufficient room for the talents and taste stamped by the author on the face of it. The alterations made by the Committee are not recollected. They were not such as to impair the merit of the composition. Those, verbal and others, made in the Convention, may be gathered from the Journal, and will be found also [to leave] that merit altogether unimpaired.

Writings of Madison, Volume 4: 1829-1836, p.169

The anecdote you mention may not be without a foundation, but not in the extent supposed. It is certain that the return of Mr. Morris to the Convention was at a critical stage of its proceedings. The knot felt as the Gordian one was the question between the larger and smaller States on the rule of voting in the Senatorial branch of the Legislature; the latter claiming, the former opposing, the rule of equality. Great zeal and pertinacity had been shewn on both sides; and an equal division of the votes on the question had been reiterated and prolonged till it had become not only distressing but seriously alarming. It was during that period of gloom that DR Franklin made the proposition for a religious service in the Convention, an account of which was so erroneously given, with every semblance of authenticity, through the National Intelligencer, several years ago. The crisis was not over when Mr. Morris is said to have had an interview and conversation with General Washington and Mr. R. Morris, such as may well have occurred; but it appears that on the day of his re-entering the Convention a proposition had been made from another quarter to refer the knotty question to a committee with a view to some compromise; the indications being manifest that sundry members from the larger States were relaxing in their opposition, and that some ground of compromise was contemplated, such as finally took place, and as may be seen in the printed Journal. Mr. Morris was in the deputation from the large State of Pennsylvania, and combated the compromise throughout. The tradition is, however, correct that on the day of his resuming his seat he entered with anxious feelings into the debate, and in one of his speeches painted the consequences of an abortive result to the Convention in all the deep colours suited to the occasion. But it is not believed that any material influence on the turn which things took could be ascribed to his efforts; for, besides the mingling with them some of his most disrelished ideas, the topics of his eloquent appeals to the members had been exhausted during his absence, and their minds were too much made up to be susceptible of new impressions.

Writings of Madison, Volume 4: 1829-1836, p.170

It is but due to Mr. Morris to remark, that to the brilliancy and fertility of his genius he added, what is too rare, a candid surrender of his opinions when the lights of discussion satisfied him that they had been too hastily formed, and a readiness to aid in making the best of measures in which he had been overruled.

Writings of Madison, Volume 4: 1829-1836, p.170

In making this hastened communication, I have more confidence in the discretion with which it will be used, than in its fulfilment of your anticipations. I hope it will at least be accepted as a proof of my respect for your object, and of the sincerity with which I tender you a reassurance of the cordial esteem and good wishes in which Mrs. Madison always joins me.

Writings of Madison, Volume 4: 1829-1836, p.170

I take for granted you have at command all the printed works of Mr. Morris. I recollect that there can be found among my pamphlets a small one by him, intended to prevent the threatened repeal of the law of Pennsylvania which had been passed as necessary to support the Bank of N. America, and when the repeal was viewed as a formidable blow to the establishment. Should a copy be needed, I will hunt it up and forward it.

To James Robertson.

MONTPELLIER, April 20, 1831.

Writings of Madison, Volume 4: 1829-1836, p.171

DEAR SIR,—Your letter of the 3d instant, post-marked the 5th, was not received till the day before yesterday, the 18th. I know not that I can say anything on the constitutional points stated, which has not been substantially said in publications into which I have been heretofore led. In general, I adhere to the remark, that the proper way to understand our novel and complex system of government is to avoid, as much as may be, the use of technical terms and phrases appropriate to other forms, and to examine the process of its formation, the peculiarity of its structure, and the limitation and distribution of its powers. Much of the constitutional controversy which has prevailed has turned, as often happens, on the different ideas attached to the language employed, and would have been obviated by previous definitions of its terms. That the people of the United States formed the Constitution, will be denied or affirmed according to the sense in which the expression is understood. The main question is, whether they have not given to the charter a sanction in a capacity and a mode that shuts the door against all such disuniting and nullifying doctrines as those lately ad-vanced.

Writings of Madison, Volume 4: 1829-1836, p.171

If the authority to admit new States be sufficiently conveyed by the text of the Constitution, there would seem to be not more difficulty in the principle of the case than in that of naturalizing an alien, at least where the territory of the admitted State made a part of the original domain. In the case of an acquired territory, with its inhabitants, as in that of Louisiana, the questions belonging to it are questions of construction, turning on the constitutional authority to acquire, and to admit when acquired. You are no doubt aware that such questions were actually raised on that occasion.

Writings of Madison, Volume 4: 1829-1836, p.171

With respect to the words "general welfare," I have always regarded them as qualified by the detail of powers connected with them. To take them in a literal and unlimited sense would be a metamorphosis of the Constitution into a character which there is a host of proofs was not contemplated by its creators. If the words obtained so readily a place in the "Articles of Confederation," and received so little notice in their admission into the present Constitution, and retained for so long a time a silent place in both, the fairest explanation is, that the words, in the alternative of meaning nothing or meaning everything, had the former meaning taken for granted.

Writings of Madison, Volume 4: 1829-1836, p.172

I have availed myself, sir, of your permission to give a brief answer to your letter, and the rather as the interval between its receipt and your intended departure for the West did not well admit of a long one. Nor, indeed, with more time, could I have added much to it that would not have been superfluous to you, as well as inconvenient at the octogenary age of which I am reminded whenever I take up my pen on such subjects.

Writings of Madison, Volume 4: 1829-1836, p.172

With friendly salutations,

for Mr. Paulding.

Writings of Madison, Volume 4: 1829-1836, p.172

Much curiosity and some comment have been exerted by the marvellous identities in a plan of Government proposed by Charles Pinckney in the Convention of 1787, as published in the Journals with the text of the Constitution, as finally agreed to. I find among my pamphlets a copy of a small one entitled "Observations on the Plan of Government submitted to the Federal Convention, in Philadelphia, on the 28th of May, by Mr. C. Pinckney, a Delegate from S. Carolina, delivered at different times in the Convention."

Writings of Madison, Volume 4: 1829-1836, p.172

The copy is so defaced and mutilated that it is impossible to make out enough of the plan, as referred to in the Observations, for a due comparison of it with that printed in the Journal. The pamphlet was printed in N. York by Francis Childs. The year is effaced. It must have been not very long after the close of the Convention, and with the sanction, at least, of Mr. Pinck-ney himself. It has occurred that a copy may be attainable at the printing office, if still kept up, or examine in some of the libraries or historical collections in the city. When you can snatch a moment, in your walks with other views, for a call at such places, you will promote an object of some little interest as well as delicacy, by ascertaining whether the article in question can be met with. I have among my manuscript papers lights on the subject. The pamphlet of Mr. P. could not fail to add to them.

APRIL, 1831.

To J. K. Paulding.

MONTPELLIER, Apl—, 1831.

Writings of Madison, Volume 4: 1829-1836, p.173

DEAR SIR,—I have received your letter of the 6th instant, and feel myself very safe in joining your other friends in their advice on the Biographical undertaking you meditate. The plan you adopt is a valuable improvement on the prevailing examples, which have too much usurped the functions of the historian; and by omitting the private features of character, and anecdotes, which, as condiments, always add flavour and sometimes nutrition to the repast, have forfeited much of the due attraction. The more historical mode has been recommended, probably, by the more ready command of materials, such as abound in the contributions of the press, and in the public archives. In a task properly biographical, the difficulty lies in the evanescent or inaccessible information which it particularly requires. Autographic memorials are rare, and usually deficient on essential points, if not otherwise faulty; and at the late periods of life the most knowing witnesses may have descended to the tomb, or their memories become no longer faithful depositories. Where oral tradition is the resort, all know the uncertainties and inaccuracies which beset it.

Writings of Madison, Volume 4: 1829-1836, p.173

I ought certainly to be flattered by finding my name on the list of subjects you have selected; and particularly so, as I can say with perfect sincerity, there is no one to whose justice, judgment, and every other requisite, I could more willingly confide, whatever of posthumous pretension my career through an eventful period may have to a conservative notice. Yet I feel the awkwardness of attempting "a sketch of the principal incidents of my life," such as the partiality of your friendship has prompted you to request. Towards a compliance with your object I may avail myself of a paper, though too meagre even for the name of a sketch, which was very reluctantly but unavoidably drawn up a few years ago for an abortive biography. Whether I shall be able to give it any amplification, is too uncertain to admit a promise. My life has been so much of a public one, that any review of it must mainly consist of the agency which was my lot in public transactions; and of that agency the portions probably the most acceptable to general curiosity are to be found in my manuscript preservations of some of those transactions, and in the epistolary communications to confidential friends made at the time, and on the spot, whilst I was a member of political bodies, general or local. My judgment has accorded with my inclination that any publicity of which selections from this miscellany may be thought worthy, should await a posthumous date. The printed effusions of my pen are either known or of but little bulk.

Writings of Madison, Volume 4: 1829-1836, p.174

For portraits of the several characters you allude to, I know not that I can furnish your canvas with any important materials not equally within your reach, as I am sure that you do not need, if I could supply, any aid to your pencil in the use of them. Everything relating to Washington is already known to the world, or will soon be made known through Mr. Sparks, with the exception of some of those inside views of character and scenes of domestic life which are apart from ordinary opportunities of observation. And it may be presumed that interesting lights will be let in even on those exceptions through the private correspondences in the hands of Mr. Sparks.

Writings of Madison, Volume 4: 1829-1836, p.174

Of Franklin I had no personal knowledge till we served together in the Federal Convention of 1787, and the part he took there has found its way to the public, with the exception of a few anecdotes which belong to the unveiled part of the proceedings of that Assembly. He has written his own life, and no man had a finer one to write, or a better title to be himself the writer. There is enough of blank, however, for a succeeding pen.

Writings of Madison, Volume 4: 1829-1836, p.175

With Mr. Jefferson I was not acquainted till we met as members of the first Revolutionary Legislature of Virginia, in 1776; I had, of course, no personal knowledge of his early life. Of his public career, the records of his country give ample information; and of the general features of his character, with much of his private habits, and of his peculiar opinions, his writings before the world, to which additions are not improbable, are equally explanatory. The obituary eulogiums, multiplied by the epoch and other coincidences of his death, are a field where some things not unworthy of notice may perhaps be gleaned. It may, on the whole, be truly said of him, that he was greatly eminent for the comprehensiveness and fertility of his genius, for the vast extent and rich variety of his acquirements, and particularly distinguished by the philosophic impress left on every subject which he touched. Nor was he less distinguished for an early and uniform devotion to the cause of liberty, and systematic preference of a form of Government squared in the strictest degree to the rights of man. In the social and domestic spheres, he was a model of the virtues and manners which most adorn them.

Writings of Madison, Volume 4: 1829-1836, p.175

In relation to Mr. John Adams, I had no personal knowledge of him till he became V. President of the United States, and then saw no side of his private character which was not visible to all; whilst my chief knowledge of his public character and career was acquired by means now accessible, or becoming so, to all. His private papers are said to be voluminous; and when opened to public view, will doubtless be of much avail to a biographer. His official correspondence during the Revolutionary period, just published, will be found interesting both in a historical and biographical view. That he had a mind rich in ideas of his own, as well as its learned store, with an ardent love of country, and the merit of being a colossal champion of its Independence, must be allowed by those most offended by the alloy in his Republicanism, and the fervors and flights originating in his moral temperament.

Writings of Madison, Volume 4: 1829-1836, p.176

Of Mr. Hamilton I ought, perhaps, to speak with some restraint, though my feelings assure me that no recollection of political collisions could control the justice due to his memory. That he possessed intellectual powers of the first order, and the moral qualifications of integrity and honor in a captivating degree, has been decreed to him by a suffrage now universal. If his theory of Government deviated from the Republican standard, he had the candor to avow it, and the greater merit of cooperating faithfully in maturing and supporting a system which was not his choice. The criticism to which his share in the administration of it was most liable was, that it had the aspect of an effort to give to the instrument a constructive and practical bearing not warranted by its true and intended character. It is said that his private files have been opened to a friend who is charged with the task you contemplate. If he be not a citizen of N. York, it is probable that in collecting private materials from other sources your opportunities may be more than equal to his.

Writings of Madison, Volume 4: 1829-1836, p.176

I will, on this occasion, take the liberty to correct a statement of Mr. Hamilton which contradicts mine on the same subject; and which, as mine, if erroneous, could not be ascribed to a lapse of memory, might otherwise be an impeachment of my veracity. I allude to the discrepancy between the memorandum given by Mr. Hamilton to Mr. Benson distributing the numbers of the "Federalist" to the respective writers, and the distribution communicated by me at an early day to a particular friend, and finally to Mr. Gideon, for his edition of the work at Washington a few years ago.

Writings of Madison, Volume 4: 1829-1836, p.176

The reality of errors in the statement of Mr. Hamilton appears from an internal evidence in some of the papers. Take, for an example, N° 49, which contains a eulogy on Mr, Jefferson, marking more of the warm feelings of personal friendship in the writer than at any time belonged to Mr. Hamilton. But there is proof of another sort in N° 64, ascribed in the memorandum to Mr. Hamilton. That it was written by Mr. Jay, is shewn by a passage in his life by Delaplaine, obviously derived directly or indirectly from Mr. Jay himself. There is a like proof that N° 54, ascribed to Mr. Jay, was not written by him. Nor is it difficult to account for errors in the memorandum, if recurrence be had to the moment at which a promise of such a one was fulfilled, to the lumping manner in which it was made out, and to the period of time, not less thanyears, between the date of the "Federalist" and that of the memorandum; and as a proof of the fallibility to which the memory of Mr. Hamilton was occasionally subject, a case may be referred to so decisive as to dispense with every other. In the year —— Mr. Hamilton, in a letter answering an inquiry of Col. Pickering concerning the plan of Government which he had espoused in the Convention of 1787, states, that at the close of the Convention he put into my hands a draught of a Constitution; and in that draught he had proposed a "President for three years."\* Now, the fact is, that in that plan, the original of which I ascertained several years ago to be among his papers, the tenure of office for the President is not three years, but during good behaviour. The error is the more remarkable, as the letter apologizes, according to my recollection, for its being not a prompt one; and as it is so much at variance with the known cast of Mr. Hamilton's political tenets, that it must have astonished his political, and, most of all, his intimate friends. I should do injustice, nevertheless, to myself as well as to Mr. Hamilton, if I did not express my perfect confidence that the misstatement was involuntary, and that he was incapable of any that was not so.

Writings of Madison, Volume 4: 1829-1836, p.177

I am sorry, sir, that I could not make a better contribution to your fund of biographical matter. Accept it as an evidence, at least, of my respect for your wishes, and with it the cordial remembrances and regards in which Mrs. M. joins me, as I do her, in the request to be favorably presented to Mrs. Paulding.

To James Monroe.

MONTPELLIER, April 21, 1831.

Writings of Madison, Volume 4: 1829-1836, p.178

DEAR SIR,—I have duly received yours of ——. I considered the advertisement of your estate in London as an omen that your friends in Virginia were to lose you. It is impossible to gainsay the motives to which you yielded in making N. York your residence, though I fear you will find its climate unsuited to your period of life and the state of your health. I just observe, and with much pleasure, that the sum voted by Congress, however short of just calculations, escapes the loppings to which it was exposed from the accounting process at Washington, and that you are so far relieved from the vexations involved in it. The result will, I hope, spare you at least the sacrifice of an untimely sale of your valuable property; and I would fain flatter myself, that with an encouraging improvement of your health, you might be brought to reconsider the arrangement which fixes you elsewhere. The effect of this, in closing the prospect of our ever meeting again, afflicts me deeply; certainly not less so than it can you. The pain I feel at the idea, associated as it is with a recollection of the long, close, and uninterrupted friendship which united us, amounts to a pang which I cannot well express, and which makes me seek for an alleviation in the possibility that you may be brought back to us in the wonted degree of intercourse. This is a happiness my feelings covet, notwithstanding the short period I could expect to enjoy it; being now, though in comfortable health, a decade beyond the canonical three-score-and-ten, an epoch which you have but just passed.

Writings of Madison, Volume 4: 1829-1836, p.178

As you propose to make a visit to London previous to the notified sale, if the state of your health permits, why not, with the like permission, extend the trip to this quarter? The journey, at a rate of your own choice, might co-operate in the re-estab-lishment of your health, whilst it would be a peculiar gratification to your friends, and, perhaps, enable you to join your colleagues at the University once more at least. It is much to be desired that you should continue, as long as possible, a member of the Board, and I hope you will not send in your resignation in case you find your cough and weakness giving way to the influence of the season and the innate strength of your constitution. I will not despair of your being able to keep up your connexion with Virginia by retaining Oak Hill and making it not less than an occasional residence. Whatever may be the turn of things, be assured of the unchangeable interest felt by Mrs. M., as well as myself, in your welfare, and in that of all who are dearest to you.

Writings of Madison, Volume 4: 1829-1836, p.179

In explanation of my microscopic writing, I must remark that the older I grow the more my stiffening fingers make smaller letters, as my feet take shorter steps; the progress in both cases being, at the same time, more fatiguing as well as more slow.

To N. P. Trist.

MAY 5, 1831.

Writings of Madison, Volume 4: 1829-1836, p.179

DR SIR,—I received, yesterday, your favor of the 2d, with its accompaniments. I thank you for the little treatise on "Mental Philology," which I reserve for perusal at the earliest leisure. From the reputed talents and tenets of the author something may be anticipated well written and out of the trodden circle. I thank you, also, for the rectified copy of the "Distress for Rent," &c., and return the one formerly sent.

Writings of Madison, Volume 4: 1829-1836, p.179

The revolution in the Cabinet has produced here, as elsewhere, much agitation in the political world. In what forth the public opinion will settle down is unknown to those who know more of its workings than a do. The current has hitherto set a good deal against Mr. Van Buren, to whom I the less doubt that injustice has been done, as that opinion has the sanction of yours. Mr. Livingston is the only one of the four Heads of Departments designated for the new Cabinet whom I personally know. His qualifications, both substantial and ornamental, speak for themselves.

To Charles Carter Lee.

MAY 17, 1831.

Writings of Madison, Volume 4: 1829-1836, p.180

DEAR SIR,—I have received your letter of the 9th, inclosing a long latent one from your father. My acquaintance with him commenced at a very early stage of our lives; and our friendly sympathies never lost their force, though deprived, for long periods, of the nourishing influence of personal intercourse, and exposed occasionally by the disturbing tendency of a discordance in political opinions. I could not fail, therefore, to be in the number of sincerest mourners when it was announced that he was no more; and to be gratified now by the evidence in his letter that his affectionate recollections had undergone no change.

Writings of Madison, Volume 4: 1829-1836, p.180

It is not strange that a tempting article, like selected wine, should disappear in such a lapse of time, and its change of place. Had it reached its destination, it would have derived its best flavour from the feelings of which it was a token.

Writings of Madison, Volume 4: 1829-1836, p.180

I thank you, sir, for your kind sentiments and good wishes, as Mrs. M. does for her share in them; and I beg you to accept, in her behalf as well as mine, a cordial return of them.

To Ben. Waterhouse.

MAY 27, 1831.

Writings of Madison, Volume 4: 1829-1836, p.180

DEAR SIR,—I have received in due time your letter of the 9th instant, and with it the volume on the authorship of "Junius." Although it found me but little at leisure, and in crippled health, I felt too much respect for the writer, not to say curiosity for the subject, also, not to give it an entire reading.

Writings of Madison, Volume 4: 1829-1836, p.180

Whether you have untied the knot at which so many ingenious hands have tugged in vain, I will not make myself a judge. I can say, at least, that you have done full justice to your hypothesis; and that you have garnished it, moreover, with historical facts, individual portraits, and vivid anecdotes, that have improved the relish of the subject.

Writings of Madison, Volume 4: 1829-1836, p.181

You will infer from these remarks that I could not hesitate a moment in giving the volume the destination which makes the University of Virginia a debtor to the author. Be pleased to accept, at the same time, the acknowledgments due from myself, with the best wishes for a prolonged and happy life, in which Mrs. M. cordially joins me.

To Jared Sparks.

JUNE 1, 1831.

Writings of Madison, Volume 4: 1829-1836, p.181

DEAR SIR,—I have duly received yours of 24th ultimo, and inclose the little pamphlet by Gouverneur Morris which it refers to. Unless it is to be printed entire in the volume you are preparing, I should wish to replace it in the collection from which it is taken. Of the other unofficial writings by him, I have but the single recollection that he was a writer for the newspapers in 1780 (being then a member of Congress) on our public affairs, chiefly, I believe, on the currency and resources of the U. States. It was about the time that the scale of 1 for 40 was applied to the 200,000,000 of dollars which had been emitted; and his publications were probably occasioned by the crisis, but of the precise scope of them I cannot speak. I became a member of Congress in March of that year, just after the fate of the old emissions had been decided on, and the subject so far deprived of its interest. In the Philadelphia newspapers of that period the writings in question might probably be found, and verified by the style if not the name of the author. Whether Mr. Morris wrote a pamphlet about Deane is a point on which I can give no answer.

Writings of Madison, Volume 4: 1829-1836, p.181

May I ask of you to let me know the result of your correspondence with Charleston on the subject of Mr. Pinckney's draft of a Constitution for the U. States as soon as it is ascertained?

Writings of Madison, Volume 4: 1829-1836, p.181

It is quite certain that since the death of Col. Few, I have been the only living signer of the Constitution of the U. States. Of the members who were present and did not sign, and of those who were present part of the time, but had left the Convention, it is equally certain that not one has remained since the death of Mr. Lansing, who disappeared so mysteriously not very long ago. I happen, also, to be the sole survivor of those who were members of the Revolutionary Congress prior to the close of the war; as I had been, for some years, of the members of the Convention in 1776, which formed the first Constitution for Virginia. Having outlived so many of my cotemporaries, I ought not to forget that I may be thought to have outlived myself.

To J. K. Paulding.

JUNE 6th, 1831.

Writings of Madison, Volume 4: 1829-1836, p.182

DEAR SIR,—Since my letter answering yours of April 6th, in which I requested you to make an enquiry concerning a small pamphlet of Charles Pinckney printed at the close of the Federal Convention of 1787, it has occurred to me that the pamphlet might not have been put in circulation, but only presented to his friends, &c. In that way I may have become possessed of the copy to which I referred as in a damaged state. On this supposition the only chance of success must be among the books, &c., of individuals on the list of Mr. Pinckney's political associates and personal friends. Of those who belonged to N. York, I recollect no one so likely to have received a copy as Rufus King. If that was the case, it may remain with his representative, and I would suggest an informal resort to that quarter, with a hope that you will pardon this further tax on your kindness.

To J. K. Paulding.

JUNE 27, 1831.

Writings of Madison, Volume 4: 1829-1836, p.182

DEAR SIR,—With your favor of the 20th instant I received the volume of pamphlets containing that of Mr. Charles Pinckney, for which I am indebted to your obliging researches. The volume shall be duly returned, and in the mean time duly taken care of. I have not sufficiently examined the pamphlet in question, but have no doubt that it throws light on the object to which it has relation.

Writings of Madison, Volume 4: 1829-1836, p.183

I had previously received yours of the 131h, and must remark that you have not rightly seized the scope of what was said in mine of April —. I did not mean that I had in view a History of any sort, public or personal; but only a preservation of materials, of which I happened to be a recorder, or to be found in my voluminous correspondences with official associates or confidential friends. By the first, I alluded particularly to the proceedings and debates of the latter periods of the Revolutionary Congress and of the Federal Convention in 1787, of which, in both cases, I had, as a member, an opportunity of taking an account.

Writings of Madison, Volume 4: 1829-1836, p.183

I do not lose sight of the sketches I promised, which, however, can be but the merest skeleton, with references to my pigeon-holes for whatever of flesh may be found for it.

To Mr. Ingersoll.

MONTPELLIER, June 25 1831.

Writings of Madison, Volume 4: 1829-1836, p.183

DEAR SIR,—I have received your friendly letter of the 18th instant. The few lines which answered your former one of the 21 January last were written in haste and in bad health; but they expressed, though without the attention, in some respects, due to the occasion, a dissent from the views of the President as to a Bank of the United States, and a substitute for it, to which I cannot but adhere. The objections to the latter have appeared to me to preponderate greatly over the advantages expected from it, and the constitutionality of the power I still regard as sustained by the considerations to which I yielded in giving my assent to the existing Bank.

Writings of Madison, Volume 4: 1829-1836, p.183

The charge of inconsistency between my objection to the constitutionality of such a bank in 1791 and my assent in 1817, turns on the question how far legislative precedents, expounding the Constitution, ought to guide succeeding Legislatures and overrule individual opinions.

Writings of Madison, Volume 4: 1829-1836, p.184

Some obscurity has been thrown over the question by confounding it with the respect duc from one Legislature to laws passed by preceding Legislatures. But the two cases are essentially different. A Constitution being derived from a superior authority, is to be expounded and obeyed, not controlled or varied, by the subordinate authority of a Legislature. A law, on the other hand, resting on no higher authority than that possessed by every successive Legislature, its expediency as well as its meaning is within the scope of the latter.

Writings of Madison, Volume 4: 1829-1836, p.184

The case in question has its true analogy in the obligation arising from judicial expositions of the law on succeeding judges; the Constitution being a law to the legislator, as the law is a rule of decision to the judge.

Writings of Madison, Volume 4: 1829-1836, p.184

And why are judicial precedents, when formed on duc discussion and consideration, and deliberately sanctioned by reviews and repetitions, regarded as of binding influence, or, rather, of authoritative force in settling the meaning of a law? It must be answered, 1st. Because it is a reasonable and established axiom, that the good of society requires that the rules of conduct of its members should be certain and known, which would not be the case if any judge, disregarding the decision of his predecessors, should vary the rule of law according to his individual interpretation of it. Misera est servitus ubi jus est aut vagum aut incognitum. 2. Because an exposition of the law publicly made, and repeatedly confirmed by the constituted authority, carries with it, by fair inference, the sanction of those who, having made the law through their legislative organ, appear, under such circumstances, to have determined its meaning through their judiciary organ.

Writings of Madison, Volume 4: 1829-1836, p.184

Can it be of less consequence that the meaning of a Constitution should be fixed and known, than that the meaning of a law should be so? Can, indeed, a law be fixed in its meaning and operation unless the Constitution be so? On the contrary, if a particular Legislature, differing in the construction of the Constitution from a series of preceding constructions, proceed to act on that difference, they not only introduce uncertainty and instability in the Constitution, but in the laws themselves; inasmuch as all laws preceding the new construction and inconsistent with it are not only annulled for the future, but virtually pronounced nullities from the beginning.

Writings of Madison, Volume 4: 1829-1836, p.185

But it is said that the legislator having sworn to support the Constitution, must support it in his own construction of it, however different from that put on it by his predecessors, or whatever be the consequences of the construction. And is not the judge under the same oath to support the law? Yet, has it ever been supposed that he was required or at liberty to disregard all precedents, however solemnly repeated and regularly observed, and, by giving effect to his own abstract and individual opinions, to disturb the established course of practice in the business of the community? Has the wisest and most conscientious judge ever scrupled to acquiesce in decisions in which he has been overruled by the matured opinions of the majority of his colleagues, and subsequently to conform himself thereto, as to authoritative expositions of the law? And is it not reasonable that the same view of the official oath should be taken by a legislator, acting under the Constitution, which is his guide, as is taken by a judge, acting under the law, which is his?

Writings of Madison, Volume 4: 1829-1836, p.185

There is, in fact and in common understanding, a necessity of regarding a course of practice, as above characterized, in the light of a legal rule of interpreting a law, and there is a like necessity of considering it a constitutional rule of interpreting a Constitution.

Writings of Madison, Volume 4: 1829-1836, p.185

That there may be extraordinary and peculiar circumstances controlling the rule in both cases, may be admitted; but with such exceptions the rule will force itself on the practical judgment of the most ardent theorist. He will find it impossible to adhere, and act officially upon, his solitary opinions as to the meaning of the law or Constitution, in opposition to a construction reduced to practice during a reasonable period of time; more especially when no prospect existed of a change of construction by the public or its agents. And if a reasonable period of time, marked with the usual sanctions, would not bar the individual prerogative, there could be no limitation to its exercise, although the danger of error must increase with the increasing oblivion of explanatory circumstances, and with the continual changes in the import of words and phrases.

Writings of Madison, Volume 4: 1829-1836, p.186

Let it, then, be left to the decision of every intelligent and candid judge, which, on the whole, is most to be relied on for the true and safe construction of a constitution; that which has the uniform sanction of successive legislative bodies, through a period of years and under the varied ascendency of parties; or that which depends upon the opinions of every new Legislature, heated as it may be by the spirit of party, eager in the pursuit of some favourite object, or led astray by the eloquence and address of popular statesmen, themselves, perhaps, under the influence of the same misleading causes.

Writings of Madison, Volume 4: 1829-1836, p.186

It was in conformity with the view here taken, of the respect due to deliberate and reiterated precedents, that the Bank of the United States, though on the original question held to be unconstitutional, received the Executive signature in the year 1817. The act originally establishing a bank had undergone ample discussions in its passage through the several branches of the Government. It had been carried into execution throughout a period of twenty years with annual legislative recognitions; in one instance, indeed, with a positive ramification of it into a new State; and with the entire acquiescence of all the local authorities, as well as of the nation at large; to all of which may be added, a decreasing prospect of any change in the public opinion adverse to the constitutionality of such an institution. A veto from the Executive, under these circumstances, with an admission of the expediency and almost necessity of the measure, would have been a defiance of all the obligations derived from a course of precedents amounting to the requisite evidence of the national judgment and intention.

Writings of Madison, Volume 4: 1829-1836, p.186

It has been contended that the authority of precedents was in that case invalidated by the consideration that they proved only a respect for the stipulated duration of the bank, with a toleration of it until the law should expire; and by the casting vote given in the Senate by the Vice President, in the year 1811 against a bill for establishing a National Bank, the vote being expressly given on the ground of unconstitutionality. But if the law itself was unconstitutional, the stipulation was void, and could not be constitutionally fulfilled or tolerated. And as to the negative of the Senate by the casting vote of the Presiding Officer, it is a fact, well understood at the time, that it resulted, not from an equality of opinions in that assembly on the power of Congress to establish a bank, but from a junction of those who admitted the power, but disapproved the plan with those who denied the power. On a simple question of constitutionality there was a decided majority in favour of it.

To —— ———.

JUNE 28, 1831.

Writings of Madison, Volume 4: 1829-1836, p.187

DEAR SIR,—I have received your letter of the 12th instant, and am very sensible of the good views with which you request an answer at length to the claim of the new States to the Federal lands within their limits. But you could not have sufficiently adverted to the extent of such a job, nor have recollected the age which I have now reached, itself an infirmity, with others always more or less incident to it; nor have been aware of the calls on me, as the only surviving source of information on certain subjects now under anxious investigation in quarters which I am bound to respect. I feel the less regret at being obliged to shrink from the task you mark out for me, as I am confident there are many equally, if not better, qualified for it, and as it cannot be long before the claim, if not abandoned, must be taken up in Congress, where it can and will be demolished, unless, indeed, the able champions be kept back by a hankering after a Western popularity. In my situation I can only say, and for yourself, not for the press, that I have always viewed the claim as so unfair and unjust, so contrary to the certain and notorious intentions of the parties to the case, and so directly in the teeth of the condition on which the lands were ceded to the Union, that if a technical title could be made out by the claimants, it ought in conscience and honour to be waived. But the title in the people of the United States rests on a foundation too just and solid to be shaken by any technical or metaphysical arguments whatever. The known and acknowledged intentions of the parties at the time, with a prescriptive sanction of so many years consecrated by the intrinsic principles of equity, would overrule even the most explicit declarations and terms, as has been done without the aid of that principle in the slaves, who remain such in spite of the declarations that all men are born equally free.

Writings of Madison, Volume 4: 1829-1836, p.188

I wish you success in the election for which you are made a candidate. You do not name, and I do not know, your competitor. He will doubtless derive some advantage from your long absences. But, being now on the ground, you will be able, to meet the objection with the best explanation.

To Dr. John W. Francis.

MONTPELLIER, July 9th, 1831.

Writings of Madison, Volume 4: 1829-1836, p.188

DR SIR,—Your favor of the 4th, communicating the death of Mr. Monroe, was duly received. I had been prepared for the event, by information of its certain approach. The time of it was so far happy, as it added another to the coincidences before so remarkable and so memorable. You have justly ranked him with the heroes and patriots who have deserved best of their country. No one knew him better than I did, or had a sincerer affection for him, or condoles more deeply with those to whom he was most dear.

Writings of Madison, Volume 4: 1829-1836, p.188

With the thanks which I owe you, be pleased to accept, sir, the tender of my esteem and my cordial salutations.

To Alexander Hamilton.

JULY 9th, 1831.

Writings of Madison, Volume 4: 1829-1836, p.188

DEAR SIR,—Your letter of June 30 was duly received, and the death of Mr. Monroe, which it anticipated, became, I learn, a sad reality on the 4th instant, its date associating it with the coincidences before so remarkable and so memorable.

Writings of Madison, Volume 4: 1829-1836, p.189

The feelings with which the event was received by me may be inferred from the long and uninterrupted friendship which united us, and the intimate knowledge I had of his great public merits, and his endearing private virtues. I condole in his loss most deeply with those to whom he was most dear. We may cherish the consolation, nevertheless, that his memory, like that of the other heroic worthies of the Revolution gone before him, will be embalmed in the grateful affections of a posterity enjoying the blessings which he contributed to procure for it.

Writings of Madison, Volume 4: 1829-1836, p.189

With my thanks for the kind attention manifested by your letter, I pray you to accept assurances of my friendly esteem and my good wishes.

To Tench Ringgold.

MONTPELLIER, July 12, 1831.

Writings of Madison, Volume 4: 1829-1836, p.189

DR SIR,—I received in the due times your two favors of July 7 and 8, the first giving the earliest, the last the fullest account that reached me of the death of our excellent friend;\* and I cannot acknowledge these communications without adding the thanks which I owe, in common with those to whom he was most dear, for the devoted kindness on your part during the lingering illness which he could not survive.

Writings of Madison, Volume 4: 1829-1836, p.189

I need not say to you, who so well know, how highly I rated the comprehensiveness and character of his mind; the purity and nobleness of his principles; the importance of his patriotic services; and the many private virtues of which his whole life was a model; nor how deeply, therefore, I must sympathize, on his loss, with those who feel it most. A close friendship, continued through so long a period and such diversified scenes, had grown into an affection very imperfectly expressed by that term; and I value accordingly the manifestation in his last hours that the reciprocity never abated.

To Governor Stokes, of N. Carolina.

JULY 15th, 1831.

Writings of Madison, Volume 4: 1829-1836, p.190

DR SIR,—I observe in a newspaper paragraph, referring to the late fire in Raleigh, a remark that nothing was saved from the Library of the State, particularly "Lawson's History of it," which had not been procured without difficulty. Happening to possess a copy of the work, I inclose it, with a request that it may be permitted to supply the loss; praying you to accept at the same time assurances of my great consideration and respect.

To General Bernard.

MONTPELLIER, July 16, 1831.

Writings of Madison, Volume 4: 1829-1836, p.190

DR SIR,—I have just received your letter of the 12th instant. However much you may overrate my title to the sentiments it expresses, it will always be a gratifying recollection that I had my share in obtaining for the United States your invaluable aid in the defensive system now so well matured and so extensively executed. It is with great pleasure, I add, sir, that whilst your distinguished talents and indefatigable application of them justly claim the tribute of grateful acknowledgments from the public, your social and personal qualities, and those of your estimable and amiable family, have won the best feelings of individuals.

Writings of Madison, Volume 4: 1829-1836, p.190

With these impressions, I cannot learn without regret the loss we are about to sustain. But it being impossible to disapprove the considerations which lead to it, it only remains to assure you of my sincere wishes that the career before you may be as prosperous as, I am persuaded, it will be guided by a pure patriotism and a comprehensive philanthropy.

To Andrew Bigelow.

Writings of Madison, Volume 4: 1829-1836, p.191

REVD SIR,—I have received, with your letter of the 15th instant, a copy of your "Election Sermon on the 6th of Jany," and thank you for the pleasure afforded by the able and instructive lessons which it so impressively adapted to the occasion.

Writings of Madison, Volume 4: 1829-1836, p.191

I cannot conceal from myself that your letter has indulged a partiality which greatly overrates my public services. I may say, nevertheless, that I am among those who are most anxious for the preservation of the Union of the States, and for the success of the constitutional experiment of which it is the basis. We owe it to ourselves, and to the world, to watch, to cherish, and, as far as possible, to perfect a new modification of the powers of Government, which aims at the better security against external danger and internal disorder, a better provision for national strength and individual rights, than had been exemplified under any previous form.

Writings of Madison, Volume 4: 1829-1836, p.191

I pray you, sir, to be assured of my sensibility for your kind and comprehensive wishes for my welfare, and of the sincerity with which a return of them is offered.

To Mathew Carey.

MONTPELLIER, July 27, 1831.

Writings of Madison, Volume 4: 1829-1836, p.191

DEAR SIR,—I have received your favor of the 21st, with your commencing address to the citizens of South Carolina. The strange doctrines and misconceptions prevailing in that quarter are much to be deplored; and the tendency of them the more to be dreaded, as they are patronized by statesmen of shining talents and patriotic reputations. To trace the great causes of this state of things, out of which these unhappy aberrations have sprung, in the effect of markets glutted with the products of the land and with the land itself; to appeal to the nature of the constitutional compact as precluding a right in any one of the parties to renounce it at will, by giving to all an equal right to judge of its obligations, and, as the obligations are mutual, a right to enforce correlative with a right to dissolve them; to make manifest the impossibility as well as injustice of executing the laws of the Union, particularly the laws of commerce, if even a single State be exempt from their operation; to lay open the effects of a withdrawal of a single State from the Union on the practical conditions and relations of the others, thrown apart by the intervention of a foreign nation; to expose the obvious, inevitable, and disastrous consequences of a separation of the States, whether into alien Confederacies or individual nations; —these are topics which present a task well worthy the best efforts of the best friends of their country, and I hope you will have all the success which your extensive information and disinterested views merit.

Writings of Madison, Volume 4: 1829-1836, p.192

If the States cannot live together in harmony under the auspices of such a Government as exists, and in the midst of blessings such as have been the fruits of it, what is the prospect threatened by the abolition of a common Government, with all the rivalships, collisions, and animosities inseparable from such an event? The entanglements and conflicts of commercial regulations, especially as affecting the inland and other non-im-porting States, and a protection of fugitive slaves substituted for the obligatory surrender of them, would, of themselves, quickly kindle the passions which are the forerunners of war.

Writings of Madison, Volume 4: 1829-1836, p.192

My health has not been good for several years, and is at present much crippled by rheumatism; this, with my great age, warns me to be as little as possible before the public, and to give way to others, who, with the same love of their country, are more able to be useful to it.

To General Lafayette.

MONTPELLIER, Augt 3, 1831.

Writings of Madison, Volume 4: 1829-1836, p.192

MY DEAR SIR,—My last letter of December 12th was written with a hope that General Bernard, then about to visit France, would be the bearer; but it did not, I suspect, overtake him. I hope, however, it did not miscarry altogether. I inclose this to him in confidence that it will reach New York before the packet sails. The General is so fully acquainted with our affairs, great and small, that you can learn every thing worth knowing from his lips better than from my pen. I will remark only, the anomalous doctrines of S. Carolina and the gross exaggerations of the effects of the tariff, although apparently in a train for more systematic support, are less and less formidable to the public tranquillity. S. Carolina herself is becoming more divided, and the Southern people generally more and more disposed to calculate the value of the Union by the consequences of disunion. In the mean time, we are mortified and grieved, as you will be, at the aspect which has been given to our political horizon and the effect of it on those who cannot know that the clouds producing it are but local and transient. Our anxieties now are chiefly turned to the aspect of things on your side of the Atlantic; to the fate of Poland; its bearing on the crisis in France; and the connexion of both with the general struggle between liberty and despotism. Imperfectly informed, as we are, on many points, we look to your views as the best guide to our judgments and wishes; regretting that you are not nearer the helm, but persuaded that your counsels are felt by the nation whose impulse the helm must obey.

Writings of Madison, Volume 4: 1829-1836, p.193

My health has not been good for several years, and I am at present suffering under an obstinate attack of rheumatism, which you will perceive has not spared even my fingers. I could not, however, forego the opportunity by General Bernard, for whose loss we are consoled, by the services expected by his country, of expressing my unalterable affection and devoted attachment. Mrs. Madison offers, at the same time, her cordial regards; and we unite in extending all our best wishes to the individuals of your family.

To Robert Walsh.

MONTPELLIER, August 22d, 1831.

Writings of Madison, Volume 4: 1829-1836, p.194

DEAR SIR,—I inclose the answer of Mr. Scott on the subject or Bishop Madison, as just received, that you may extract the materials suited to your object.

Writings of Madison, Volume 4: 1829-1836, p.194

The intellectual power and diversified learning of the Bishop may justly be spoken of in strong terms, and few men have equally deserved the praise due to a model of all the virtues, social, domestic, and personal, which adorn and endear the human character. He was particularly distinguished by a candour, a benevolence, a politeness of mind, and a courtesy of manner, that won the confidence and affection on the shortest acquaintance.

Writings of Madison, Volume 4: 1829-1836, p.194

It would be improper to omit, as a feature in his portrait, that he was a devoted friend to our Revolution and to the purest principles of a Government founded on the rights of man. The period of his first visit to G. Britain led to conversations on the subject of the war with persons of high standing. Among them was Doctor Robertson, the historian, to whom he had letters of introduction. The Doctor, abstaining from the question of right, remarked, that nothing astonished him so much as that the Colonies should have conceived it possible to resist such a power as that of the Mother Country. This was about the time of Burgoyne's surrender.

To Elisha Smith.

SEPTEMBER 11, 1831.

Writings of Madison, Volume 4: 1829-1836, p.194

I have received, sir, your letter of the 24th ultimo, in which you request my opinion on several points involved in the question of the Bank of the United States.

Writings of Madison, Volume 4: 1829-1836, p.194

It might not be proper at any time, and especially at the present, to advance mere opinions in such a case without discussing the grounds on which they rest; and this is a task which I may be excused from undertaking at the age I have reached, now the eighty-first year, and under a painful rheumatism which has for some time been my companion.

Writings of Madison, Volume 4: 1829-1836, p.195

I may say, in brief, as may be gathered from newspapers, that I consider the opinions adverse to the constitutionality of the Bank of the United States, as overruled by the kind and degree of sanctions given to the establishment; that the restraint on the States from emitting bills of credit was understood to have reference to such as were made a legal tender; and that a Bank of the United States may be of peculiar aid in controlling suspensions of specie payments in State banks, and in securing the advantages of a sound and uniform currency.

Writings of Madison, Volume 4: 1829-1836, p.195

As to the precise course to be taken by Congress on the expiration of the existing charter, I am willing to confide in the wisdom of that body, availing itself of the lights of experience, past and in progress.

Writings of Madison, Volume 4: 1829-1836, p.195

Well assured of the worthy motives of your letter, I could not withhold this mark of respect for them; adding only, a request that it may not bring me in any way before the public, and that you will accept the offer of my friendly salutations and good wishes.

To Joseph C. Cabell.

MONTPELLIER, Sept. 16, 1831.

Writings of Madison, Volume 4: 1829-1836, p.195

DEAR SIR,—I did not receive your pamphlet till a few days ago, and your letter of the 29th ultimo till yesterday. I thank you for the former, which did not need the apology it contains to me. I am not surprised at the good reception it meets with. The views it presents of its topics, and the documents and extracts enforcing them, form an appeal to intelligent readers that could not be without effect in spite of the prejudices encountered. I thank you also for the circumstantial communications in your letter, and congratulate you on the event which restores you to the public councils, where your services will be valuable on several accounts, particularly in defending the Constitution and Union against the false doctrines which assail them. That of nullification seems to be generally abandoned in Virginia by those who had most leaning towards it. But it still flourishes in the hot-bed where it sprung up, and will probably not die away while mistaken causes of exaggerated sufferings continue to nourish it; while the tariff, which produced it, is exclusively charged with the inevitable effects of a market equally glutted with the products of the land and with the land itself.

Writings of Madison, Volume 4: 1829-1836, p.196

I know not whence the idea could proceed that I concurred in the doctrine, that although a State could not nullify a law of the Union, it had a right to secede from the Union. Both spring from the same poisonous root, unless the right to secede be limited to cases of intolerable oppression, absolving the party from its constitutional obligations.

Writings of Madison, Volume 4: 1829-1836, p.196

I hope that all who now see the absurdity of nullification will see also the necessity of rejecting the claim to effect it through the State judiciaries, which can only be kept in their constitutional career by the control of the federal jurisdiction.

Writings of Madison, Volume 4: 1829-1836, p.196

Take the linch-pins from a carriage, and how soon would a wheel be off its axle; an emblem of the speedy fate of the federal system, were the parties to it loosened from the authority which confines them to their spheres.

To J. Q. Adams.

MONTPELLIER, Septr 23, 1831.

Writings of Madison, Volume 4: 1829-1836, p.196

J. M., with his best respects to Mr. Adams, thanks him for the copy of his eulogy on the life and character of James Monroe.

Writings of Madison, Volume 4: 1829-1836, p.196

Not only must the friends of Mr. Monroe be gratified by the just and happy tribute paid to isis memory; the historian, also, will be a debtor for the interesting materials and the eloquent samples of the use to be made of them which will be found in its pages.

To Joseph C. Cabell.

MONTPELLIER, Octr 5, 1831.

Writings of Madison, Volume 4: 1829-1836, p.197

DEAR SIR,—Among my letters from Judge Pendleton is one which relates to the Judicial Bill, as then before the Senate of the United States. A copy of it had been sent to him by R. H. Lee, with a request of his observations on it, and a copy of these inclosed by Mr. Pendleton in his letter to me. It is remarkable that, although the observations are numerous, and descend to minute criticisms, none of them touch the section which gives to the Supreme Court of the United States its controlling jurisdiction over the State Judiciaries. In the letter of Mr. Pendleton to me inclosing his observations, it appears that he would have preferred to the plan of the Bill, a federal use of the State Courts, with an appeal from the Supreme Courts of the States to the Supreme Court of the United [States.] Wishing to learn what he had said in his answer to R. H. Lee, inclosing his observations, I requested a friend, intimate with Mr. Ludwell Lee, to make the enquiry. From the answer to this request, I find that the letters from Mr. Pendleton to R. H. Lee had all passed into the hands of his grandson, R. H. Lee, who had finally deposited them in the University of Virginia. Should you have an early occasion to visit Charlottesville I will ask the favor of you to examine that particular letter, and let me know how far it corroborates the view taken of the subject in the letter to me. You are aware of the weight of the opinion of Mr. Pendleton, and its value if opposed to the nullifying power of a State through its Judiciary department. I find that Col. Taylor's authority is in print for the ultimate jurisdiction of the Supreme Court of the United States over the boundary between the United States and the States. Should you not be likely to have an early call towards the University, be so good as to let me know it, and I will transfer the task requested of you to some one on the spot.

Writings of Madison, Volume 4: 1829-1836, p.197

Hoping this will find your health restored, I offer my best wishes for its continuance, and for every other happiness. My own health is still under the invasion of rheumatism. With cordial esteem.

To Professor Tucker.

OCTR 17, 1831.

Writings of Madison, Volume 4: 1829-1836, p.198

DEAR SIR,—I understand that the correspondence between Judge Pendleton and Richard H. Lee has been deposited by the grandson of the latter in the University of Virginia, and I find among the letters of the former to me, one in which he incloses a copy of remarks on the original Judicial bill, then depending in Congress, which had been sent to him by R. H. Lee, then a member of the Senate, with a request of his opinion on it. The letter of the Judge to me does not approve of the plan of the bill, but the 25 section is not noticed among the many objectionable passages suggested to his correspondent as needing revision. From the letter to me it appears that the Judge would have preferred a Federal use of the State Courts, with an appeal from the Supreme Courts of the States to the Supreme Court of the U. States. Do me the favor to examine the letter of Mr. pendleton, inclosing his remarks to Mr. Lee, and let me know whether there be in it anything, and if any, what, that relates to the appellate supremacy of the Federal Judiciary over the State Judiciary.

To —— Townsend, (S.C.)

MONTPELLIER, Oct. 18, 1831.

Writings of Madison, Volume 4: 1829-1836, p.198

DEAR SIR,—I received on the 14th your letter of the 3d instant, and will endeavor to answer the several queries contained in it according to my knowledge and recollections. I shall do it, however, with a wish that you may keep in mind the reserve of my name, which, you are aware, must be most agreeable to me. It is so, not because I am unwilling to be publicly responsible for my statements and sentiments where the occasion absolutely demands it, but because where that, as at present, is not the case, my appearance before the public might be construed into an intrusion into questions of a party character, and because I might be exposed to the alternative of giving, by my silence, a sanction to erroneous criticisms or of taking part in the warfare of politics unbecoming my age and my situation.

Writings of Madison, Volume 4: 1829-1836, p.199

You ask "whether Mr. Jefferson was really the author of the Kentucky Resolutions of 1799." The inference that he was not is as conclusive as it is obvious, from his letter to Col. Wilson Carey Nicholas of September 5, 1799, which expressly declines, for reasons stated, preparing anything for the Legislature of that year.

Writings of Madison, Volume 4: 1829-1836, p.199

Again, "whether the father of the Mr. Nicholas referred to in the letter of December 11, 1821, as having introduced the resolutions of 1798 into the Kentucky Legislature, be not the same individual to whom Mr. Jefferson alludes as the brother of Col. Wilson Carey Nicholas, in a letter addressed to the latter on the 5th September, 1799, vol. iii, p. 420." He was the older brother, and his name George. He died prior to the Kentucky resolutions of 1799.

Writings of Madison, Volume 4: 1829-1836, p.199

What might or would have been the meaning attached to the term "nullify" by Mr. Jefferson, is to be gathered from his language in the resolutions of 1798 and elsewhere, as in his letter to Mr. Giles, December 25, 1825, viz, to extreme cases, as alone justifying a resort to any forcible relief. That he ever asserted a right in a single State to arrest the execution of an act of Congress, the arrest to be valid and permanent unless reversed by three-fourths of the States, is countenanced by nothing known to have been said or done by him. In his letter to Major Cart-wright, he refers to a Convention as a peaceable remedy for conflicting claims of power in our compound Government; but whether he alluded to a convention as prescribed by the Constitution, or brought about by any other mode, his respect for the will of majorities, as the vital principle of Republican Government, makes it certain that he could not have meant a convention in which a minority of seven States was to prevail over seventeen, either in amending or expounding the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.200

Whether the debates in Kentucky on the resolutions of 179899 were preserved, and whether anything similar to the explanatory report in Virginia took place, are points upon which I have no information. If there be any contemporary evidence explanatory of the Virginia resolutions beyond the documents referred to in the letter of August, 1830, to Mr. Everett, it is not within my present recollection. It may doubtless exist in pamphlets or newspapers not yet met with, and still more in private letters not yet brought to light.

Writings of Madison, Volume 4: 1829-1836, p.200

I have noticed, in a paper headed "Nullification Theory," published in the Richmond Enquirer of the 20th of September, views of Mr. Jefferson's opinions, which may perhaps throw light on the object of your letter.

Writings of Madison, Volume 4: 1829-1836, p.200

I will add nothing to these hasty remarks, (excuse the penmanship of them, of which my rheumatic fingers refuse to give a fairer copy,) but a hope that the fermentation in which the nullifying doctrine had its origin will yield to moderate counsels in the Federal Government; and that the shining talents and patriotic zeal which have espoused the heresy will be turned to objects more worthy of both.

Writings of Madison, Volume 4: 1829-1836, p.200

With friendly salutations,

To Dr. J. W. Francis.

MONTPELLIER, Novr 7, 1831.

Writings of Madison, Volume 4: 1829-1836, p.200

DEAR SIR,—I thank you for the pleasure afforded by your interesting address to the Philolexican Society of Columbian College, forwarded with your letter of the 25th ultimo.

Writings of Madison, Volume 4: 1829-1836, p.200

The friendly relations in which I stood to both Chancellor Livingston and Mr. Monroe would make me a reluctant witness, if I had happened to possess any knowledge of facts favoring either at the expense of the other in the negotiations which preceded the transfer of Louisiana to the United States. But my recollections throw no light on the subject beyond what may be derived from official papers in print, or on the files of the Department of State, and especially from the work on Louisiana by Mr. Marbois, the French negotiator. I have no doubt that each of the envoys did everything, according to his opportunities, that could evince official zeal and anxious patriotism; at the same time that the disclosures of Mr. Marbois sufficiently shew that the real cause of success is to be found in the sudden policy suggested to Napoleon by the foreseen rupture of the peace of Amiens, and, as a consequence, the seizure of Louisiana by G. Britain, who would not only deprive France of her acquisition, but turn it, politically or commercially, against her, in relation to the United States or Spanish America.

Writings of Madison, Volume 4: 1829-1836, p.201

The present state of my health, crippled by severe and obstinate rheumatism, combined with my great age, oblige me to shrink from the task of revising the political statements in your pamphlet, which, under other circumstances, would be undertaken with pleasure, as a proof of my respect for your wishes. It is of the less importance, as, in the event of your recurring to the subject of your address, you will doubtless be able to consult whatever sources of information may be necessary to correct errors into which a slight examination preparatory to the address may have betrayed you.

To Jared Sparks.

MONTPELLIER, November 25, 1831.

Writings of Madison, Volume 4: 1829-1836, p.201

DEAR SIR,—I have received your favor of the 14th instant. The simple question is, whether the draught sent by Mr. Pinckney to Mr. Adams, and printed in the Journal of the Convention, could be the same with that presented by him to the Convention on the 29th day of May, 1787; and I regret to say that the evidence that that was not the case is irresistible. Take, as a sufficient example, the important article constituting the House of Representatives, which, in the draught sent to Mr. Adams, besides being too minute in its details to be a possible anticipation of the result of the discussion, &c., of the Convention on that subject, makes the House of Representatives the choice of the people. Now, the known opinion of Mr. Pinckney was, that that branch of Congress ought to be chosen by the State Legislatures, and not immediately by the people. Accordingly, on the 6th day of June, not many days after presenting his draught, Mr. Pinckney, agreeably to previous notice, moved that, as an amendment to the Resolution of Mr. Randolph, the term "people" should be struck out and the word "Legislatures" inserted; so as to read, "Resolved, That the members of the first branch of the National Legislature ought to be elected by the Legislatures of the several States." But what decides the point is the following extract from him to me, dated March 28, 1789:

Writings of Madison, Volume 4: 1829-1836, p.202

"Are you not, to use a full expression, abundantly convinced that the theoretic nonsense of an election of the members of Congress by the people, in the first instance, is clearly and practically wrong; that it will, in the end, be the means of bringing our Councils into contempt, and that the Legislatures are the only proper judges of who ought to be elected?"

Writings of Madison, Volume 4: 1829-1836, p.202

Others proofs against the identity of the two draughts may be found in Article VIII of the Draught, which, whilst it specifies the functions of the President, contains no provision for the election of an such officer, nor, indeed, for the appointment of any Executive Magistracy, notwithstanding the evident purpose of the author to provide an entire plan of a Federal Government.

Writings of Madison, Volume 4: 1829-1836, p.202

Again, in several instances where the Draught corresponds with the Constitution, it is at variance with the ideas of Mr. Pinckney, as decidedly expressed in his votes on the Journal of the Convention. Thus, in Article VIII of the Draught, provision is made for removing the President by impeachment, when it appears that in the Convention, July 20, he was opposed to any impeachability of the Executive Magistrate. In Article III, it is required that all money-bills shall originate in the first branch of the Legislature; and yet he voted, on the 8th August, for striking out that provision in the Draught reported by the Committee on the 6th. In Article V, members of each House are made ineligible, as well as incapable, of holding any office under the Union, &c., as was the case at one stage of the Constitution; a disqualification disapproved and opposed by him August 14th.

Writings of Madison, Volume 4: 1829-1836, p.203

Further discrepancies might be found in the observations of Mr. Pinckney, printed in a pamphlet by Francis Childs, in New York, shortly after the close of the Convention. I have a copy, too mutilated for use, but it may probably be preserved in some of your historical repositories.

Writings of Madison, Volume 4: 1829-1836, p.203

It is probable that in some instances, where the Committee which reported the Draught of Augt 6th might be supposed to have borrowed from Mr. Pinckney's Draught, they followed details previously settled by the Convention, and ascertainable, perhaps, by the Journal. Still there may have been room for a passing respect for Mr. Pinckney's plan by adopting, in some cases, his arrangement; in others, his language. A certain analogy of outlines may be well accounted for. All who regard the object of the Convention to be a real and regular Government, as contradistinguished from the old Federal system, looked to a division of it into Legislative, Executive, and Judiciary branches, and of course would accommodate their plans to their organization. This was the view of the subject generally taken and familiar in conversation, when Mr. Pinckney was preparing his plan. I lodged in the same house with him, and he was fond of conversing on the subject. As you will have less occasion than you expected to speak of the Convention of 1787, may it not be best to say nothing of this delicate topic relating to Mr. Pinckney, on which you cannot use all the lights that exist and that may be added?

Writings of Madison, Volume 4: 1829-1836, p.203

My letter of April 8th was meant merely for your own information and to have its effect on your own view of things. I see nothing in it, however, unfit for the press, unless it be thought that the friends of Mr. Morris will not consider the credit given him a balance for the merit withdrawn, and ascribe the latter to some prejudice on my part.

To. N. P. Trist.

DECEMBER, 1831.

Writings of Madison, Volume 4: 1829-1836, p.204

I return, with my thanks, the printed speech of Col. Hayne on the 4th of July last. It is blotted with many strange errors, some of a kind not to have been looked for from a mind like that of the author. I cannot see the advantage of this perseverance of South Carolina in claiming the authority of the Virginia proceedings in 1798-'99, as asserting a right in a single State to nullify an act of the United States. Where, indeed, is the fairness of attempting to palm on Virginia an intention which is contradicted by such a variety of contemporary proofs; which has, at no intervening period, received the slightest countenance from her; and which, with one voice, she now disclaims? There is the less propriety in this singular effort, since Virginia, if she could, as is implied, disown a doctrine which was her own offspring, would be a bad authority to lean on in any cause. Nor is the imprudence less than the impropriety, of an appeal from the present to a former period, as from a degenerate to a purer state of political orthodoxy; since South Carolina, to be consistent, would be obliged to surrender her present nullifying notions to her own higher authority, when she declined to concur and co-operate with Virginia at the period of the alien and sedition laws. It would be needless to dwell on the contrast' of her present nullifying doctrines with those maintained by her political champions at subsequent and not very remote dates.

Writings of Madison, Volume 4: 1829-1836, p.204

Besides the external and other internal evidence that the proceedings of Virginia, occasioned by the alien and sedition laws, dO not maintain the right of a single State, as a party to the Constitution, to arrest the execution of a law of the United States, it seems to have been overlooked, that in every instance in those proceedings where the ultimate right of the States to interpose is alluded to, the plural term States has been used; the term State, as a single party, being invariably avoided. And if it had been suspected that the term respective, in the third resolution, would have been misconstrued into such a claim of an individual State, or that the language of the seventh resolution, invoking the co-operation of the other States with Virginia, would not be a security against the error, a more explicit guard would doubtless have been introduced. But surely there is nothing strange in a concurrence and co-operation of many parties in maintaining the rights of each within itself.

Writings of Madison, Volume 4: 1829-1836, p.205

It would seem, also, to be deemed an object of importance to fix the charge of inconsistency on me individually, in relation to the proceedings of Virginia in 1798-'99. But it happens that the ground of the charge particularly relied on would, at the same time, exhibit the State in direct and pointed opposition to a nullifying import of those proceedings.

Writings of Madison, Volume 4: 1829-1836, p.205

In the seventh resolution, which declares the alien and sedition laws to be "unconstitutional," this term was followed by "null, void, and of no effect," which, it is alleged, express an actual nullification; and as they are ascribed to me as the drawer of the resolution, it is inferred that I must then have been a nullifier, though now disclaiming the character. These particular words, though essentially the same with unconstitutional, were promptly and unanimously stricken out by the House as a caution against misconstruction. Now, admitting that they were in the original draught of the resolution, and assuming that they meant more than the term unconstitutional, amounting even to nullification, the striking them out turns the authority of the State precisely against the doctrine for which that authority is claimed.

Writings of Madison, Volume 4: 1829-1836, p.205

Other, and some not very candid, attempts are made to stamp my political career with discrediting inconsistencies. One of these is a charge that I have on some occasions represented the Supreme Court of the United States as the judge, in the last resort, on the boundary of jurisdiction between the several States and the United States, and on other occasions have assigned this last resort to the parties to the Constitution. It is the more extraordinary that such a charge should have been hazarded, since, besides the obvious explanation that the last resort means, in one case, the last within the purview and forms of the Constitution, and, in the other, the last resort of all, from the Constitution itself to the parties who made it, the distinction is presented and dwelt on both in the report on the Virginia resolutions and in the letter to Mr. Everett, the very documents appealed to in proof of the inconsistency. The distinction between these ultimate resorts is, in fact, the same within the several States. The judiciary there may, in the course of its functions, be the last resort within the provisions and forms of the Constitution, and the people, the parties to the Constitution, the last in cases ultra-constitutional, and therefore requiring their interposition.

Writings of Madison, Volume 4: 1829-1836, p.206

It will not escape notice, that the judicial authority of the United States, when overruling that of a State, is complained of as subjecting a sovereign State, with all its rights and duties, to the will of a court composed of not more than seven individuals. This is far from a true state of the case. The question would be between a single State and the authority of a tribunal representing as many States as compose the Union.

Writings of Madison, Volume 4: 1829-1836, p.206

Another circumstance to be noted is, that the nullifiers, in stating their doctrine, omit the particular form in which it is to be carried into execution; thereby confounding it with the extreme cases of oppression which justify a resort to the original right of resistence, a right belonging to every community, under every form of Government, consolidated as well as federal. To view the doctrine in its true character, it must be recollected that it asserts a right in a single State to stop the execution of a federal law, although in effect stopping the law everywhere, until a Convention of the States could be brought about by a process requiring an uncertain time; and finally, in the Convention, when formed, a vote of seven States, if in favour of the veto, to give it a prevalence over the vast majority of seventeen States. For this preposterous and anarchical pretension there is not a shadow of countenance in the Constitution; and well that there is not, for it is certain that, with such a deadly poison in it, no constitution could be sure of lasting a year; there having scarcely been a year since ours was formed without a discontent in some one or other of the States, which might have availed itself of the nullifying prerogative. Yet this has boldly sought a sanction under the name of Mr. Jefferson, because, in his letter to Major Cartwright, he held out a Convention of the States, as, with us, a peaceable remedy, in cases to be decided in Europe by intestine wars. Who can believe that Mr. Jefferson referred to a Convention summoned at the pleasure of a single State, with an interregnum during its deliberations; and, above all, with a rule of decision subjecting nearly three-fourths to one-fourth ? No man's creed was more opposed to such an inversion of the republican order of things.

Writings of Madison, Volume 4: 1829-1836, p.207

There can be no objection to the reference made to the weakening effect of age on the judgment, in accounting for changes of opinion. But inconsistency, at least, may be charged on those who lay such stress on the effect of age in one case, and place such peculiar confidence where that ground of distrust would be so much stronger. What was the comparative age of Mr. Jefferson, when he wrote the letter to Mr. Giles, a few months before his death, in which his language, though admitting a construction not irreconcilable with his former opinions, is held, in its assumed meaning, to outweigh, on the tariff question, opinions deliberately formed in the vigour of life, reiterated in official reasonings and reports, and deriving the most cogent sanction from his presidential messages and private correspondences? What, again, the age of General Sumter, at which the concurrence of his opinion is so triumphantly hailed? That his judgment may be as sound as his services have been splendid, may be admitted; but, had his opinion been the reverse of what it proved to be, the question is justified by the distrust of opinions, at an age very far short of his, whether his venerable years would have escaped a different use of them.

Writings of Madison, Volume 4: 1829-1836, p.207

But I find that, by a sweeping charge, my inconsistency is extended "to my opinions on almost every important question which has divided the public into parties." In supporting this charge, an appeal is made to "Yates's Secret Debates in the Federal Convention of 1787," as proving that I originally entertained opinions adverse to the rights of the States; and to the writings of Col. Taylor, of Caroline, as proving that I was in that Convention "an advocate for a consolidated national Government."

Writings of Madison, Volume 4: 1829-1836, p.208

Of the debates, it is certain that they abound in errors, some of them very material in relation to myself. Of the passages quoted, it may be remarked, that they do not warrant the inference drawn from them. They import "that I was disposed to give Congress a power to repeal State laws," and "that the States ought to be placed under the control of the General Government, at least as much as they were formerly, when under the British King and Parliament."

Writings of Madison, Volume 4: 1829-1836, p.208

The obvious necessity of a control on the laws of the States, so far as they might violate the Constitution and laws of the United States, left no option but as to the mode. The modes presenting themselves were: 1. A veto on the passage of the State laws. 2. A congressional repeal of them. 3. A judicial annulment of them. The first, though extensively favoured at the outset, was found, on discussion, liable to insuperable objections, arising from the extent of country and the multiplicity of State laws. The second was not free from such as gave a preference to the third, as now provided by the Constitution. The opinion that the States ought to be placed not less under the Government of the United States than they were under that of Great Britain, can provoke no censure from those who approve the Constitution as it stands, with powers exceeding those ever allowed by the colonies to Great Britain, particularly the vital power of taxation, which is so indefinitely vested in Congress, and to the claim of which by Great Britain a bloody war and final separation were preferred.

Writings of Madison, Volume 4: 1829-1836, p.208

The author of the "Secret Debates," though highly respectable in his general character, was the representative of the portion of the State of New York which was strenuously opposed to the object of the Convention, and was himself a zealous partisan. His notes carry on their face proofs that they were taken in a very desultory manner, by which parts of sentences, explaining or qualifying other parts, might often escape the ear. He left the Convention, also, on the 5th of July, before it had reached the midway of its session, and before the opinions of the members were fully developed into their matured and practical shapes. Nor did he conceal the feelings of discontent and disgust which he carried away with him. These considerations may account for errors, some of which are self-condemned. Who can believe that so crude and untenable a statement could have been intentionally made on the floor of the Convention, as "that the several States were political societies, varying from the lowest corporations to the highest sovereigns," or "that the States had vested all the essential rights of Government in the old Congress?"

Writings of Madison, Volume 4: 1829-1836, p.209

On recurring to the writings of Col. Taylor,\* it will be seen that he founds his imputation against myself and Governor Randolph, of favouring a consolidated national Government, on the resolutions introduced into the Convention by the latter in behalf of the Virginia delegates, from a consultation among whom they were the result. The resolutions imported that a Government, consisting of a national Legislature, Executive, and Judiciary, ought to be substituted for the existing Congress. Assuming for the term national a meaning co-extensive with a single consolidated Government, he filled a number of pages in deriving from that source a support of his imputation. The whole course of proceedings on those resolutions ought to have satisfied him that the term national, as contradistinguished from federal, was not meant to express more than that the powers to be vested in the new Government were to operate as in a national Government, directly on the people, and not, as in the old Confederacy, on the States only. The extent of the powers to be vested, also, though expressed in loose terms, evidently had reference to limitations and definitions to be made in the progress of the work, distinguishing it from a plenary and consolidated Government.

Writings of Madison, Volume 4: 1829-1836, p.209

It ought to have occurred, that the Government of the United States, being a novelty and a compound, had no technical terms or phrases appropriate to it, and that old terms were to be used in new senses, explained by the context or by tire facts of the case.

Writings of Madison, Volume 4: 1829-1836, p.209

Some exulting inferences have been drawn from the change noted in the journal of the Convention of the word national into "United States." The change may be accounted for by a desire to avoid a misconception of the former, the latter being preferred as a familiar caption. That the change could have no effect on the real character of the Government was and is obvious; this being necessarily deduced from the actual structure of the Government and the quantum of its powers.

Writings of Madison, Volume 4: 1829-1836, p.210

The general charge which the zeal of party has brought against me, "of a change of opinion in almost every important question which has divided parties in this country," has not a little surprised me. For, although far from regarding a change of opinion under the lights of experience and the results of improved reflection as exposed to censure, and still farther from the vanity of supposing myself less in need than others of that privilege, I had indulged the belief that there were few if any of my contemporaries, through the long period and varied services of my political life, to whom a mutability of opinion on great constitutional questions was less applicable.

Writings of Madison, Volume 4: 1829-1836, p.210

Beginning with the great question growing out of the terms "common defence and general welfare," my early opinion expressed in the Federalist, limiting the phrase to the specified powers, has been adhered to on every occasion which has called for a test of it.

Writings of Madison, Volume 4: 1829-1836, p.210

As to the power in relation to roads and canals, my opinion; without any previous variance from it, was formally announced in the veto on the Bonus bill in 1817, and no proof of a subsequent change has been given.

Writings of Madison, Volume 4: 1829-1836, p.210

On the subject of the tariff for the encouragement of manufactures, my opinion in favour of its constitutionality has been invariable from the first session of Congress under the new Constitution of the United States, to the explicit and public maintenance of it in my letters to Mr. Cabell in 1828.

Writings of Madison, Volume 4: 1829-1836, p.210

It will not be contended that any change has been manifested in my opinion of the unconstitutionality of the alien and sedition laws.

Writings of Madison, Volume 4: 1829-1836, p.210

With respect to the supremacy of the judicial power, on questions occurring in the course of its functions, concerning the boundary of jurisdiction between the United States and individual States, my opinion in favour of it was, as the forty-first number of the Federalist shows, of the earliest date; and I have never ceased to think that this supremacy was a vital principle of the Constitution, as it is a prominent feature in its text. A supremacy of the Constitution and laws of the Union, without a supremacy in the exposition and execution of them, would be as much a mockery as a scabbard put into the hand of a soldier without a sword in it. I have never been able to see, that, without such a view of the subject, the Constitution itself could be the supreme law of the land; or that the uniformity of the federal authority throughout the parties to it could be preserved; or that without this uniformity, anarchy and disunion could be prevented.

Writings of Madison, Volume 4: 1829-1836, p.211

On the subject of the bank alone is there a colour for the charge of mutability on a constitutional question. But here the inconsistency is apparent, not real, since the change was in conformity to an early and unchanged opinion, that, in the case of a Constitution as of a law, a course of authoritative, deliberate, and continued decisions, such as the bank could plead, was an evidence of the public judgment, necessarily superseding individual opinions. There has been a fallacy in this case, as, indeed, in others, in confounding a question whether precedents could expound a Constitution, with a question whether they could alter a Constitution. This distinction is too obvious to need elucidation. None will deny that precedents of a certain description fix the interpretation of a law. Yet who will pretend that they can repeal or alter a law?

Writings of Madison, Volume 4: 1829-1836, p.211

Another error has been in ascribing to the intention of the Convention which formed the Constitution, an undue ascendency in expounding it. Apart from the difficulty of verifying that intention, it is clear, that if the meaning of the Constitution is to be sought out of itself, it is not in the proceedings of the body that proposed it, but in those of the State Conventions, which gave it all the validity and authority it possesses.

To N. P. Trist.

DECEMBER 21, 1831.

Writings of Madison, Volume 4: 1829-1836, p.212

DR SIR,—I return the newspapers. The passage is a sad example of pulpit authenticity, justice, and delicacy. In what relates to me there is scarce any part wholly true in the sense intended. How such a string of misinformation could have been gathered, it is not. easy to imagine. I never studied law with Mr. Jefferson. The story about my father's interference, and my evasion of his anxious inquiries, falls of course. That of my studying the Bible on the Sabbath during the first term, and abandoning it during the second term of my service in the Department of State, is, throughout, a sheer fabrication for the sake of the sting put into the tail of it.

Writings of Madison, Volume 4: 1829-1836, p.212

The preacher says he had spoken to me on the subject of my faith, and that I always evaded his object. I recollect one person, only, of his name [Wilson] who could have made the allusion. He was presented to me at Washington by Mr. Piper, and perhaps other Pennsylvania members of Congress, and called on me several times afterwards late in the evening. He was considered a man of superior genius, and a profound erudition, for his years, but eccentric, and subject occasionally to flights into the region of mental derangement, of which, it was said, he gave proofs in a sermon preached in Washington. This infirmity betrayed itself during a visit to me with Mr. Piper, who apologized for it. In intervals perfectly lucid, his conversation was interesting.

To R. R. Gurley.

MONTPELLIER, Decr 28, 1831.

Writings of Madison, Volume 4: 1829-1836, p.212

DEAR SIR,—I received in due time your letter of the 21 ultimo, and with due sensibility to the subject of it. Such, however, has been the effect of a painful rheumatism on my general condition, as well as in disqualifying my fingers for the use of the pen, that I could not do justice "to the principles and measures of the Colonization Society, in all the great and various relations they sustain to our own country and to Africa." If my views of them could have the value which your partiality supposes, I may observe, in brief, that the Society had always my good wishes, though with hopes of its success less sanguine than were entertained by others found to have been the better judges; and that I feel the greatest pleasure at the progress already made by the Society, and the encouragement to encounter the remaining difficulties afforded by the earlier and greater ones already overcome. Many circumstances at the present moment seem to concur in brightening the prospects of the Society, and cherishing the hope that the time will come when the dreadful calamity which has so long afflicted our country, and filled so many with despair, will be gradually removed, and by means consistent with justice, peace, and the general satisfaction; thus giving to our country the full enjoyment of the blessings of liberty, and to the world the full benefit of its great example. I have never considered the main difficulty of the great work as lying in the deficiency of emancipations, but in an inadequacy of asylums for such a growing mass of population, and in the great expense of removing it to its new home. The spirit of private manumission, as the laws may permit and the exiles may consent, is increasing, and will increase, and there are sufficient indications that the public authorities in slaveholding States are looking forward to interpositions, in different forms, that must have a powerful effect.

Writings of Madison, Volume 4: 1829-1836, p.213

With respect to the new abode for the emigrants, all agree that the choice made by the Society is rendered peculiarly appropriate by considerations which need not be repeated, and if other situations should not be found as eligible receptacles for a portion of them, the prospect in Africa seems to be expanding in a highly encouraging degree.

Writings of Madison, Volume 4: 1829-1836, p.213

In contemplating the pecuniary resources needed for the removal of such a number to so great a distance, my thoughts and hopes have long been turned to the rich fund presented in the western lands of the nation, which will soon entirely cease to be under a pledge for another object. The great one in question is truly of a national character, and it is known that distinguished patriots not dwelling in slaveholding States have viewed the object in that light, and would be willing to let the national domain be a resource in effectuating it.

Writings of Madison, Volume 4: 1829-1836, p.214

Should it be remarked that the States, though all may be interested in relieving our country from the coloured population, are not equally so, it is but fair to recollect that the sections most to be benefited are those whose cessions created the fund to be disposed of.

Writings of Madison, Volume 4: 1829-1836, p.214

I am aware of the constitutional obstacle which has presented itself; but if the general will be reconciled to an application of the territorial fund to the removal of the coloured population, a grant to Congress of the necessary authority could be carried with little delay through the forms of the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.214

Sincerely wishing increasing success to the labours of the Society, I pray you to be assured of my esteem, and to accept my friendly salutations.

1832

To J. K. Paulding.

JANUARY—, 1832.

Writings of Madison, Volume 4: 1829-1836, p.214

According to my promise, I send you the enclosed sketch. It was my purpose to have enlarged some parts of it, and to have revised and probably blotted out others. But the crippled state of my health makes me shun the task, and the uncertainties of the future induce me to commit the paper, crude as it is, to your friendly discretion. Wishing to know that it has not miscarried, drop a single line saying so.

To James T. Austin.

MONTPELLIER, Feby 6, 1832.

Writings of Madison, Volume 4: 1829-1836, p.214

DR SIR,—I have received your letter of the 19th ultimo requesting a "communication of any facts connected with the service of the late Vice President Gerry in the Convention of 1787." The letter was retarded by its address to Charlottesville instead of Orange Court House. It would give me pleasure to make any useful contribution to a biography of Mr. Gerry, for whom I had a very high esteem and avery warm regard. But I know not that I could furnish any particular facts of that character, separable from his general course in the Convention, especially without some indicating reference to them. I may say, in general, that Mr. Gerry was an active, an able, and interesting member of that Assembly, and that the part he bore in its discussions and proceedings was important and continued to the close of them. The grounds on which he dissented from some Of the results are well known.

Writings of Madison, Volume 4: 1829-1836, p.215

I shall, I am sure, sir, be pardoned any deficiency in this answer to your request, when I remark that I am now approaching the 82d year of my age, and that besides the infirmities incident to it, I have for a considerable time been suffering from a severe rheumatism, which, among its diffusive effects, has so crippled my hands and fingers that I write my name with pain and difficulty, and am in a manner disqualified for researches which require the handling of papers.

Writings of Madison, Volume 4: 1829-1836, p.215

Wishing you, sir, success in acquiring the means of doing full justice to the merits of a distinguished Revolutionary patriot, I pray you to accept assurances of my esteem and cordial respects.

To E. D. White, of Louisiana, M. C.

Writings of Madison, Volume 4: 1829-1836, p.215

J. M. presents the thanks due for the remarks upon a plan for the total abolition of "slavery in the United States" with which he has been favoured.

Writings of Madison, Volume 4: 1829-1836, p.215

The views taken of the subject are very interesting; but an error is noticed in ascribing to him "the opinion that Congress possesses constitutional powers to appropriate public funds to aid this redeeming project of colonizing the coloured people." He wished the powers of Congress to be enlarged on this subject.

MONTPELLIER, 14th Feb., 1832.

To A. Robbins.

MONTPELLIER, March 21, 1832.

Writings of Madison, Volume 4: 1829-1836, p.216

J. Madison has duly received the speech of Mr. Robbins on the "Protection of American Industry." J. Madison has read it, as he has others, taking opposite views of the subject, with a just sense of the eloquence and ability brought forth by the discussion. He cannot but hope, notwithstanding the antipode opinions which have appeared, that some intermediate ground will be traced, for an accommodation, so impressively called for by patriotic considerations. With his thanks to Mr. Robbins for his friendly regards, he tenders him assurances of his continued esteem and good wishes.

To Henry Clay.

MARCH 22, 1832.

Writings of Madison, Volume 4: 1829-1836, p.216

DEAR SIR,—I have duly received yours of the 17th. Although you kindly release me from a reply, it may be proper to say that some of the circumstances to which you refer were not before known to me.

Writings of Madison, Volume 4: 1829-1836, p.216

On the great question before Congress, on the decision of which so much depends out of Congress, I ought the less to obtrude an opinion, as its merits essentially depend on many details which I have never investigated, and of which I am an incompetent judge. I know only that the tariff, in its present amount and form, is a source of deep and extensive discontent, and I fear that without alleviations separating the more moderate from the more violent opponents, very serious effects are threatened. Of these, the most formidable and not the least probable would be a Southern Convention; the avowed object of some, and the unavowed object of others, whose views are, perhaps, still more to be dreaded. The disastrous consequences of disunion, obvious to all, will, no doubt, be a powerful check on its partisans; but such a Convention, characterized as it would be by selected talents, ardent zeal, and the confidence of those represented, would not be easily stopped in its career; especially as many of its members, though not carrying with them particular aspirations for the honours, &c., &c., presented to ambition on a new political theatre, would find them germi-. nating in such a hot-bed.

Writings of Madison, Volume 4: 1829-1836, p.217

To these painful ideas I can only oppose hopes and wishes, that, notwithstanding the wide space and warm feelings which divide the parties, some accommodating arrangements may be devised that will prove an immediate anodyne and involve a lasting remedy to the tariff discords.

Writings of Madison, Volume 4: 1829-1836, p.217

Mrs. Madison charges me with her affectionate remembrances to Mrs. Clay, to whom I beg to be, at the same time, respectfully presented, with reassurances of my high esteem and cordial regards.

To N. P. Trist.

MONTPELLIER, May—, 1832.

Writings of Madison, Volume 4: 1829-1836, p.217

DEAR SIR,—I have received your letter of the 8th, with the book referred to, and dictate the acknowledgment of it to a pen that is near me. I will read the work as soon as I may be able. When that will be I cannot say. I have been confined to my bed many days by a bilious attack. The fever is now leaving me, but in a very enfeebled state, and without any abatement of my rheumatism; which, besides its general effect on my health, still cripples me in my limbs, and especially in my hands and fingers.

Writings of Madison, Volume 4: 1829-1836, p.217

I am glad to find you so readily deciding that the charges against Mr. Jefferson can be duly refuted. I doubt not this will be well done. To be so, it will be expedient to review carefully the correspondences of Mr. Jefferson; to recur to the aspects of things at different epochs of the Government, particularly as presented at its outset, in the unrepublican formalities introduced and attempted, not by President Washington, but by the vitiated political taste of others taking the lead on the occasion, and again in the proceedings which marked the Vice Presidency of Mr. Jefferson.

Writings of Madison, Volume 4: 1829-1836, p.218

Allowances also ought to be made for a habit in Mr. Jefferson, as in others of great genius, of expressing in strong and round terms impressions of the moment.

Writings of Madison, Volume 4: 1829-1836, p.218

It may be added, that a full exhibition of the correspondences of distinguished public men through the varied scenes of a long period, would, without a single exception, not fail to involve delicate personalities and apparent, if not real, inconsistencies.

Writings of Madison, Volume 4: 1829-1836, p.218

I heartily wish that something may be done with the tariff that will be admissible on both sides, and arrest the headlong course in South Carolina. The alternative presented by the dominant party there is so monstrous that it would seem impossible that it should be sustained by any of the most sympathizing States, unless there be latent views apart from constitutional questions, which I hope cannot be of much extent. The wisdom that meets the crisis with the due effect will greatly signalize itself.

Writings of Madison, Volume 4: 1829-1836, p.218

The idea that a Constitution which has been so fruitful of blessings, and a Union admitted to be the only guardian of the peace, liberty, and happiness of the people of the States comprising it, should be broken up and scattered to the winds, without greater than any existing causes, is more painful than words can express. It is impossible that this can ever be the deliberate act of the people, if the value of the Union be calculated by the consequences of disunion.

Writings of Madison, Volume 4: 1829-1836, p.218

I am much exhausted, and can only add an affectionate adieu.

To N. P. Trist.

MONTPELLIER, May 29, 1832.

Writings of Madison, Volume 4: 1829-1836, p.218

MY DEAR SIR,—Whilst reflecting in my sick bed, a few mornings ago, on the dangers hovering over our Constitution, and even the Union itself, a few ideas, though not occurring for the first time, had become particularly impressive at the present. I have noted them by the pen of a friend on the enclosed paper, and you will take them for what they are worth. If that be anything, and they happen to accord with your own view of the subject, they may be suggested where it is most likely they will be well received; but without naming or designating, in any manner, the source of them.

Writings of Madison, Volume 4: 1829-1836, p.219

I am still confined to my bed with my malady, my debility, and my age, in triple alliance against me. Any convalescence, therefore, must be tedious, not to add imperfect.

Writings of Madison, Volume 4: 1829-1836, p.219

I have not yet ventured on the perusal of the book you sent me. From passages read to me, I perceive "that the venom of its shafts" are not without "a vigor in the bow."

——————————

(The paper referred to as inclosed in the foregoing letter.)

29 MAY, 1832.

Writings of Madison, Volume 4: 1829-1836, p.219

The main cause of the discords which hover over our Constitution, and even the Union itself, is the tariff on imports; and the great complaint against the tariff is the inequality of the burthen it imposes on the planting and manufacturing States, the latter bearing a less share of the duties on protected articles than the former. This being the case, it seems reasonable that an equality should be restored, as far as may be, by duties on unprotected articles consumed in a greater proportion by the manufacturing States. Let, then, a selection be made of unprotected articles, and such duties imposed on them as will have that effect. The unprotected article of Tea, for example, known to be more extensively consumed in the manufacturing than in the planting States, might be regarded as, pro tanto, balancing the disproportionate consumption of the protected article of coarse woollens in the South. As the repeal of the duty on tea and some other articles has been represented by southern politicians as more a relief to the North than to the South, it follows that the North, in these particulars, has for many years paid taxes not proportionally borne by the South.

Writings of Madison, Volume 4: 1829-1836, p.219

Justice certainly recommends some equalizing arrangement; and in a compound tariff itself, necessary to produce au equilibrium of the burthen, (a duty on any single article, though uniform in law, being uniform in its operation,) such an arrangement might not be impracticable.

Writings of Madison, Volume 4: 1829-1836, p.220

Two objections may perhaps be made: first, that it might produce an increase of surplus revenue, which there is an anxiety to avoid. But as a certain provision for an adequate revenue will always produce a surplus to be disposed of, such an addition, if not altogether avoidable, would admit a like disposition. In any view, the evil could not be so great as that for which it is suggested as a remedy.

Writings of Madison, Volume 4: 1829-1836, p.220

The second objection is, that such an adjustment between different sections of the nation might increase the difficulty of a proper adjustment between different descriptions of people, particularly between the richer and the poorer. But here again the question recurs, whether the evil, as far as it may be unavoidable, be so great as a continuance of the threatening discords which are the alternative.

Writings of Madison, Volume 4: 1829-1836, p.220

It cannot be too much inculcated, that in a Government like ours, and, indeed, in all governments, and whether in the case of indirect or direct taxes, it is impossible to do perfect justice in the distribution of burthens and benefits, and that equitable estimates and mutual concessions are necessary to approach it.

To Edward Everett.

MONTPELLIER, May 30, 1832.

Writings of Madison, Volume 4: 1829-1836, p.220

DEAR SIR,—I am indebted to you, I observe, for a copy of Mr. Doddridge's speech on the subject of Congressional privilege. A part of it has been read to me, and judging from that of what remains, I need not hesitate to pronounce it an able one, as was to be expected from its able author. As he is under a mistake in supposing me to have drawn the Judicial Act of 1789, and wishes for information, it may be proper to set him right. The bill originated in the Senate, of which I was not a member, and the task of preparing it was understood, justly I believe, to have been performed by Mr. Ellsworth, in consultation, probably, with some of his learned colleagues.

Writings of Madison, Volume 4: 1829-1836, p.221

My health has improved but little; I am still confined to my bed in a state of much debility, the effect of the combined causes of rheumatism and bilious fever.

To Philip Doddridge.

MONTPELLIER, June 6, 1832.

Writings of Madison, Volume 4: 1829-1836, p.221

DEAR SIR,—Your letter of the 1st instant, followed by a copy of your speech on Congressional privilege, found me in my bed, to which I have been confined for several weeks by a severe bilious fever uniting itself with a severe rheumatism, which had kept me a cripple, (particularly my hands and fingers,) and a prisoner in my house for many months. The fever has, I hope, ceased, but leaves me in much debility. In this condition you will, I am sure, pardon me for not undertaking that thorough consideration of the subject which would enable me to do justice to your critical and extensive views of it. I feel safe in saying, that your speech is a very able one, as was to be expected; and I may add, that I have always considered the right of self-pro-tection in the discharge of the necessary duties as inherent in legislative bodies as in courts of justice; in the State Legislatures as in the British Parliament; and in the Federal Legislature as in both. In the application of this privilege to emerging cases, difficulties and differences of opinion may arise. In deciding on these the reason and necessity of the privilege must be the guide. It is certain that the privilege has been abused in British precedents, and may have been in American also.

Writings of Madison, Volume 4: 1829-1836, p.221

Previous to receipt of your letter I had been favored by Mr. Everett, of Massachusetts, with a copy of your speech, which was read to me; and observing your mistake in supposing me to have drawn the Judicial Act of 1789, I thought it proper, in my answer, to furnish the means of correcting it. The bill originated in the Senate, of which I was not a member, and was understood, truly I believe, to have proceeded from Mr. Ellsworth, availing himself, as may be presumed, of consultations with some of his most enlightened colleagues. Those who object to the control given to the Supreme Court of the U. States over the State courts, ought to furnish some equivalent mode of preventing a State government from annulling the laws of the U. States through its Judiciary department, the annulment having the same anarchical effect as is brought about through either of its other departments.

Writings of Madison, Volume 4: 1829-1836, p.222

If I were in an ill-humour with you, which I am not and never was, I might here advert to the misconstruction which, in your controversy with Mr. Cook, you put on the amendment I proposed in our late Convention, authorizing the Legislature, two-thirds of each House concurring, to reapportion the representation as inequalities might from time to time require. My motive, I am conscious, was pure, and the object I still think proper. The right of suffrage and the rule of apportionment of representatives are fundamentals in a free Government, and ought not to be submitted to legislative discretion. The former had been fixed by the Constitution, but every attempt to provide a constitutional rule for the latter had failed, and of course no remedy could be applied for the greatest inequalities without a Convention, at which the general feeling seemed to revolt. In this alternative it appeared the lesser evil to give the power of redress to the Legislature, controlling its discretion by requiring a concurrence of two-thirds instead of a mere majority. Should the power be duly exercised, all will be well; if not, the same resorts will be open as if the amendment had never been proposed; and I trust I am not too sanguine in anticipating that the claims of justice, with the alternative of refusing it, will prevail over local and selfish considerations.

Writings of Madison, Volume 4: 1829-1836, p.222

But I pass with pleasure from this reminiscence to a return of my thanks for your communication, and a tender of my esteem and my friendly salutations.

To David Hoffman.

JUNE 13, 1832.

Writings of Madison, Volume 4: 1829-1836, p.223

J. Madison, with his respects to Mr. Hoffman, thanks him for the copy of his lecture lately delivered in the University of Maryland. In the decrepit and feeble state of the health of J. M. he has not been able to bestow on some parts of the lecture the degree of attention which they merit. He can safely pronounce it to be a happy example, in which erudite disquisition is presented in language not less elegant than lucid.

Writings of Madison, Volume 4: 1829-1836, p.223

The distinction between what has been called bench legislation and judicial interpretation is by a line not easy to be drawn, though necessary to be observed. It is probable that it has been very imperfectly regarded in the modes by which much of English law, not understood to have been brought by our emigrating ancestors with them, nor adopted by legislative enactments, was admitted into the Colonial codes, and is now found in those of the States. There is an obscurity over this class of innovations which it would require extensive researches to remove—more extensive, perhaps, than might be rewarded by an attainable success.

29th JUNE, 1832.

Writings of Madison, Volume 4: 1829-1836, p.223

I have received, my friends, your letter of the 25th instant, inviting me, in behalf of a portion of the citizens of Orange, to be a guest at their proposed festive celebration on the 4th of July. The respect we all feel for that great anniversary would render the occasion of meeting them highly gratifying to me; but the very feeble state to which I am reduced by a tedious indisposition, does not permit me to consult my inclinations. I avail myself, therefore, of the alternative you suggest of substituting a sentiment; and I offer one which accords with the sensibility expressed by the Committee, to the painful aspect given to our National Confederacy by conflicting opinions on important questions among its members:

Writings of Madison, Volume 4: 1829-1836, p.224

"May the political discords in our country, so grateful to the [its?] enemies, be speedily brought to a conclusion that will inspire fresh confidence in the friends of our free institutions."

Writings of Madison, Volume 4: 1829-1836, p.224

I pray the Committee to accept my acknowledgments for the terms, but too partial, in which they have communicated the invitation, and to be assured of my sincere esteem and regard for them individually.

Writings of Madison, Volume 4: 1829-1836, p.224

LAWRENCE T. DADE,

PEYTON GRYMES,

CHARLES P. HOWARD,

THOMAS THROOP,

WILLIAM R. ROBINSON,

Committee.

To C. E. Haynes.

MONTPELLIER, August 27, 1832.

Writings of Madison, Volume 4: 1829-1836, p.224

DEAR SIR,—I have received your letter of the 12th.

Writings of Madison, Volume 4: 1829-1836, p.224

In the very crippled and feeble state of my health, I cannot undertake an extended answer to your inquiries, nor should I suppose it necessary if you have seen my letter to Mr. Everett, in August, 1830, in which the proceedings of Virginia in 179899 were explained, and the novel doctrine of nullification ad-verted to.

Writings of Madison, Volume 4: 1829-1836, p.224

The distinction is obvious between, 1st, Such interpositions on the part of the States against unjustifiable acts of the Federal Government as are within the provisions and forms of the Constitution. These provisions and forms certainly do not embrace the nullifying process proclaimed in South Carolina, which begins with a single State and ends with the ascendency of a minority of States over a majority—of seven over seventeen; a federal law, during the process, being arrested within the nullifying State; and, if a revenue law, frustrated through all the States. 2d, Interpositions not within the purview of the Constitution, by the States in the sovereign capacity in which they were parties to the unconstitutional compact. And here it must be kept in mind, that in a compact like that of the United States, as in all other compacts, each of the parties has an equal right to decide whether it has or has not been violated and made void. If one contends that it has, the others have an equal right to insist on the validity and execution of it.

Writings of Madison, Volume 4: 1829-1836, p.225

It seems not to have been sufficiently noticed, that in the proceedings of Virginia referred to, the plural term States was invariably used in reference to their interpositions; nor is this sense affected by the object of maintaining, within their respective limits, the authorities, rights, and liberties appertaining to them, which could certainly be best effectuated for each by cooperating interpositions.

Writings of Madison, Volume 4: 1829-1836, p.225

It is true that, in extreme cases of oppression justifying a resort to original rights, and in which passive obedience and non-resistence cease to be obligatory under any Government, a single State or any part of a State might rightfully cast off the yoke. What would be the condition of the Union, and the other members of it, if a single member could at will renounce its connexion, and erect itself, in the midst of them, into an independent and foreign power; its geographical relations remaining the same, and all the social and political relations, with the others, converted into those of aliens and of rivals, not to say enemies, pursuing separate and conflicting interests? Should the seceding State be the only channel of foreign commerce for

Writings of Madison, Volume 4: 1829-1836, p.225

States having no commercial ports of their own, such as that of Connecticut, New Jersey, and North Carolina, and now particularly all the inland States, we know what might happen from such a state of things by the effects of it under the old Confederation among States bound as they were in friendly relations by that instrument. This is a view of the subject which merits more developments than it appears to have received.

Writings of Madison, Volume 4: 1829-1836, p.225

I have sketched these few ideas more from an unwillingness to decline an answer to your letter than from any particular value that may be attached to them. You will pardon me, therefore, for requesting that you will regard them as for yourself, and not for publicity, which my very advanced age renders every day more and more to be avoided.

Writings of Madison, Volume 4: 1829-1836, p.225

Accept, sir, a renewal of my respects and regard.

To Benjamin Romaine.

MONTPELLIER, NOV. 8, 1832.

Writings of Madison, Volume 4: 1829-1836, p.226

DEAR SIR,—I have received the two copies of your pamphlet on State sovereignty, &c. The enfeebled state to which I am reduced by a tedious illness has abridged my reading to its minimum, and my fingers, stiffened by rheumatism, abhor the pen. I have, notwithstanding, gone through the pamphlet, and drop a line to thank you for it.

Writings of Madison, Volume 4: 1829-1836, p.226

I have found in the publication much that is very impressive, and very apropos to the existing conjuncture in our political affairs; and I wish its effect in cherishing a devotion to the Union and an allegiance to the Constitution may correspond with the patriotic counsels of the author.

Writings of Madison, Volume 4: 1829-1836, p.226

How far the light in which the pamphlet has regarded some of the lineaments of the Constitution may not be identical with the view I have taken of them, I do not critically examine, the rather as there is often a greater difference in the expression than in the intention.

Writings of Madison, Volume 4: 1829-1836, p.226

Having, in a letter published in the North American Review some time ago, sketched my understanding of the foundation and frame of our political fabric, you can, if you think the comparison worth making, bring the difference to that test. The letter embraced the subject of nullification, on which our judgments and feelings are without a difference.

Writings of Madison, Volume 4: 1829-1836, p.226

I am sensible, sir, of what I owe for the kind terms in which you have forwarded your copies, and I beg you to accept this cordial return for the favor.

Writings of Madison, Volume 4: 1829-1836, p.226

I need not say that these crude lines are not for public use, of which they are obviously not worthy.

To N. P. Trist.

DECR 4th, 1832.

Writings of Madison, Volume 4: 1829-1836, p.227

DEAR SIR,—I have seen the ordinance of the Convention of S. Carolina, and the Report introducing it. The latter is spe-ciously written; will be demonstration in S. Carolina, and not without effect in cherishing the anti-tariff sympathies of the other Southern States. The ordinance must have a counteracting effect; to what extent is to be seen. It will depend much on the course of the Federal Government, which I trust will combine with effectual means for defeating the nullifying pro-tess, a wise moderation that will transfer to it the sympathies withdrawn from the contrasted violence in S. Carolina. The expedients you suggest for the upper country there, would, under other circumstances, be at once decisive, and might be so at present; but it is difficult for reason to calculate the rashness of the passions, infuriated as they are in the nullifying party. At all events, if any effective Government or the Union itself is to be maintained, a triumph of that party in a scheme fatal to both must not be permitted.

Writings of Madison, Volume 4: 1829-1836, p.227

I wish you may be able to pursue your object of compiling the printed materials which shew the state of things during the interval between the peace of 1783 and the adoption of the Constitution, as well as during the early period of the latter. I have long wished for such a work, not only for its future value, but for the salutary lights it would give to those who were not cotemporaries with those interesting scenes in our Revolutionary drama, and are liable to be misled by false or defective views of them. How far I may be able to aid your researches, by particular references, I cannot say. It may be a subject of conversation, when I have the pleasure of your promised visit a few weeks hence.

To N. P. Trist.

MONTPELLIER, December 23, 1832.

Writings of Madison, Volume 4: 1829-1836, p.228

DEAR SIR,—I have received yours of the 19th, enclosing some of the South Carolina papers. There are in one of them some interesting views of the doctrine of secession—one that had occurred to me, and which for the first time I have seen in print— namely, that if one State can, at will, withdraw from the others, the others can, at will, withdraw from her, and turn her, nolen-tem volentem, out of the Union. Until of late, there is not a State that would have abhorred such a doctrine more than South Carolina, or more dreaded an application of it to herself. The same may be said of the doctrine of nullification, which she now preaches as the only faith by which the Union can be saved.

Writings of Madison, Volume 4: 1829-1836, p.228

I partake of the wonder, that the men yell name should view secession in the light mentioned. The essential difference between a free government and governments not free, is, that the former is founded in compact, the parties to which are mutually and equally bound by it. Neither of them, therefore, can have a greater right to break off from the bargain, than the other or others have to hold them to it. And certainly there is nothing in the Virginia resolutions of 1798 adverse to this principle, which is that of common sense and common justice. The fallacy which draws a different conclusion lies in confounding a single party with the parties to the constitutional compact of the United States. The latter having made the compact, may do what they will with it. The former, as one only of the parties, owes fidelity to it till released by consent, or absolved by an intolerable abuse of the power created. In the Virginia resolutions and report the plural number, States, is in every instance used where reference is made to the authority which presided over the Government. As I am now known to have drawn those documents, I may say, as I do with a distinct recollection, that the distinction was intentional. It was, in fact, required by the course of reasoning employed on the occasion. The Kentucky resolutions, being less guarded, have been more easily perverted. The pretext for the liberty taken with those of Virginia is the word respective, prefixed to the "rights," &c., to be secured within the States. Could the abuse of the expression have been foreseen or suspected, the form of it would doubtless have been varied. But what can be more consistent with common sense, than that all having the same rights, &c., should unite in contending for the security of them to each?

Writings of Madison, Volume 4: 1829-1836, p.229

It is remarkable how closely the nullifiers, who make the name of Mr. Jefferson the pedestal for their colossal heresy, shut their eyes and lips whenever his authority is ever so clearly and emphatically against them. You have noticed what he says in his letters to Monroe and Carrington, pages 43 and 203, vol. ii, with respect to the powers of the old Congress to coerce delinquent States, and his reasons for preferring for the purpose a naval to a military force; and, moreover, that it was not necessary to find a right to coerce in the federal articles, that being inherent in the nature of a compact. It is high time that the claim to secede at will should be put down by the public opinion; and I shall be glad to see the task commenced by one who understands the subject.

Writings of Madison, Volume 4: 1829-1836, p.229

I know nothing of what is passing at Richmond, more than what is seen in the newspapers. You were right in your foresight of the effect of the passages in the late proclamation. They have proved a leaven for much fermentation there, and created an alarm against the danger of consolidation, balancing that of disunion. I wish, with you, the Legislature may not seriously injure itself by assuming the high character of mediator. They will certainly do so if they forget that their real influence will be in the inverse ratio of a boastful interposition of it.

Writings of Madison, Volume 4: 1829-1836, p.229

If you can fix and will name the day of your arrival at Orange Court House, we will have a horse there for you; and if you have more baggage than can be otherwise brought than on wheels, we will send such a vehicle for it. Such is the state of the roads, produced by the wagons hurrying flour to market, that it may be impossible to send our carriage, which would answer both purposes.

To Joseph C. Cabell.

MONTPELLIER, Dec. 27, 1832.

Writings of Madison, Volume 4: 1829-1836, p.230

DEAR SIR,—I have this moment only received yours of the 22d. I regret the delay, as you wished an earlier answer than you can now have, though I shall send this immediately to the post-office. My correspondence with Judge Roane originated in the request that I would take up the pen on the subject he was discussing, or about to discuss. Although I concurred much in his views of it, I differed, as you will see, with regard to the power of the Supreme Court of the United States in relation to the State court. This was in my last letter, which being an answer, did not require one, and none was received. My view of the supremacy of the federal court, when the Constitution was under discussion, will be found in the Federalist. Perhaps I may, as could not be improper, have alluded to cases (of which all courts must judge) within the scope of its functions. Mr. Pendleton's opinion that there ought to be an appeal from the Supreme Court of a State to the Supreme Court of the United States, contained in his letter to me, was, I find, avowed in the Convention of Virginia, and so stated by his nephew, latterly in Congress. I send you a copy of Col. J. Taylor's argument on the carriage tax. If I understand the beginning pages, he is not only high-toned as to judicial power, but regards the federal court as the paramount authority. Is it possible to resist the nullifying inference from the doctrine that makes the State courts uncontrollable by the Supreme Court of the United States?

Writings of Madison, Volume 4: 1829-1836, p.230

I cannot lay my hand on my letter to Judge Roane.\* The word omitted, I presume, is argument. It is a common compliment among the French, as you know, to say you have given all its lustre, &c. \* \* \* \*

Writings of Madison, Volume 4: 1829-1836, p.230

What is said in my letter to Mr. Everett, in the North American Review, as to the origin of the Constitution, I considered as squaring with the account given in the Federalist of the mixture of national and federal features in the Constitution. That view of it was well received at the time by its friends, and, I believe, has not been controverted by the republican party. A marked and distinctive feature in the resolutions of 1798 is, that the plural number is invariably used in them, and not the singular, and the course of the reasoning required it.

Writings of Madison, Volume 4: 1829-1836, p.231

As to my change of opinion about the bank, it was in conformity to an unchanged opinion that a certain course of practice required it.

Writings of Madison, Volume 4: 1829-1836, p.231

The tariff is unconnected with the resolutions of 1798. In the first Congress of 1789 I sustained, and have in every situation since adhered to it. I had flattered myself, in vain it seems, that whatever my political errors may have been, I was as little chargeable with inconsistencies as any of my fellow-labourers through so long a period of political life.

To Joseph C. Cabell.

MONTPELLIER, Dec. 28, 1832.

Writings of Madison, Volume 4: 1829-1836, p.231

DEAR SIR,—I wrote you a few lines last evening in answer to yours of the 22d. Resuming my search for the letter of June 29, 1821,\* I have been successful, and hasten to give you the words omitted in your copy. After "their full lustre," fill the blank with the words "to the arguments against the suability of States by individuals." I was rather surprised to find such a substantial identity in several respects between the letter and that to Mr. Everett, the member of Congress, which went into the North American Review. I am less apprehensive of being convicted of inconsistencies in political opinions than I am unwilling to be thought obtrusive of them on the public. I believe not a single letter of that sort has been published which was not an answer, as was that to Mr. Everett. The occasion which led to the tenour of this last, was the reference to, and misconstruction of, the Virginia resolutions of 1798, which I wished to rescue from the erroneous use of them. I will mention to you in confidence, that I had previously written a very similar one to Col. Hayne, in answer to a communication of his speech, &c., in which he had referred to, and supported his heresy, by the authority of Virginia. He promised to answer my letter, but never did.

Writings of Madison, Volume 4: 1829-1836, p.232

I mentioned that I had been uniform in my views of several great constitutional questions. I might have added to them the question concerning roads and canals, and the phrase "common defence and general welfare." On the subject of the tariff, now the theme and the torch which agitates and inflames the public mind, my course has not varied through the period commencing with the Federal Government, and down to my letters to you a few years ago.

Writings of Madison, Volume 4: 1829-1836, p.232

I observe that the Report of the Committee on the South Carolina and other papers copy into it one of the resolutions of 1798, and italicize it. The aspect of it, without the explanation of the report of 1799, may be perverted to a nullifying use by the word "respective." But it was not extraordinary that the States should co-operate all for attaining the objects of each. Had a nullification by a single State occurred as a doctrine likely to claim countenance from the expression, the contemporary evidence which has been given of the temper and views of the General Assembly justifies the presumption that it would have been sufficiently varied. It is not probable that such an idea as the South Carolina nullification had ever entered the thoughts of a single member, or even those of a citizen of South Carolina herself.

To Professor Davis.—(Not Sent.)

MONTPELLIER, 1832. [1833.]

Writings of Madison, Volume 4: 1829-1836, p.232

DEAR SIR,—I received in due time the copy of your lectures on the constitutionality of the "protective duties."

Writings of Madison, Volume 4: 1829-1836, p.232

No one can commend more than I do the freedom with which you have discussed the subject, or be more disposed than I am to do justice to the ingenuity of the reasoning and the literary stamp which the lecture exhibits. But as it has taken for its text "a view of the constitutional power of Congress to promote and protect domestic manufactures," contained in a letter from me to J. C. Cabell, I may be permitted to offer the remarks to which I think the adverse view maintained in the lecture is liable.

Writings of Madison, Volume 4: 1829-1836, p.233

I must begin with a protest against the passage which classes me "with others who extend the constitutional power of Congress over commerce, even to the occupations of tradesmen, such as carpenters," &c. Against such an error I might safely appeal to the language in several parts of the letter, and to the obvious scope of all its reasoning, as necessarily showing that the trade which Congress had the power to regulate meant commerce, and, in its application there, "foreign commerce." But in the outset of the letter is a sentence which, if it had not been overlooked, would have saved the lecture from the error it committed. The sentence is in these words: "It [the question to be examined] is a simple question, whether the power to regulate trade with foreign nations, as a distinct and substantive item in the enumerated powers, embraces the object of encouraging, by duties, restrictions, and prohibitions, the manufactures and products of the country." If, in citing the Constitution, the word trade was put in the place of commerce, the word foreign made it synonymous with commerce. Trade and commerce are, in fact, used indiscriminately, both in books and in conversation. Free trade, in its most familiar sense, is the phrase for the freedom of foreign commerce; and the internal interchanges between the towns and the country are as often expressed by the term commerce as by the term trade. Whether there be "others" which extend the commercial power of Congress to the occupations of tradesmen, I know not. If there be, it may be doubted whether so gross a misconstruction was entitled to all the disproof bestowed on it.

Writings of Madison, Volume 4: 1829-1836, p.233

The grounds on which the constitutionality of the tariff for the encouragement of manufactures is denied, are, that the express power granted to Congress to impose duties, limits them to the sole purpose of revenue, and that no power to impose them is involved in, or incident to, the power to regulate commerce with foreign nations.

Writings of Madison, Volume 4: 1829-1836, p.234

According to this construction of the Constitution, Congress would be without the power to impose duties on imports for protecting domestic articles for public defence, for retaliating or countervailing foreign regulations against our products, or even for securing our navigation against the monopolizing policy of other Governments.

Writings of Madison, Volume 4: 1829-1836, p.234

Yet it is admitted by some of the most intelligent opponents of a tariff for the encouragement of domestic manufactures, that Congress have the power to protect domestic articles necessary for public defence; and there are few who deny the power to retaliate or countervail foreign restrictions and discriminations; nor any, perhaps, who deny it in behalf of our navigation. Now in all those cases it is known that, among the means of executing the protective power, duties on imports are the most common, the most familiar, and the most appropriate; often, too, where they have the necessary effect of abridging or preventing, instead of raising revenue.

Writings of Madison, Volume 4: 1829-1836, p.234

Those who admit the protective power by duties on imports, but only where the protective effect is involved in, or results from, duties having revenue directly and principally for their object, are not a little puzzled by cases where the protective effect obviously and necessarily defeats or diminishes the revenue object. They might be reminded, also, that they would make a protection of the vital interests of their country depend on revenue duties on imports, when the wants of the Government might be preferably supplied by direct taxes, by the sales Of public lands, by metallic or other adventitious resources. The great demand for revenue, and an extensive resort to duties on imports, has been occasioned by public debts; and it would be a strange doctrine that those vital interests could not be best encouraged or protected by the United States, without the misfortune of being in debt, or with the good fortune of having other resources rendering duties on imports unnecessary and ineligible. The casualties and fluctuations of the pecuniary wants of a Government would, indeed, be inconsistent with any steady and adequate protection of domestic products, if dependent on the amount of those wants.

Writings of Madison, Volume 4: 1829-1836, p.235

On the concessions made by the adversaries of a protective tariff, the lecture seems not a little to waver; sometimes limiting the power of Congress to duties for revenue alone, at others admitting, though with hesitation and doubts, retaliatory or countervailing duties against foreign restrictions, but under the following limitations: 1. That the duties be not continued after they are found to be ineffectual to produce the repeal of the foreign restrictions (pages 14, 15.) 2. That the duties be laid for the purpose of promoting commerce. 3. That the regulation must operate externally, not internally. 4. That the object be not an encouragement of domestic manufactures.

Writings of Madison, Volume 4: 1829-1836, p.235

1. The condition on which a continuance of a retaliating measure is made to depend, namely, its being found to be ineffectual, is too indefinite for a constitutional rule. But, apart from this, what would be the effect if it were believed to be a constitutional rule, or even an inviolable policy of the Government, that if the foreign party would hold out, this country would give in? It would be as well to submit at once, as to enter the contest with such a notice to the other party. Nor would the effect of our retirement from it be, as the lecture supposes, (p.15) a "reciprocal injury." It would, on the contrary, be a complete attainment of the object of the foreign party. Take, for example, the case of a foreign government discriminating between its vessels and ours, by a tunnage duty in favour of its own, and a retaliating discrimination on our part; is it not obvious that a repeal of our discrimination, instead of inflicting an injury on the persevering party, would secure to him a monopoly of the navigation between the two countries? If illustration could be required, it might be found in what occurred between the peace of 1783 and the establishment of the present Constitution of the United States. Great Britain did not fail to enforce her discriminating laws against the navigation of this country in its independent character. Several of the States, Virginia in the number, being anxious for a just reciprocity, made regulations having that for their object. It was soon found, however, that the experiments were rendered ineffectual by the want of a common authority to unite the whole, and by the utter failure of individual retaliations. The consequence was, that Great Britain, being satisfied that her monopoly had nothing to dread from this quarter, persevered in the enjoyment of it until the federal authority created by the new Constitution was put in force against it.

Writings of Madison, Volume 4: 1829-1836, p.236

2. If by promoting be meant a necessary enlargement of commerce, the authority for applying in that sense the terms "regulate commerce" does not appear. Commerce may be advan-tageously checked in some cases as well as extended in others. Most, if not all, of the regulating or countervailing regulations, have the effect of abridging commerce, some of them durably and even permanently. In regulating commerce with the Indian tribes, it may well happen that its limits ought to be nar-rowed. Congress are authorized to regulate the value of foreign coin. It was never understood that the value might not be reduced, as well as raised; reduced, not with a view to promote, but to prevent its circulation. [The term "promote," taken in the latitude it would bear, would open a wider door, certainly a less definite range, for the power "to regulate" foreign commerce than is claimed for it.]

Writings of Madison, Volume 4: 1829-1836, p.236

3. Nor can the constitutional power of Congress to regulate commerce be limited to regulations operating externally only, and in no manner internally, so as to interfere with, or control, the pursuits of the States. There are perhaps but few regulations of foreign commerce which do not operate on internal pursuits, whether the regulations be in the form of municipal enactments or of treaties. What is the duty which protects ship-building itself, which is a species of manufacture, but a regulation operating internally, and so far inviting labour and capital from other pursuits? What are the late stipulations in the treaty with France, in favour of her silks and wines, but so many interferences controlling the production of these articles among ourselves?

Writings of Madison, Volume 4: 1829-1836, p.236

4. The final limitation of duties requires "that they be not laid for the purposes of protecting or encouraging manufactures." To avoid anticipating too much the main question to be decided, the following case will be only here stated as bearing on it. Should a foreign government, a case far from imaginary, give a bounty on the export of its manufactures, for the obvious purpose of underselling and undermining the vital manufactures of another country, would not a duty balancing the bounty be a commercial regulation, an exercise of the power "to regulate commerce with foreign nations?" Yet the object and effect of the regulation would not be revenue, for that would be diminished, if not prevented, by the discouragement of the imports. The sole object and effect would be a support and protection of domestic manufactures.

Writings of Madison, Volume 4: 1829-1836, p.237

The lecture appears to have fallen into several errors or inaccuracies in the following passage (page 7:) "While duties are imposed for the sole purpose of revenue, the uniformity of contribution required by the Constitution may be easily obtained. But if they may be laid for any other purpose, gross practical inequality is the unavoidable result. Again: while duties are imposed for the sole purpose of revenue, their amount is necessarily regulated by the wants of the treasury for those objects confided to the care of the Federal Government. But if they may be laid for the purpose of regulating commerce, their amount is illimitable, and may exceed the wants of the treasury by countless millions. What then becomes of the restriction which controls the appropriation of the funds of the Government? By that restriction, Congress may only appropriate money for certain objects. These objects are precisely enumerated, and the requisite appropriations for them are limited, if not previously ascertained. But whatever funds are raised by the exercise of the powers of Government, Congress will surely appropriate to some objects," &c.

Writings of Madison, Volume 4: 1829-1836, p.237

If by uniformity, be meant equality, (though that is not its constitutional meaning,) it does not follow that it would be easily obtained by duties on imports [that is, on consumption] for revenue alone. Whatever be the purpose for which such duties are laid, inequality is in some degree unavoidable, and gross inequality but too practicable. Duties for the mere support of Government may be so distributed on articles differently consumed in different places or by different classes, as to have the most unequal operation.

Writings of Madison, Volume 4: 1829-1836, p.238

Nor does it follow, if duties be laid for the purpose of regulating commerce, "that their amount is illimitable, and may exceed the wants of the treasury by countless millions." The power to regulate commerce being one of the objects expressly confided to the care of the Federal Government, the language used would import, that no duty could be laid for regulating commerce, at least if not producing revenue, a point yielded [by most of the opponents of the tariff in favour of manufactures, and apparently elsewhere] by the lecture itself, though here it seems to be decided on the ground that duties laid, not for revenue, but "for the purpose of regulating commerce," confided, as this is, to the care of the Federal Government, and if so limited, if not precisely ascertained, is "illimitable." Supposing that the lecture meant, by regulating commerce, regulations for the encouragement of manufactures, still the amount of the encouraging duties would not necessarily be illimitable more than the amount of duties for revenue alone. The amount would depend in both cases on that of the imports, which must be the subject of estimate in both; with this difference only, that precision in the estimate where the encouragement of manufactures is the object may be slightly affected by the influence of the annual progress of manufactures, itself, however, not unsusceptible of estimate.

Writings of Madison, Volume 4: 1829-1836, p.238-p.239

The lecture, in this passage, has not sufficiently kept in view the distinction between the abuse and the usurpation of power, and between the taxing and appropriating power. It takes for granted that Congress, abusing its power, will draw more money into the treasury than may be wanted for it, and will appropriate it to objects, whether submitted to them by the Constitution or not. That they may do both, and may have done both, is quite possible. But the power to lay duties for the encouragement of manufactures, from which revenue may accrue, and the power to appropriate it, involve distinct constitutional questions. Not a few who regard the protective tariff as constitutional, limit the appropriating power to the enumerated objects strictly interpreted, whatever be the source of the revenue, whether duties on imports, direct taxes, mines, captures in war, or other adventitious sources. However liable to abuse the contested power of protection may be, as a source of surplus revenue, and as a means of wasteful application, the extent of these abuses is not to be compared with those of which the acknowledged power of providing for wars, and armies and navies, is susceptible. The constitutional control of Congress, in applying surplus moneys in the treasury to constitutional objects, is in the responsibility of that body to its constituents. The liability to abuse cannot invalidate a granted power, though it may be a reason for not granting it where the liability to abuse was not more than balanced by the expected use of it. I have said that equality in distributing the burden of duties paid by the consumption of imported articles is not easily obtained. This would be the case if the duties were imposed by the States individually on their own citizens. In the United States, the difficulty is increased by the greater diversity in the habits and other circumstances among the States themselves. No single article is equally consumed everywhere, and it is only by a mixed tariff, in which inequalities of consumption in different sections may balance each other, that a fair distribution of the burden can be approximated. This might be effected, in a certain degree at least, even in a protective tariff. by such an arrangement of the duties as would balance the burden between sections consuming the unprotected articles, and the consumers of the protected articles, thus leaving the policy of protection in every case, as much as possible, to the question, how far the protection would be a temporary sacrifice, compensated by its general and permanent advantages, or otherwise.

Writings of Madison, Volume 4: 1829-1836, p.239

In a marginal note [page 20] it is observed, that "so far as. the partial operation of any measure of the Federal Government may affect its constitutionality, it is in regard to States, and not individuals or classes of individuals, that it must have this operation; because States, and not individuals, are the parties to the federal compact. This is more particularly the case in respect to all measures relating to taxation, in consequence of the provisions of the Constitution intended to secure equality of contribution among the States. If they bear unequally on individuals or classes, they are unjust and oppressive, but not, therefore, unconstitutional."

Writings of Madison, Volume 4: 1829-1836, p.240

The precise import of this passage is not very clear. The only constitutional provision securing equality of contribution among the States is in the case of direct taxes. In the case of indirect taxes no such effect could be secured. The provision which requires a uniformity of duties in all the ports throughout the States, does not secure equality of contribution among the States more than among individuals or classes, the intercourse among the States being free, and the articles consumed not being distinguished by reference to their ports of entry, not to mention that there are States having no ports of entry. Nor is the distinction which seems to be implied in the note less unsound than the reason assumed for it, "that States, not individuals, are parties to the federal compact."

Writings of Madison, Volume 4: 1829-1836, p.240

True it is, that the federal compact was not formed by individuals as the parties—that is, by the people acting as a single community. It was formed, nevertheless, by the people acting as separate communities, in their sovereign and highest capacity; a capacity in which, if they had so willed, they could have made themselves a single community, or have reduced their confederate system into an ordinary league or alliance; and the authority which could have done the former, could certainly take the middle course, which was taken in establishing the existing Constitution. In a word, the constitutional compact being formed by an authority perfectly competent, its obligatory and operative character must be the same as if it had been formed in any other mode by an authority not more competent; and while undissolved by consent or by force, it must be executed, within the extent of its granted powers, according to the forms and provisions prescribed in it, without reference to the mode of its formation. In the event of a dissolution of the compact, a distinctive effect would be, that the States would fall back into their character of single and separate communities; whereas a dissolution of the social compact on which single communities are founded, would have the effect of restoring or reducing individuals to a state of nature.

Writings of Madison, Volume 4: 1829-1836, p.241

But the people were not only parties to the Constitution in the mode explained; they stand under its organization in the same relation to their representatives in the Legislature of the United States, as they do to their representatives in the State legislature, and have the same right to expect from the former, as from the latter, a like regard to the rules of justice in distributing burdens, especially those of taxation, among individuals and classes, as among sections of country, however denominated. The Constitution must have had this in view when vesting in the representatives of the people, in exclusion of the representatives of the States, the right to originate bills of revenue. It may be added, that the obligation of the federal representatives to a fair apportionment of taxes on individuals is strengthened by the consideration, that the greatest expenditures will be required for objects submitted to the federal authority, for the state of war, and for the military and naval establishments intended to prevent or to meet it.

Writings of Madison, Volume 4: 1829-1836, p.241

The lecture, assuming that Congress has been denied the power to encourage manufactures, because it is not specially granted as a direct and substantive power, considers the patrons of the power as exercising a prohibited power by means of a power not granted. But the very point in question is, whether the power has been denied; whether the granted power to regulate commerce with foreign nations does not embrace the object of domestic manufactures, though not specially named in the grant. If every exercise of power not named in the grant was understood to be prohibited. which of the granted powers might not be without the necessary and proper means of attaining its object? it is admitted by the lecture itself, and still more explicitly, as heretofore noticed, by many of the most zealous opponents of a protective tariff, that duties and restrictions may be laid on imports by virtue of the power to regulate foreign commerce, as encouragements of navigation and ship-building, of articles for public defence, and as retaliating and counter-vailing the discriminations and restrictions of foreign nations against our vessels and the articles of commerce conveyed by them. Yet neither of these exercises of power is specially named in the grant "to regulate commerce with foreign nations." And it is worthy of special remark, that this retaliating or countervailing power is far less familiar in the practice of nations than the simple power to encourage domestic products by commercial regulations, and especially by duties on imports. How is it possible to define the scope of the regulating power without either limiting it to the ports of entry and clearance, and other particulars affecting the vessels and their crews, or extending the power to the articles composing the cargoes, which, in fact, constitute the commerce itself? and how can they be regulated, or when have they been regulated, either by laws or treaties, without including a reference to the effect of the regulation on the product of the article exchanged?

Writings of Madison, Volume 4: 1829-1836, p.242

Examine the commercial codes of all nations, and the commercial treaties forming or enacted into regulations of foreign commerce, and it will be seen at once that the most important parts of them describe the articles to be exchanged between the parties, with the rate of duties on them, and that this is done principally with reference to the effect of the regulations on their respective products, particularly the manufactured branch of them. Examples might easily be multiplied. See treaty of 1786 between France and Great Britain.

Writings of Madison, Volume 4: 1829-1836, p.242

After all, we must be guided in expounding "the power to regulate commerce with foreign nations'' by the intention of those who framed, or, rather, who adopted the Constitution; and must decide that intention by the meaning attached to the terms by the "usus" which is the arbitrium, the jus and the norma loquendi, a rule as applicable to phrases as to single words. It need scarcely to be observed that, according to this rule, the intention, if ascertained by contemporaneous interpretation and continued practice, could not be overruled by any latter meaning put on the phrase, however warranted by the grammatical rules of construction were these at variance with it.

Writings of Madison, Volume 4: 1829-1836, p.243

To this test, the intention of the parties to the Constitution, the lecture may be considered as making the appeal in the following paragraph:

Writings of Madison, Volume 4: 1829-1836, p.243

"The power to regulate commerce, like all other grants of power contained in the Constitution, must be construed according to the intention of the parties to the compact, to be ascertained by the terms employed to express this particular grant, by the context of the instrument, and by the general objects and character of the Federal Government. That intention, so far as it can be thus ascertained, we shall find to be unequivocally adverse to the construction of this power, under which is claimed the right to encourage domestic manufactures."

Writings of Madison, Volume 4: 1829-1836, p.243

To the inference that the intention of the parties to the Constitution will be found to be unequivocally adverse to the power of encouraging domestic manufactures, may be opposed the following considerations:

Writings of Madison, Volume 4: 1829-1836, p.243

All commercial and manufacturing nations had been, and then were, in the practice of imposing duties and restrictions on imported manufactures, as a protection and encouragement of their own. It is true that the Government of those nations had other powers which the Government of the United States had not. But it is not less true that it was by the exercise of that particular power, the power to regulate commerce with other nations, as embracing the object of protecting domestic products, that duties and restrictions were imposed on the articles imported.

Writings of Madison, Volume 4: 1829-1836, p.243

In no nation was the usage more constant than in Great Britain, the parent both of our common and our commercial language.

Writings of Madison, Volume 4: 1829-1836, p.243

Such was understood to be an appropriate use of the power among the States, Virginia included, as appears by her attempts to give effect to it, previous to the surrender of the power to the Legislature of the United States.\*

Writings of Madison, Volume 4: 1829-1836, p.243

That it was the intention of the States to include in the grant of power to Congress over foreign commerce a power to encourage manufactures by a use of it, may be inferred from the degree in which manufactures had grown up during the Revolutionary war, and from the threatened danger of overwhelming importations if checked only by the inadequate regulations of commerce by the manufacturing States. Mr. Coxe, an able and well-informed author of a work entitled Coxe's View of the United States, in the part written prior to the present Constitution, but as an argument for, and in the prospect of such an event, says, that the manufacturing interest was then considerable, and next in importance to that of the fisheries. He farther alludes to the Federal Convention, then meeting, or met, as promising what was wanted. The evidence of the state of manufactures, particularly in Pennsylvania, will be found in the journals and other prints of the period.

Writings of Madison, Volume 4: 1829-1836, p.244

That the power of regulating foreign commerce was expected to be given to, and used by, Congress in favour of domestic manufactures, may be seen in the debates in the Convention of Massachusetts. They were there called "a great interest," and the power to encourage them taken for granted by the language used on both sides of the question of adopting and rejecting the Constitution; a fair and uncontradicted indication of the general view of the subject. [See the case stated by Mr. Webster's speech at Pittsburg.] In the earliest debates [see Lloyd] in the new Congress, Mr. Fitzsimmons, a member from Pennsylvania, and a high authority in such a case, remarks: "I observed, Mr. Chairman, by what the gentlemen have said who have spoken on the subject before you, that the proposed plan of revenue is viewed by them as a temporary system, to be continued only until proper materials are brought forward and arranged in more perfect form. I confess, sir, that I carry my views on this subject much farther; that I earnestly wish such a one, which, in its operation, will be some way adequate to our present situation, as it respects our agriculture or manufactures, and our commerce.

Writings of Madison, Volume 4: 1829-1836, p.244

"An honorable gentleman (Mr. Lawrence) has expressed an opinion, that an enumeration of articles will operate to confuse the business. So far am I from seeing it in this point of view, that, on the contrary, I conceive it will tend to facilitate it. Does not every gentleman discover that, when a particular article is offered to the consideration of the committee, he will be better able to give his opinion upon it than on an aggregate question? because the partial and convenient impost laid on such article by individual States is more or less known to every member in the committee. It is also well known, that the amount of such revenue is more accurately calculated and better to be relied on, because of the certainty of collection, less being left to the officers employed in bringing it forward to the public treasury.

Writings of Madison, Volume 4: 1829-1836, p.245

"It being my opinion that an enumeration of articles will tend to clear away difficulties, I wish as many to be selected as possible; for this reason I have prepared myself with an additional number, which I wish subjoined to those already mentioned in the motion on your table; among these are some calculated to encourage the productions of our country, and protect our infant manufactures, besides others tending to operate as sumptuary restrictions upon articles which are often termed those of luxury."

Writings of Madison, Volume 4: 1829-1836, p.245

By another member (Mr. Hartley) it was remarked, that "The business before the House is certainly of very great importance, and worthy of strict attention. I have observed, sir, from the conversation of the members, that it is in the contemplation of some to enter on this business in a limited and partial manner, as it relates to revenue alone; but, for my own part, I wish to do it on as broad a bottom as is at this time practicable. The observations of the honorable gentleman from South Carolina (Mr. Tucker) may have weight in some future stage of the business, for the article of tunnage will not probably be determined for several days, before which time his colleagues may arrive and be consulted in the manner he wishes; but surely no argument derived from that principle can operate to discourage the committee from taking such measures as will tend to protect and promote our domestic manufactures.

Writings of Madison, Volume 4: 1829-1836, p.245

"If we consult the history of the ancient world, we shall see that they have thought proper, for a long time past, to give great encouragement to establish manufactures, by laying such partial duties on the importation of foreign goods as to give the home manufactures a considerable advantage in the price when brought to market. It is also well known to the committee, that there are many articles that will bear a higher duty than others, which are to remain in the common mass, and be taxed with a certain impost ad valorem; from this view of the subject, I think it both politic and just that the fostering hand of the General Government should extend to all those manufactures which will tend to national utility. I am therefore sorry that the gentlemen seem to fix their minds to so early a period as 1783, for we very well know our circumstances are much changed since that time. We had then but few manufactures among us, and the vast quantities of goods that flowed in upon us from Europe at the conclusion of the war, rendered those few almost useless; since then, we have been forced by necessity and various other causes to increase our domestic manufactures to such a degree as to be able to furnish some insufficient quantity to answer the consumption of the whole Union, while others are daily growing into importance. Our stock of materials is in many instances equal to the greatest demand, and our artisans sufficient to work them even up for exportation; in these cases I think it to be the policy of every enlightened nation to give their manufactures that degree of encouragement necessary to perfect them, without oppressing the other parts of the community; and under this encouragement the industry of the manufacturer will be employed to add to the wealth of the nation."

Writings of Madison, Volume 4: 1829-1836, p.246

A farther evidence of the general anticipation is found in the petitions from manufacturers addressed to Congress at the first opportunity that occurred. [See Mr. Webster, as above.]

Writings of Madison, Volume 4: 1829-1836, p.246

But a proof not to be resisted, that the power to encourage domestic products by duties on imports was intended to be granted to Congress, is not only the use made of the power at their first session under the new Constitution, but a continued use of it for a period of forty years, with the express sanction of the executive and judicial departments, and with the positive concurrence or manifest acquiescence of the State authorities and of the people at large, with a very limited exception during a few late years.

Writings of Madison, Volume 4: 1829-1836, p.247

It deserves particular attention, that the Congress which first met contained sixteen members, eight of them in the House of Representatives,\* fresh from the Convention which framed the Constitution, and a considerable number who had been members of the State Conventions which had adopted it, taken as well from the party which opposed as from those who had espoused its adoption. Yet it appears from the debates in the House of Representatives, (those in the Senate not having been taken,) that not a doubt was started of the power of Congress to impose duties on imports for the encouragement of domestic manufactures. It is not unworthy of farther notice, that propositions of that character were made by three members from Virginia; by one of a duty on coals, in favour of her coal-pits; by another of a duty on hemp, to encourage the growth of the article; and by a third, a prohibition of beef, in favour of American graziers; a duty being proposed at the same time by a member from South Carolina on hemp, as a proper encouragement to the culture of the article in the suitable soil and climate of that State. None of these propositions appears to have had revenue in view; and that as to beef, of course, excluded revenue. If any doubt on the point of constitutionality had existed, these propositions, though not agreed to, could not have failed to call forth an expression of it. Add to all this that the preamble to the bill, as it passed into a law, contained an express avowal that the encouragement of manufactures was an object of the tariff imposed by it, and that General Washington, who was president of the Convention and signed the Constitution, signed the bill as President of the United States. It has been alleged that this particular clause was not repeated in any succeeding preamble to a like law; and that the omission amounted to a silent disavowal of the precedent. The inference would be a very fair one, if the fact on which it rests had not been untrue, for in an act of the following year the same clause is inserted in the preamble; and if true, the inference would have been met by another fact, that Congress soon discontinued preambles to their statutes as sources of dilatory discussion, leaving the enactments to speak for themselves.

Writings of Madison, Volume 4: 1829-1836, p.248

What stronger contemporaneous evidence could be required than is here given of the meaning attached by the Federal Legislature, at the outset of the Government, and with the best means of knowing that attached by the Federal Convention, to the power of regulating commerce with foreign nations, while it is not denied that, for thirty years, that meaning, as including the encouragement of manufactures, was not drawn into question; that, when so drawn, it was constantly decided by majorities in the Legislature in favour of the constitutionality of the power; and few, if any, will allege that there ever has been a time when majorities, both of the States and of the people, were not of opinion that the power existed.

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With respect to the Executive department, it appears that every president, from Washington to the present inclusive, concurred in the legislative construction of the Constitution. For the reiterated and emphatic proofs, let me refer to the extracts from Executive messages appended to the letters of J. Madison to J. C. Cabell, in a pamphlet published in Richmond in 1829. It will be there seen, that besides the messages of Mr. Jefferson, the great weight of whose name has been so loudly claimed for the adverse construction, his very able and elaborate reports, when Secretary of State, on the fisheries and on foreign commerce, inculcated the policy of exercising the protective power, without indicating the slightest doubt of its constitutionality. Nay, more, it will be seen, that in addition to these high official sanctions to it, his correspondence, when out of office and at leisure to review his opinions, shows that he adhered to the protective principle and policy, without any doubt on the point of constitutional authority. In the scale opposed to all this evidence, given at different periods of his long life and under varied circumstances, has been but a brief passage in a letter written a few months before his death to Mr. Giles, which does not necessarily imply any change of opinion; on the contrary, by referring the one there expressed to an erroneous and "indefinite" abuse of power, in the case of the tariff equivalent to a usurpation of power, any appearance of inconsistency might be avoided.

Writings of Madison, Volume 4: 1829-1836, p.249

Of the sanctions given to the constitutionality of the protective power by the Judiciary department, it would be superfluous to speak.

Writings of Madison, Volume 4: 1829-1836, p.249

If all these authoritative interpretations of the Constitution on a particular point cannot settle its meaning and the intention of its authors, we can never have a stable and known Constitution. A new one may be made by every new Congress; while a like disregard by the Judiciary department of its own deliberate practice would have a like effect in setting afloat the laws also, and producing that instability which is incompatible with good government, and has been the reproach and downfall of too many popular Governments.

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If an acknowledged, a uniform, and a long-continued practice under written constitutions and laws cannot settle their meaning, the preposterous result would be, that the longer the period of practice the greater would be the liability to new constructions of them, from the effect of time in changing the meaning of words and phrases. What inroads would be made in a code if the ancient statutes were to be read through the modern meaning of their phraseology? Some of the terms of the Federal Constitution have already undergone perceptible deviations from their original import.

Writings of Madison, Volume 4: 1829-1836, p.249

It has been argued against the authority of the precedents regularly continued for thirty or forty years, that the true character of a political system might not be disclosed even within such a period. But this would not disprove the intention of those who made the Constitution. It would show only that it was made liable to abuses not foreseen nor soon to appear; and that it ought to be amended, but by the authority which made it, not by the authority subordinate to it; by the creator, not by the creature of the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.249

It cannot be admitted that, in ascertaining the controverted meaning of the constitutional "power to regulate commerce with foreign nations," no regard ought to be had to the consideration, that, if the power to protect domestic products be not in Congress, it is extinguished in the United States; a nation already, in some degree, a manufacturing one, with a certainty of becoming deeply interested in that branch of industry, and consequently needing the protective armour against the hostile policy of other nations.

Writings of Madison, Volume 4: 1829-1836, p.250

The powers of government in our political system are divided between the States in their united capacity and in their individual capacities. The powers, taken together, ought to be equal to all the objects of Government, not specially excepted for special reasons, as in case of duties on exports; or not inconsistent with the principles of Republican Government. The presumption, therefore, must be a violent one, that a power for the encouragement of domestic manufactures was meant to be included in the power vested in Congress "to regulate commerce with foreign nations," as exercised by all nations for that purpose, unless it be left in an adequate form with the individual States. The question then is, whether the power has been so left with the States; and it scorns to be admitted by all, that it has been taken from them, if not reserved to them, by the tenth section of article first of the Constitution. Now, apart from the indication on the face of the Journal of the Federal Convention, that the power reserved in that section was a limited one for local purposes, it may be affirmed without hesitation, that the States individually could not if they would, and would not if they could, exercise it for the encouragement of their manufactures. They could not, because the imported articles being less burdened in the other States, would find their way from and through the adjoining States, and defeat the object; and they would not if they could, because the money accruing from the consumption of the articles would be paid, not into the State, but into the National Treasury, while the cost of guarding and enforcing the collection would exceed the advantage of the manufacture; and the advantage itself, if attained, would be, in a manner, common to all the States. The result, however, on the whole, would be, that the State making the attempt would lose the commerce in the article without gaining the manufacture of it.

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Tire incapacity of the States separately to regulate their foreign commerce was fully illustrated by an experience which was well known to the Federal Convention when forming the Constitution. It was well known that the incapacity gave a primary and powerful impulse to the transfer of the power to a common authority capable of exercising it with effect. It may be confidently foretold, that if, as has been proposed, Congress should grant a general consent to the States to impose duties on imports in favour of their domestic manufactures, and any State should avail itself of the consent, the experiment would never be repeated by the same nor tire example be followed by any other State.

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It is true, that certain States having peculiar advantages for foreign commerce, might levy both on their non-importing neighbours and on themselves a very limited impost, without throwing the trade into other channels, and be able so far to encourage their domestic manufactures. But as such an object would not fail to arouse the indignation of tire suffering States, it cannot be doubted that the revision and control expressly reserved to Congress would be at once interposed to arrest the grievance. New York, Pennsylvania, Rhode Island, and Virginia, previous to the establishment of the present Constitution, had opportunities of taxing the consumption of their neighbours, and the exasperating effect on them formed a conspicuous chapter in the history of the period. The grievance would now be extended to the inland States, which necessarily receive their foreign supplies through the maritime States, and would be heard in a voice to which a deaf ear would not be turned.

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The condition of the inland States is of itself a sufficient proof that it could not be the intention of those who framed the Constitution to substitute for a power in Congress to impose a protective tariff, a power merely to permit the States individually to do it. Although the present inland States were not then in existence, it could not escape foresight that it would soon, and from time to time, be the case. Kentucky was then known to be making ready to be an independent State, and to become a member of the Confederacy. What is now Tennessee was marked by decided circumstances for the same distinction. On the north side of the Ohio new States were in embryo under the arrangements and auspices of the Revolutionary Congress, and it was manifest, that within the Federal domain others would be added to the Federal family.

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As the anticipated States would be without ports for foreign commerce, it would be a mockery to provide for them a permit to impose duties on imports or exports in favour of manufactures, and the mockery would be the greater as the obstructions and difficulties in the way of their bulky exports might the sooner require domestic substitutes for imports; and a protection for the substitutes, by commercial regulations, which could not avail if not general in their operation and enforced by a general authority. Even at this time, notwithstanding the facilities of steamboats, canals, and railroads, there remains for much of the inland portion of the United States an extent of transportation, in some cases a terraqueous one, rendering the expense of exchanging their exports for imports a motive for manufacturing efforts, which need for their infancy, and against contingencies, the shield of Federal protection.

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But those who regard the permission grantable in section ten, article one, to the States to impose duties on foreign commerce, as an intended substitute for a general power in Congress, do not reflect that the object of the permission, qualified as it is, might be less inconsistently explained by supposing it a concur-rent or supplemental power, than by supposing it a substituted power.

Writings of Madison, Volume 4: 1829-1836, p.252

Finally, it cannot be alleged that the encouragement of manufactures permissible to the States by duties on foreign commerce, is to be regarded as an incident to duties imposed for revenue. Such a view of the section is barred by the fact that revenue cannot be the object of the State, the duties accruing, not to the State, but to the United States. The duties also would even diminish, not increase, the gain of the federal treasury, by diminishing the consumption of imports within the States imposing the duties, and, of course, the aggregate revenue of the United States. The revenue, whatever it might be, could only be regarded as an incident to the manufacturing object, not this to the revenue.

Writings of Madison, Volume 4: 1829-1836, p.253

Under no aspect of the subject can the clause in question favour the idea that it was meant to provide a substitute for a national power to protect domestic manufactures by duties on foreign commerce; and consequently, that if the power be not included in the power vested in Congress, the United States would be a solitary example of a nation disarming itself of the power altogether.

Writings of Madison, Volume 4: 1829-1836, p.253

Attempts have been made to show, from the journal of the Convention of 1787, that it was intended to withhold from Congress a power to protect manufactures by commercial regulations. The intention is inferred from the rejection or not adopting of particular propositions which embraced a power to encourage them. But, without knowing the reasons for the votes in those cases, no such inference can be sustained. The propositions might be disapproved because they were in a bad form or not in order; because they blended other powers with the particular power in question; or because the object had been, or would be, elsewhere provided for. No one acquainted with the proceedings of deliberative bodies can have failed to notice the frequent uncertainty of inferences from a record of naked votes. It has been seen with some surprise, that a failure or final omission of a proposition "to establish public institutions, rewards, and immunities for the promotion of agriculture, commerce, and manufactures," should have led to the conclusion that the Convention meant to exclude from the federal power over commerce regulations encouraging domestic manufactures. [See Mr. Crawford's letter to Mr. Dickerson, in the National Intelligencer of ———.] Surely no disregard of a proposition embracing public institutions, rewards, and immunities for the promotion of agriculture, commerce, and manufactures, could be an evidence of a refusal to encourage the particular object of manufactures, by the particular mode of duties or restrictions on rival imports. In expounding the Constitution and deducing the intention of its framers, it should never be forgotten, that the great object of the Convention was to provide, by a new Constitution, a remedy for the defects of the existing one; that among these defects was that of a power to regulate foreign commerce; that in all nations, this regulating power embraced the protection of domestic manufactures by duties and restrictions on imports; that the States had tried in vain to make use of the power, while it remained with them; and that, if taken from them and transferred to the Federal Government, with an exception of the power to encourage domestic manufactures, the American people, let it be repeated, present the solitary and strange spectacle of a nation disarming itself of a power exercised by every nation as a shield against the effect of the power as used by other nations. Who will say that such considerations as these are not among the best keys that can be applied to the text of the Constitution? and infinitely better keys than unexplained votes cited from the records of the Convention.

Writings of Madison, Volume 4: 1829-1836, p.254

It has been asked for what purpose, other than the encouragement of manufactures, the consent of Congress was grantable to the States to impose duties on exports and imports; and here the answer is easily given, and perfectly satisfies the language of the Constitution. The object was such improvement in harbours and other cases, having, like their inspection laws, relation to their maritime commerce, as particular States might have a local interest in making apart from, or in addition to, federal provisions. That this was understood to be the meaning of the clause, is demonstrated by the early, continued, and only use made of the power granted by Congress. It appears from the laws of the United States, that, beginning with the year 1790, and previous to the year 1815,\* the consent of Congress, on applications from Massachusetts, Rhode Island, Pennsylvania, Maryland, Virginia, South Carolina, and Georgia, was in pursuance of the tenth section, article one, of the Constitution, granted or renewed in not less than twenty instances for State duties, to defray the expense of cleaning out harbours or rivers, erecting piers or light-houses, or appointing health-officers, without a single instance through a period of more than twenty years, and it may now be said, of more than forty years, of an application for the purpose of encouraging State manufactures. Nor, for reasons heretofore given, is there the least probability that such an application ever will be made, or, if made, receive the assent of Congress. The assent could not be desired unless by a State which, like New York, Rhode Island, Virginia, or South Carolina, might possess such peculiar local advantages for foreign commerce as would admit duties to a small extent, without throwing its trade into other channels. But the effect of such duties on the neighboring States would, if not preventing the consent of Congress, lead at once, as heretofore observed, to the demand of its recall by the suffering party. It need not be repeated, that to guard against this evil was a material object in the exchange of the old for the new federal system. New Jersey did not accede to the old without a protest against that defect in it; and it appears from the printed journal of the Convention (page 369,) that New Hampshire, New Jersey, and Delaware, which carried on their foreign commerce through the ports of other States, voted against a power in the States to impose duties, though requiring the previous consent, and subject to the subsequent revision, of Congress; so jealous were they of the power under which they had smarted.

Writings of Madison, Volume 4: 1829-1836, p.255

A passage is cited from the Federalist, No. xlv, excluding, by its description of the powers of the Federal Government [as few and of an external character,] the power to encourage domestic manufactures. The passage is in the following words: "The powers delegated to the Federal Government are few and defined, and will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

Writings of Madison, Volume 4: 1829-1836, p.256

The stress laid on the passage is at least vastly disproportionate to its importance. It is evident that the writer was taking a general and glancing notice only of the partition of power between the Federal and State governments, the less exposed to be misunderstood or criticised, as the constitutional powers of the former had been detailed in a review of them in several numbers immediately preceding No. xlv. But there is nothing in the passage that can affect the question of a protective tariff, derived from the power of regulating commerce with foreign nations, which is one of the powers named in the passage as of an internal character. The simple question, therefore, to be decided, is, whether the protective power be embraced by the regulating power.

Writings of Madison, Volume 4: 1829-1836, p.256

That the enumerated powers of the Federal Government are few, when compared with the mass of State powers, is certain. That the powers of "war, peace, negotiation, or treaties, and foreign commerce," particularly as a main source of revenue, will be principally the objects of federal legislation, is proved by the statute-book; and that the word principally implies and leaves room for other powers, not of an external character, is sufficiently obvious; besides that, the commerce, though external in its character, operates, as we have seen, internally as well as externally.

Writings of Madison, Volume 4: 1829-1836, p.256

It must be confessed, that the classification of constitutional powers into external and internal, though often used to express the division between federal and State powers, is liable to too many exceptions to be a safe guide, without keeping the exceptions in view. Not only do the federal powers, which have been referred to as external, operate internally, but some of the internal powers, whether exercised by the one government or the other, have also an external operation. Excises or direct taxes on rending of imports, if employed by the State authorities, must have a bearing on imports or exports, as real and material as duties imposed on them. On the other hand, certain federal powers have an operation altogether internal, as in the case of the post office, direct taxes, &c. Occasionally the definition of the federal power is extended to the relations with and between the States, as well as to the relations with foreign nations. But the definition is still defective. Questions arising under a bankrupt law, and under State laws violating contracts, though between citizens of the same State, are within the federal jurisdiction.

Writings of Madison, Volume 4: 1829-1836, p.257

The Constitution of the United States is truly sui generis; and in expounding it, the delineation and distribution of power on the face of it must never be overlooked.

Writings of Madison, Volume 4: 1829-1836, p.257

It is asked "whether, as the power to regulate commerce between the States is in the same words with that to regulate it with foreign nations, it would not necessarily follow, if Congress could impose duties to protect American industry against foreign competition, that Congress might impose them for the purpose of protecting the industry and productions of the States against the competition of each other." Waiving the constitutional obstacles presented by the communion of rights and privileges among citizens of different States, the difficulties, the in-utility, and the odium of such a project would be a sufficient security against it; a better security than can be found against abuses incident to most of the powers vested in every Government. The power to regulate commerce among the States was well known, and so explained by the advocates of the Constitution,\* when before the people for their consideration, to be meant as a necessary control on the conduct of some of the importing States towards their non-importing neighbours. A recurrence to the angry legislation produced by it among the parties, some of whom had passed commercial laws more rigid against others than against foreign nations, will well account for the constitutional remedy. A condensed view of the evil is given by Mr. Coxe in his work above referred to.

Writings of Madison, Volume 4: 1829-1836, p.257

In a marginal note (page 15) it is pronounced, that "if all the nations of the earth were at once to abandon their commercial restrictions, every real motive on which ours is founded would continue to operate;" alluding evidently to personal and local interests as the only motives for a protective tariff.

Writings of Madison, Volume 4: 1829-1836, p.258

Should it have happened that acts of Congress in favour of manufactures were sought by individuals reckless of all feeling but the greediness of gain, and patronised by representatives yielding to the voice of their constituents, it would be but to suppose that some of the manufacturers themselves had honestly believed that they were promoting the public interest as well as their own; certain it. is that they were sustained by not a few, who persuaded themselves that a protective tariff, by creating a home market and a competition with foreign manufactures, would balance the account with the agriculturalists; and by many of the most intelligent, independent, uninterested, and private citizens, who viewed a tariff within calculated limits as a cheap provision for our infant and nascent establishments, enabling them to take root and flourish without the legal aid, and, in due time, more than repay the cost of protection by the rich addition to the resources of the country, and a diminution of its dependence on foreign supplies of its wants. Nor ought it to have been overlooked, that a farther motive, unbiased by personal or local interest, for espousing a protective policy, was furnished by the frequent occurrence of wars, and the effect of war, in raising the cost of foreign supplies beyond that of protecting, in time of peace, domestic substitutes. It will be readily admitted, that the cost of imports would not now be such as occurred during our revolutionary war, when foreign powers would not trade with us, nor during the war of 1812, when the maritime ascendency of one of them obstructed the trade of others with us. We have, moreover, a maritime force of our own to protect our intercourse with other nations. Still it is true, and always will be true, that a state of war, more especially when our country is involved in it, by raising the cost of foreign manufactures, may make it a real economy, a political adherence to the rule of cheapness, to avoid that cost by a lesser cost of fostering our own in time of peace. All nations regulate their policy more or less with a reference to the contingency of wars. What are the armies and fleets, with the costly hoards of materials for them? what the forts and garrisons, the armories and arsenals, but so many peculiar sacrifices to the anticipated dangers of war and invasion? A tariff of protection, well calculated as to its amount and its objects, is within the purview of the same policy. It is not an inappo-site reflection, that if the agitating topic of the tariff had arisen in the midst of a war or with a war in prospect, instead of a period of a general and apparently a lasting peace, the doctrines and discussions which have been witnessed would have materially felt the influence of such a difference in the state of things.

Writings of Madison, Volume 4: 1829-1836, p.259

For myself, although my name has been seen on the ultra tariff list, I have adhered to the doctrine stated in my letters to Mr. Cabell, which concurred in that of free trade as a theoretic rule, and subject to exceptions only not inconsistent with the principle of it. And I cannot but say that I have not met with any disproof of the soundness of such exceptions. Those who admit no exception to the rule, and those who multiply the exceptions into the rule, equally forget the prudent rule of avoiding extremes. Theories are the offspring of the closet; exceptions to them, the lessons of experience.

Writings of Madison, Volume 4: 1829-1836, p.259

I am aware that the views I have taken of the protective power are in opposition to the dominant opinions in Virginia as well as elsewhere. I am equally aware, that in the high degree of excitement in which those opinions are involved, reason-ings, however just, and constitutional investigations, however instructive, will find averted eyes and unwilling ears. But the most violent excitements are not the most lasting. And a change may be hastened by the light of facts forcing themselves on the public attention, and by reflections inseparable from them.

Writings of Madison, Volume 4: 1829-1836, p.259

That a ferment in the popular mind, almost beyond example, should have been wrought by means not less beyond example, cannot, however regretted, be wondered at. We have seen the finest talents, the most ardent zeal, and the most captivating eloquence, indefatigably exerted in painting in the deepest col-ours all the sufferings, public and private, real and imaginary; and in inculcating a belief that the tariff was the cause, the sole cause of them; that it had occasioned the distressing fall in the value of land and in the price of its staple productions; that it had converted the splendid mansions of the rich into decaying abodes of embarrassment and degradation; that it ground to dust the faces of the poor and drove them from their ancient homes to look for better in the wilderness of the West; that it threw the whole burden of taxes on the Southern planters, who alone produced the exports which paid for the imports, and who alone were able to consume the imports on which the taxes were levied; in a word, that the tariff, in its protective operation, was a system of plunder, wresting the money from the pockets of the Southern agriculturalist and putting it into the pockets of the Northern manufacturers.

Writings of Madison, Volume 4: 1829-1836, p.260

While this side of the medal was exhibited in its highest relief, the medal was never reversed. It was kept out of view that the ability of the planters to consume was not a little reduced by the draughts on the proceeds of their crops for the various purchases in the West, for the unprotected manufactures in the North, necessary, useful, or convenient, and for the expense of their regular tours and temporary residences in northern sections of the Union. It was equally withheld from public view that, besides the registered exports, the people of the North had a variety of means enabling them to consume and contribute to the Treasury, in their carrying trade abroad, in their freights in the ordinary trade, including the coasting trade of the country; in the great mercantile profits from the Northern capital employed in the general trade which exchanges the vast amount of exports for the vast amount of imports; to all which may be added the larger share of the interest and instalments heretofore paid on the public debt, and of the final discharge of it now taking place.

Writings of Madison, Volume 4: 1829-1836, p.260

If it be not wonderful that such a one-sided and overcharged exhibition should have produced an indignation against the tariff, and that willing ears should have been lent to comments on the Constitution, rescuing it from the reproach of a meaning which could be so abused, will it be wonderful if, when the paroxysm of the fever shall be over, the public mind shall be open to the proofs that it had been misled from the real causes of the suffering complained of, and return to the impressions and opinions which prevailed through a long period prior to the delusion?

Writings of Madison, Volume 4: 1829-1836, p.261

What then, if not the tariff, is to account for the great depression complained of in the Southern States within a late period? And here the explanation is so evident and so abundantly sufficient, that it must be satisfactory to every mind that will but suspend its prejudices.

Writings of Madison, Volume 4: 1829-1836, p.261

The depression felt is mainly and palpably the result of the great fall in the value of land and in the price of its produce; and this double fall is as palpably the result, in the former case, of the quantity of cheap and fertile land at market in the West, and in the latter case, of the increase of the produce of the land beyond any corresponding increase in the demand for it.

Writings of Madison, Volume 4: 1829-1836, p.261

How could it otherwise happen than that a superabundant offer of more fertile land at 125 cents per acre in one quarter should depress the value of the less fertile land in another quarter? How could it happen otherwise than that thousands would sell their less productive lands, which, though greatly reduced in price, still might be exchanged one acre for five or six of the fertile land in the West, and transfer their labour to a region easily accessible, and whence its trebled fruits would be almost as cheaply transported to the common market as from the region abandoned? How, again, could it but happen that this rapidly augmenting product of the soil, augmented at the same time by an increase of the population in the old region, notwithstanding the emigrations to the new; how, let it be repeated, could it fail to happen that these causes should have the impoverishing effects in the old which have been experienced from them?

Writings of Madison, Volume 4: 1829-1836, p.261

The soil and the products of the soil constitute more especially the wealth of the Southern States; and whatever reduces the value of both, must reduce the capital of the proprietors, and the means of their enjoyment. Were the tariff, whatever be the degree in which it has added to the other causes of depression, to be removed so far as it has protective operation, the other causes remaining the same, the relief would be but little felt. Had the other great causes never existed, an idea at which an enlarged patriotism revolts, or were they now to cease, which a miracle only could effect, and that at the expense of every philanthropic feeling, such would have been, and would now be, the augmented value of land and of the labour employed on it in the Atlantic States, that the operation of the tariff, in its double character of revenue and protection, would be merged in the general prosperity.

Writings of Madison, Volume 4: 1829-1836, p.262

It cannot be impertinent here to remark, though comparisons are not always allowable, that Virginia, though not the loudest complainant of the actual state of things, has been, and is, the greatest sufferer from it. Her lands have sunk most in their value, and the price of her exports most in foreign markets. The prices of her great staples, flour and tobacco, are, and have been for a considerable time, at a lower ebb than the more Southern staples cotton and rice, and her agricultural prospects are more gloomy than those of her Southern sisters, from the Western attraction of population and the rivalship of Western exports. It is a fact but little known, that more tobacco was exported from New Orleans in the year ending September——, than was exported that year from Virginia to foreign markets. And it is manifest, from the fitness for grain of all sorts in the climate and soil north and northwest of the Ohio, and the increasing facilities of their conveyance to market, that wheat and flour will more and more feel a like depression with that of tobacco. The effect of the southwestern culture of cotton on that staple, though doubtless great and increasing, is as yet less than the staples of Virginia have felt, and are likely to feel, from the Western causes alluded to. Is it an unreasonable calculation, that reflections suggested by these truths will lead to a less biased estimate of the tariff, and of the questions connected with it?

Writings of Madison, Volume 4: 1829-1836, p.262

The more the question of the tariff is brought to the test of facts, the more it will be found that the public discontents have proceeded more from the inequality than from the weight of its pressure, and more from the exaggerations of both than from the reality, whatever it may have been, of either.

Writings of Madison, Volume 4: 1829-1836, p.263

The discontent of not a few has been heightened by the greater productiveness of capital in the Northern States than in Virginia, which is ascribed to a legislative policy partial to the former, and particularly to the manufacturing capital. That Northern capital, in its several investments, yields a greater income than a Virginia estate, consisting of lands and servile labourers, is true. But it may be readily explained, without calling in the aid of the tariff. The lands and slaves of Virginia proprietors never yielded a revenue equal to their money value. Their value to the resident proprietor has resulted in part from the articles furnished for his household establishment, partly from the proceeds of his crops, while he enjoyed what made up for the inferiority of his income in the silent growth of the capital itself, first in the rising value of his land, which the progress of the country doubled nearly as soon as money was doubled by its interest; secondly, in the natural increase of his slaves, which had an equivalent effect. At present, his laud has fallen, greatly fallen, instead of rising in its market value, and his slaves, though increasing as fast as ever in numbers, are decreasing in value, with the temporary exception of purchases made by the Western and Southwestern planters in the slaveholding States. Hence the condition of the Virginia planters is worse than that of the merchant, the shipowners, and the manufacturers, and the money-lenders, whose capital does not decrease, while its annual profits are greater than those of the Virginia capitals, which, with less of annual profits, are at the same time decreasing in value. This difference, being ascribed to the tariff, has added fuel to the flame created by it. It cannot be unreasonable to expect that a cooler moment will listen to the error, and contribute to assuage the feelings and moderate the opinions which it has fostered. It is fair to notice another error which has found its way into the popular mind, namely, that the capitals of the manufacturers are the offspring of the tariff. In many instances it has doubtless swelled the amount. But they had their origin previous to the tariff in its obnoxious form, in the enterprise of commerce during the wars of Europe, and in the rich captures and successful adventures during our late war. A farther plea of the manufacturers is, that the present investment of their capitals was made under the patronage and implied pledge of the law, and that their ruin would necessarily follow a repeal of the law. Considering the circumstances under which some of the tariff laws were passed, the plea cannot be sustained. To a certain extent it ought to avail. There is room, therefore, for equitable compromises and salutary reflections, which will tend to alleviate sectional discords, and rectify the errors which have been the parents and nurses of them.

Writings of Madison, Volume 4: 1829-1836, p.264

May we not look forward to a more radical cure of the evil of discontent in an approaching diminution of the difference of the employment of capital and labour in the great sections of our country? The difference at present lies in the almost exclusive employment of labour in the Southern section in agriculture, and the extensive employment of it in manufactures in the Northern. In proportion as the Southern section becomes manufacturing, the dissimilarity will be removed, and with it the conflicting views engendered by it. And is not a substitution of manufacturing for agricultural labour in the slaveholding section, in Virginia particularly, manifestly approaching?

Writings of Madison, Volume 4: 1829-1836, p.264

Without descending to minor appropriations of labour, the great mass of it in our country may be divided into three portions: the first employed in procuring from the earth the food and other articles required for domestic use; the second, which derives from the earth the supplies called for by foreign markets; the third, the portion which, not being needed by either, will be applicable to such mechanical and manufacturing employments as will supply at home what a failure of demand for our agricultural products will disable us from purchasing abroad.

Writings of Madison, Volume 4: 1829-1836, p.264

It is evident that this surplus of labour beyond the first and second demand for it is already felt, and that the attractions of the cheap and fertile lands in the west and Southwest will more and more augment the aggregate products of the soil beyond any probable accumulations in the demand for them. It enters into this interesting calculation, that, notwithstanding the increasing population in Europe, and in the British dominions more especially, the improvements in agriculture have kept pace with the consumption of food; so that there is little prospect of any steady and extensive demand of that staple from our stores. It is moreover found, that even occasional demands can be supplied from sources less distant or more favoured than ours.

Writings of Madison, Volume 4: 1829-1836, p.265

Assuming, then, what will not be denied, that the foreign market is already glutted, and the home market always saturated with agricultural products, more especially those from the labour of slaves, it follows, from the rapid increase of that population, that an increasing surplus of the labour beyond the demands for agriculture must be employed on the other branches of industry, and, consequently, in diminution of the distinction between the agricultural and manufacturing States. Labour will not continue to be employed on the earth, notwithstanding its cooperating powers, more than it will in any other way, where its fruits would perish on hand.

Writings of Madison, Volume 4: 1829-1836, p.265

In thickly-settled countries the application of labour to the arts, &c., is understood to result from the surplus beyond what is required for a full cultivation of a limited soil. In the United States, notwithstanding the sparseness of the population compared with the extent of the vacant soil, there is found to be a growing surplus of labourers beyond a profitable culture of it; a peculiarity which baffles the reasonings of foreigners concerning our country, and is not sufficiently adverted to by our own theoretic politicians. Our country must be a manufacturing as well as an agricultural one, without waiting for a crowded population, unless some revolution in the world or the discovery of new products of the earth, demanded at home or abroad, should unexpectedly interpose.

Writings of Madison, Volume 4: 1829-1836, p.265

Will it be too much to hope, that, on a failure of manufacturing establishments in the South, likening its condition to that of the North, the success of them in the North, without a public patronage offensive to the South, may have the effect, advantageous to both, of substituting for a foreign commerce interchanges of the articles respectively furnished by them, which will add that cement of mutual interest to the many others which bind them together, and ought forever to do so? The commerce now between the South and the North in articles of the latter not protected by the tariff, is considerable and progressive in its amount, and is found to be valuable on both sides. In ten years —— millions will be added to our population, —— of which can be spared for manufactures. Not less than —— by emigrants, many of them professed manufacturers. Should the culture of tobacco be discontinued, a proportion of the 40 or 50,000 hands will be another fund of manufacturing recruits.

Writings of Madison, Volume 4: 1829-1836, p.266

The interior commerce of a country is known to be more important than its exterior. It has the great advantage of being independent of wars and of other foreign contingencies; and, as far as commerce among nations has the general advantage of multiplying physical enjoyments and extending intellectual acquirements and improvements, a sufficient scope for it will always remain, and with a due share to the United States, in the variety of soil, of climate, of pursuits, of habits, and even of fashions and tastes, which distinguish one country from another, and the United States from most others.

Writings of Madison, Volume 4: 1829-1836, p.266

You will not fail to observe, that in the preceding pages I have not done more than contend for the power of Congress to impose duties and restrictions on imports for the encouragement of domestic products; and for the fact that the pressure of the tariff, in whatever aspect of it, is not the principal cause of the suffering in the South, but that this is to be ascribed to the other causes which will account for it.

1833

To Thomas S. Grimke.

JANUARY 10th, 1833.

Writings of Madison, Volume 4: 1829-1836, p.266

DR SIR,—I have received the copy of your "letter to the people of S. Carolina," after the delay of passing to Charlotte county, thence to Charlottesville, and finally to Orange Court House, the post-office nearest to me. I beg you to accept my thanks for the publication, which are the more due as they were not preceded by what were so for the several other favors from your pen. Such has been the degree of my ill health, for a long time, as to occasion many regretted omissions.

Writings of Madison, Volume 4: 1829-1836, p.267

The letter makes a powerful and persuasive appeal to the understandings, the interests, and the feelings of your erring fellow-citizens; and it would seem impossible that such an appeal should be altogether unavailing, accompanied as it is by the universal protest against the novel doctrines and rash counsels of the ascendent party; a protest varying in language from friendly expostulation to the strongest tone of denunciation.

Writings of Madison, Volume 4: 1829-1836, p.267

The Legislature of Virginia has now the whole subject under animated discussion. What is to be the precise result of the discordant opinions called forth I cannot conjecture. Before this reaches you, better means of judging than I possess will probably be furnished through the press directly from Richmond.

To N. P. Trist.

JANY 18, 1833.

Writings of Madison, Volume 4: 1829-1836, p.267

DR SIR,—Yours of the 11th was duly received. I am sorry that you could not visit us at the intended time; and still more so, for the obstacles to it. We shall look for you at the period you now have in view, with a hope that the trip on horseback will be as favorable to your health as it promises to be. I have not yet looked into the volumes of the Gazette kindly enclosed to me on the Bank transaction. I have, indeed, not gone much into the details of any of the prominent subjects under discussion at Washington, trusting to the result as decided by the public opinion. It gives me pleasure to learn that a reaction is taking place in South Carolina. Common sense, common good, and the universal protest out of the State against nullification, cannot fail to break down the party which supports it. The coming generation will look back with astonishment at the infatuation which could produce the present state of things.

Writings of Madison, Volume 4: 1829-1836, p.267

You see what is going on at Richmond as quickly as I do. Among the diversified projects of the mediators, it is not certain which will prevail, and very possible that they may all sink together. It would seem that the doctrine of secession is losing ground; but it has, as yet, more adherents than its twin heresy nullification, though it ought to be buried in the same grave with it. Many seem to have lost sight of the great principle that compact is the basis and essence of free government, and that no right to disregard it belongs to a party till released by causes of which the other parties have an equal right to judge. In the event of an irreconcilable conflict, not of rights, but of opinions and claims of rights, force becomes the arbiter.

To Edward Livingston.

JANY 24, 1833.

Writings of Madison, Volume 4: 1829-1836, p.268

DR SIR,—I have received your letter of the 19th instant, in which you ask assent to the publication of my\* answer to yours of April 29, 1830, inclosing a copy of your speech on Mr. Foot's resolution. As the answer contained nothing of a confidential import, there can be no objection to that use of it, other than that the formal sanction of the writer might seem to attach more importance to the epitome of an argument previously published at some length than it could merit. It may be well, therefore, if passed to the press, to let it have as little of that appearance as possible.

Writings of Madison, Volume 4: 1829-1836, p.268

The promised bust will be received by Mrs. Madison with pleasure; the greater, as she knows I shall share it with her. It will be associated, in the little group we possess, with the class which adds to other titles to commemorative distinction, appeals to the feelings of private friendship.

Writings of Madison, Volume 4: 1829-1836, p.268

I thank you, sir, for the kind interest you take in my health. Since the deficient visit paid us, which we hope may be repeated in an amended form, my health has somewhat improved, but the wishes of my friends have too much influenced their estimate of it. A singular change is in an occasional relaxation of the terminating joints of my rheumatic fingers, which gives a degree of easy play to the pen in the microscopic characters of which I am giving a sample.

To Andrew Stevenson.

FEBRUARY 4, 1833.

Writings of Madison, Volume 4: 1829-1836, p.269

DEAR SIR,—I have received your communication of the 29th ultimo, and have read it with much pleasure. It presents the doctrines of nullification and secession in lights that must confound, if failing to convince, their patrons.

Writings of Madison, Volume 4: 1829-1836, p.269

You have done well in rescuing the proceedings of Virginia in 1798-99 from the many misconstructions and misapplications of them. The seventh resolution ought to have explained the third, and the report both. Many, however, have strangely overlooked the distinction, obvious in itself, and indicated by the course of the reasoning between the right of the States (plural always used) as parties to the Constitution, and the right of a single party. Few, also, seem to have looked back to the question raised by the alien and sedition laws, as one essentially between the government and the constituent body; or to the other question raised, how far a decision of the Supreme Court of the United States was a bar to the interposition of the States; it having been alleged to be so, even to declarations of legislative opinions. These questions account for the scope of the reasoning in material parts of those documents.

Writings of Madison, Volume 4: 1829-1836, p.269

Secession presents a question more particularly between the States themselves, as parties to the constitutional compact; and the great argument for it is derived from the sovereignty of the parties; as if the more complete the authority to enter into a compact, the less was the obligation to abide by it. It is but fair to observe, that those who assert the right present it in forms essentially different; some as a right always existing, and to be used at pleasure; others as a right created by extreme cases requiring it. The latter class are wrong only in using terms which confound them with the former.

Writings of Madison, Volume 4: 1829-1836, p.270

Of late, attempts are observed to shelter the heresy of secession under the case of expatriation, from which it essentially differs. The expatriating party removes only his person and his movable property, and does not incommode those whom he leaves. A seceding State mutilates the domain, and disturbs the whole system from which it separates itself. Pushed to the extent in which the right is sometimes asserted, it might break into fragments every single community.

Writings of Madison, Volume 4: 1829-1836, p.270

It is curious to see how the nullifying and seceding champions draw arguments from the difficulty, under the Constitution of the United States, of avoiding collisions, and from the want of remedies for possible occurrences. This is the case more or less of all free governments, and of every State in the Union. The government of a State would be as readily destroyed by a refusal or neglect of the people to exercise their franchise, as the Government of the United States by a like conduct in the States towards it. If the two Houses of Congress or of a State Legislature were absolutely inflexible in a revenue bill, the effect would be the same in both governments. The judiciary of a State is the last resort within the purview of a State constitution, and a gross usurpation or abuse of its powers would produce a state of things like that resulting from such an occurrence within the federal sphere.

Writings of Madison, Volume 4: 1829-1836, p.270

Just as I received your favour, I was furnishing a sketch of ideas in compliance with a wish which had been conveyed to me. I enclose a copy of it.\* In the present diversity of opinions and effervescences of the passions, it is not probable that anything will be done by the public authorities which will accord with the cooler judgment of a future day, to which I have endeavoured to conform mine. Be so good as to let Mr. Patton have a sight of the paper, and Mr. Rives also, if you choose. They are the two of your political comrades with whom I happen to have most communication on political subjects. I am well aware that their sentiments may be very different from some of mine, as some of yours may also be. As the sketch was hastily made, and I am sensible may be made more free from criticism in its phraseology, and as it is possible I may expand it in some of its positions, I must request the favour of you to return it, at your leisure, without any copy having been taken.

Writings of Madison, Volume 4: 1829-1836, p.271

If legislative resolutions declaring the essential characteristics of the Constitution of the United States be deemed expedient, they ought to be conformed as much as possible to acknowledged principles, to known facts, and to the text of the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.271

In the present state of things in our country, if I am to answer the wish conveyed to me, I must say that the members of Congress from Virginia would do well to urge a reduction and modification of the tariff laws; but, in the first place, with a reasonable attention as well to the great interests at stake, and the circumstances under which they were created, in one section, as to the justice and the interests appealed to in behalf of another section. It is quite possible that a sudden withdrawal from the market of domestic supplies, extended as they now are, might, while ruinous to the manufacturers, be injurious also to the consumers; since some time would elapse before the vacuum could be filled from other sources, the prices in the mean time rising, of course, from a diminution of the supply and a continuance of the demand.

Writings of Madison, Volume 4: 1829-1836, p.271

Secondly, without incurring the appearance of yielding to threatened consequences of not doing what is required by the discontented anywhere.

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Thirdly, without opposing any constitutional provisions that may be necessary and proper to defeat a resistence to the execution of the laws; and particularly any constitutional provision that may insure the execution of the laws, in a mode that will avoid a resort to, or the risk of, a conflict at arms.

Writings of Madison, Volume 4: 1829-1836, p.271

Fourthly, without any course whatever that would pledge or commit Virginia to take side with South Carolina, or any other State, in resisting the laws of the United States, unless causes should arise, of which Virginia should be free to judge, justifying and requiring her so to do; and particularly without any commitment of her to view in that light laws of the United States now existing.

Writings of Madison, Volume 4: 1829-1836, p.271

Mrs. M. joins in affectionate salutations.

To Andrew Stevenson.

MONTPELLIER, February 10, 1833.

Writings of Madison, Volume 4: 1829-1836, p.272

DEAR SIR,—Your favour of the 8th instant, with the paper returned, was safely received. It may not be amiss for me to say, that the opinion expressed in the letter, that constitutional provisions, necessary and proper to defeat resistence to the laws, ought not to be opposed, had no specific reference to the bill depending, but was a general remark, that whatever constitutional provisions might be necessary and proper for that purpose ought not to be opposed. I consider a successful resistance to the laws, as now attempted, if not immediately mortal to the Union, as at least a mortal wound to it.

Writings of Madison, Volume 4: 1829-1836, p.272

I hope it is well understood that my object in giving our two friends a sight of the paper was merely a compliance with a wish indirectly conveyed by one,\* and a mark of respect for the other;\* and to intimate my views of the subject without any bearing on theirs. I am well aware, that, in choosing between alternatives, they may have lights I do not possess; and, moreover, that those in public trust may justly feel an obligation to respect the opinions of their constituents which is not imposed on a private citizen.

Writings of Madison, Volume 4: 1829-1836, p.272

I am sorry to learn that the prospect of a conciliatory result to the deliberations of Congress is so little encouraging. I wish it may not be found that Virginia will be caught in the trap with an anti-tariff bait in it. If South Carolina recedes, it will be on the avowed grounds of her respect for the interposition of Virginia, and a reliance that Virginia is to make a common cause with her throughout. In that event, and a continuance of the tariff laws, the prospect before us would be a rupture of the Union; a Southern confederacy; mutual enmity with the Northern; the most dreadful animosities and border wars, springing from the case of slaves; rival alliances abroad; standing armies at home, to be supported by internal taxes; and federal Governments, with powers of a more consolidating and monarchical tendency than the greatest jealousy has charged on the existing system.

Writings of Madison, Volume 4: 1829-1836, p.273

I have just read Mr. Marshall's\* speech in the House of Delegates on Federal Relations. It is a very able one, and a strong backer of your letter on the subject of secession. The peroration is as beautiful as its warning to Virginia is solemn and impressive.

To the Revd R. R. Gurley.

Writings of Madison, Volume 4: 1829-1836, p.273

DR SIR,—Since I received your letter of the 31 ult., requesting, in behalf of the Revd Mr. Brooks, now in Europe, a letter of introduction to the friends of American Colonization in England and France, I have been more than usually indisposed; and for some days I have been suffering under a new malady, which makes the use of the pen very painful. With this apology may I ask the favor of you to comply with the object of Mr. Brooks by a letter from yourself? Your better knowledge of all the circumstances of such a case will enable you the better to adapt to it the proper shape and scope of the introduction asked for. The benevolent views of Mr. Brooks preclude, of course, the idea of expense in any form to the Society. But they might, on the contrary, promote the idea of pecuniary aids to the Society, which, though the great desideratum with it, I have always wished to be obtained at home without a resort to foreign contribution. A vital object of the Institution being to free our country of a great internal evil, justice requires this; and our pride, while we are describing the prosperity of our country as greater than that of any other, would seem to be a motive against taxing any other for an interest so far as it may not be a common one. In this light I have always viewed solicitations of money from abroad for schools, &c., &c. You will, however, take for what they are worth merely remarks which may deserve more consideration than, in my present condition, I can give them; assuring yourself always of my great and cordial esteem.

To the Revd R. R. Gurley.

MONTPELLIER, Feby 19, 1833.

Writings of Madison, Volume 4: 1829-1836, p.274

DEAR SIR,—I have received your letter of the 12th, informing me that I have been unanimously elected to the office of president by the "American Colonization Society."

The great and growing importance of the Society and the signal philanthropy of its members give to the distinction conferred on me a value of which I am deeply sensible.

Writings of Madison, Volume 4: 1829-1836, p.274

It is incumbent on me, at the same time, to say, that my very advanced age and impaired health leave me no hope of an adequacy to the duties of the station which I should be proud to perform. It will not the less be my earnest prayer that every success may reward the labours of an Institution which, though so humble in its origin, is so noble in its object of removing a great evil from its own country by means which may communicate to another the greatest of blessings.

To Thomas R. Dew.

MONTPELLIER, Feby 23, 1833.

Writings of Madison, Volume 4: 1829-1836, p.274

DEAR SIR,—I received, in due time, your letter of the 15th ult. with copies of the two pamphlets; one on the "Restrictive System," the other on the "Slave Question."

Writings of Madison, Volume 4: 1829-1836, p.275

The former I have not yet been able to look into, and in reading the latter with the proper attention I have been much retarded by many interruptions, as well as by the feebleness incident to my great age, increased as it is by the effects of an acute fever, preceded and followed by a chronic complaint under which I am still labouring. This explanation of the delay in acknowledging your favor will be an apology, also, for the brevity and generality of the answer. For the freedom of it, none, I am sure, will be required. In the views of the subject taken in the pamphlet, I have found much valuable and interesting information, with ample proof of the numerous obstacles to a removal of slavery from our country, and everything that could be offered in mitigation of its continuance; but I am obliged to say, that in not a few of the data from which you reason, and in the conclusion to which you are led, I cannot concur.

Writings of Madison, Volume 4: 1829-1836, p.275

I am aware of the impracticability of an immediate or early execution of any plan that combines deportation with emancipation, and of the inadmissibility of emancipation without deportation. But I have yielded to the expediency of attempting a gradual remedy, by providing for the double operation.

Writings of Madison, Volume 4: 1829-1836, p.275

If emancipation was the sole object, the extinguishment of slavery would be easy, cheap, and complete. The purchase by the public of all female children, at their birth, leaving them in bondage till it would defray the charge of rearing them, would, within a limited period, be a radical resort.

Writings of Madison, Volume 4: 1829-1836, p.275

With the condition of deportation, it has appeared to me, that the great difficulty does not lie either in the expense of emancipation, or in the expense or the means of deportation, but in the attainment—1, of the requisite asylums; 2, the consent of the individuals to be removed; 3, the labour for the vacuum to be created.

Writings of Madison, Volume 4: 1829-1836, p.275

With regard to the expense—1, much will be saved by voluntary emancipations, increasing under the influence of example, and the prospect of bettering the lot of the slaves; 2, much may be expected in gifts and legacies from the opulent, the philanthropic, and the conscientious; 3, more still from legislative grants by the States, of which encouraging examples and indications have already appeared; 4, nor is there any room for despair of aid from the indirect or direct proceeds of the public lands held in trust by Congress. With a sufficiency of pecuniary means, the facility of providing a naval transportation of the exiles is shewn by the present amount of our tonnage and the promptitude with which it can be enlarged; by the number of emigrants brought from Europe to N. America within the last year, and by the greater number of slaves which have been, within single years, brought from the coast of Africa across the Atlantic.

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In the attainment of adequate asylums, the difficulty, though it may be considerable, is far from being discouraging. Africa is justly the favorite choice of the patrons of colonization; and the prospect there is flattering—1, in the territory already acquired; 2, in the extent of coast yet to be explored, and which may be equally convenient; 3, the adjacent interior into which the littoral settlements can be expanded under the auspices of physical affinities between the new comers and the natives, and of the moral superiorities of the former; 4, the great inland regions now ascertained to be accessible by navigable waters, and opening new fields for colonizing enterprises.

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But Africa, though the primary, is not the sole asylum within contemplation; an auxiliary one presents itself in the islands adjoining this continent, where the coloured population is already dominant, and where the wheel of revolution may from time to time produce the like result.

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Nor ought another contingent receptacle for emancipated slaves to be altogether overlooked. It exists within the territory under the control of the United States, and is not too distant to be out of reach, whilst sufficiently distant to avoid, for an indefinite period, the collisions to be apprehended from the vicinity of people distinguished from each other by physical as well as other characteristics.

Writings of Madison, Volume 4: 1829-1836, p.276

The consent of the individuals is another pre-requisite in the plan of removal. At present there is a known repugnance in those already in a state of freedom to leave their native homes, and among the slaves there is an almost universal preference of their present condition to freedom in a distant and unknown land. But in both classes, particularly that of the slaves, the preju- dices arise from a distrust of the favorable accounts coming to them through white channels. By degrees truth will find its way to them from sources in which they will confide, and their aversion to removal may be overcome as fast as the means of effectuating it shall accrue.

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The difficulty of replacing the labour withdrawn by a removal of the slaves, seems to be urged as of itself an insuperable objection to the attempt. The answer to it is—1, that notwithstanding the emigrations of the whites, there will be an annual and by degrees an increasing surplus of the remaining mass; 2, that there will be an attraction of whites from without, increasing with the demand, and, as the population elsewhere will be yielding a surplus to be attracted; 3, that as the culture of tobacco declines with the contraction of the space within which it is profitable, and still more from the successful competition in the West, and as the farming system takes place of the planting, a portion of labour can be spared without impairing the requisite stock; 4, that although the process must be slow, be attended with much inconvenience, and be not even certain in its result, is it not preferable to a torpid acquiescence in a perpetuation of slavery, or an extinguishment of it by convulsions more disastrous in their character and consequences than slavery itself?

Writings of Madison, Volume 4: 1829-1836, p.277

In my estimate of the experiment instituted by the Colonization Society, I may indulge too much my wishes and hopes, to be safe from error. But a partial success will have its value, and an entire failure will leave behind a consciousness of the laudable intentions with which relief from the greatest of our calamities was attempted in the only mode presenting a chance of effecting it.

Writings of Madison, Volume 4: 1829-1836, p.277

I hope I shall be pardoned for remarking, that in accounting for the depressed condition of Virginia, you seem to allow too little to the existence of slavery, ascribe too much to the tariff laws, and not to have sufficiently taken into view the effect of the rapid settlement of the Western and Southwestern country.

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Previous to the Revolution, when, of these causes, slavery alone was in operation, the face of Virginia was, in every feature of improvement and prosperity, a contrast to the Colonies where slavery did not exist, or in a degree only, not worthy of notice. Again, during the period of the tariff laws prior to the latter state of them, the pressure was little, if at all, regarded as a source of the general suffering. And whatever may be the degree in which the extravagant augmentation of the Tariff may have contributed to the depression, the extent of this cannot be explained by the extent of the cause. The great and adequate cause of the evil is the cause last mentioned, if that be indeed an evil which improves the condition of our migrating citizens, and adds more to the growth and prosperity of the whole than it subtracts from a part of the community.

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Nothing is more certain than that the actual and prospective depression of Virginia is to be referred to the fall in the value of her landed property, and in that of the staple products of the land. And it is not less certain that the fall in both cases is the inevitable effect of the redundancy in the market both of land and of its products. The vast amount of fertile land offered at 125 cents per acre in the West and S. West could not fail to have the effect already experienced, of reducing the land here to half its value; and when the labour that will here produce one hogshead of tobacco and ten barrels of flour will there produce two hhds and twenty barrels, now so cheaply transportable to the destined outlets, a like effect on these articles must necessarily ensue. Already more tobacco is sent to New Orleans than is exported from Virginia to foreign markets; whilst the article of flour, exceeding for the most part the demand for it, is in a course of rapid increase from new sources as boundless as they are productive. The great staples of Virginia have but a limited market, which is easily glutted. They have in fact sunk more in price, and have a more threatening prospect, than the more southern staples of cotton and rice. The case is believed to be the same with her landed property. That it is so with her slaves is proved by the purchases made here for the market there.

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The reflections suggested by this aspect of things will be more appropriate in your hands than in mine. They are also beyond the tether of my subject, which I fear I have already over-strained. I hasten, therefore, to conclude, with a tender of the high respect and cordial regards which I pray you to accept.

To Judge Buckner Thruston.

MARCH 1, 1833.

Writings of Madison, Volume 4: 1829-1836, p.279

DEAR SIR,—Your letter of the 13th instant was duly received with a copy of Judge Cranch's Memoir of President Adams, to which is annexed your Latin epitaph, embracing the coincidences in the lives and deaths of him and of President Jefferson.

Writings of Madison, Volume 4: 1829-1836, p.279

After an alienation through so long a period from classical studies, I may well distrust my competency to decide on the Latinity of the epitaph. To the vein of just thought which runs through it, and the apt management of the points most in relief, it is not difficult to do justice. And the Latinity would seem to be more exempt from modernism in its cast than is common with Latin compositions of modern date.

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A striking difference between the Latin and English idioms is in the collocation of the words; the inflections and terminations of the former admitting a wide separation, by interposed words, of those belonging to each other, without confusion or obscurity, and with an enlarged scope for variety and euphony in the structure of sentences. A literal translation of Latin into English, word for word, according to the order of the words, would be startling to an English eye, as a like version of English into Latin would be, though, perhaps, in a less degree to the eye of a Roman. Hence the difficulty in modern Latin of avoiding a distribution of the words not conformable to that of ancient models.

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But the greatest difficulty, as in every use of a foreign language, is in selecting the appropriate word or phrase among those differing in the shades of meaning, and where the meaning may be essentially varied by the particular applications of them. Hence the mistakes, sometimes ludicrous, in the use of a foreign language imperfectly understood; as in the case of the Frenchman, who, finding in the dictionary that to pickle meant to preserve, took leave of his friends with a G— pickle you.

Writings of Madison, Volume 4: 1829-1836, p.280

I have made these remarks with reference to my own deficiencies as a critic, and by no means as a criticism on the epitaph.

Writings of Madison, Volume 4: 1829-1836, p.280

The Memoir, in perusing which I have been much retarded, appears to be well written, and to comprise much interesting information doing justice to the distinguished subject of it. With respect to some of the diplomatic passages, there have been intimations that important lights, not yet known to the public, exist in foreign archives.

Writings of Madison, Volume 4: 1829-1836, p.280

Mrs. M. and myself are gratified by your kind remembrances and those of Mrs. T. and your daughter, and offer a sincere return of them.

To John Tyler.\*

Writings of Madison, Volume 4: 1829-1836, p.280

In your speech of February 6, 1833, you say: "He [Edmund Randolph] proposed [in the Federal Convention of 1787] a supreme National Government, with a supreme Executive, a supreme Legislature, and a supreme Judiciary, and a power in Congress to veto State laws.

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"Mr. Madison, I believe, sir, was also an advocate of this plan of Government. If I run into error on this point I can easily be put right. The design of this plan, it is obvious, was to render the States nothing more than the provinces of a great Government, to rear upon the ruins of the old Confederacy a consolidated Government, one and indivisible."

Writings of Madison, Volume 4: 1829-1836, p.281

I readily do you the justice to believe that it was far from your intention to do injustice to the Virginia Deputies to the Convention of 1787. But it is not the less certain that it has been done to all of them, and particularly to Mr. Edmund Randolph.

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The resolutions proposed by him were the result of a consultation among the Deputies, the whole number, seven, being present. The part which Virginia had borne in bringing about the Convention suggested the idea that some such initiative step might be expected from their deputation, and Mr. Randolph was designated for the task. It was perfectly understood that the propositions committed no one to their precise tenor or form, and that the members of the deputation would be as free in discussing and shaping them as the other members of the Convention. Mr. Randolph was made the organ on the occasion, being then the Governor of the State, of distinguished talents, and in the habit of public speaking. General Washington, though at the head of the list, was, for obvious reasons, disinclined to take the lead. It was also foreseen that he would be immediately called to the presiding station.

Writings of Madison, Volume 4: 1829-1836, p.281

Now what was the plan sketched in the propositions?

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They proposed that "the Articles of Confederation should be so corrected and enlarged as to accomplish the objects of their institution, namely, common defence, security of liberty, and general welfare;" [the words of the Confederation.]

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"That a national Legislature, a national Executive, and a national Judiciary should be established. [This organization of departments the same as in the adopted Constitution.]

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"That the right of suffrage in the Legislature should be [not equal among the States, as in the Confederation, but] proportioned to quotas of contribution or numbers of free inhabitants, as might seem best in different cases. [The same corresponding in principle with the mixed rule adopted.]

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"That it should consist of two branches; the first elected by the people of the several States, the second by the first, of a number nominated by the State Legislatures. [A mode of forming a Senate regarded as more just to the large States than the equality which was yielded to the small States by the compromise with them, but not material in any other view. In reference to the practicable equilibrium between the General and the State authorities, the comparative influence of the two modes will depend on the question whether the small States will incline most to the former or to the latter scale.]

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"That a national Executive, with a council of revision consisting of a number of the Judiciary, [which Mr. Jefferson would have approved,] and a qualified negative on the laws, be instituted, to be chosen by the Legislature for the term of — years, to be ineligible a second time, and with a compensation to be neither increased nor diminished so as to affect the existing magistracy. [There is nothing in this executive modification materially different in its constitutional bearing from that finally adopted in the Constitution of the United States.]

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"That a national Judiciary be established, consisting of a supreme appellate and inferior tribunals, to hold their offices during good behaviour, and with compensations not to be increased or diminished so as to affect persons in office. [There can be nothing here subjecting it to unfavourable comparison with the article in the Constitution existing.]

Writings of Madison, Volume 4: 1829-1836, p.282

"That provision ought to be made for the admission of new States, lawfully arising within the limits of the United States, with the consent of a number of votes in the National Legislature less than the whole. [This is not at variance with the existing provisions.]

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"That a republican government ought to be guarantied by the United States to each State. [This is among the existing provisions.]

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"That provision ought to be made for amending the articles of Union without requiring the assent of the National Legislature. [This is done in the Constitution.]

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"That the legislative, executive, and judiciary powers of the several States ought to be bound by oath to support the articles of Union. [This was provided with the emphatic addition of 'anything in the constitution or laws of the States notwithstanding.']

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"That the act of the Convention, after the approbation of the (then) Congress, to be submitted to an assembly or assemblies of representatives recommended by the several Legislatures to be expressly chosen by the people to consider and decide thereon." [This was the course pursued.]

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So much for the structure of the Government as proposed by Mr. Randolph, and for a few miscellaneous provisions. When compared with the Constitution as it stands, what is there of a consolidating aspect that can be offensive to those who applaud, approve, or are satisfied with the Constitution?

Writings of Madison, Volume 4: 1829-1836, p.283

Let it next be seen what were the powers proposed to be lodged in the Government as distributed among its several departments.

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The Legislature, each branch possessing a right to originate acts, was to enjoy, 1. The legislative rights vested in the Congress of the Confederation. [This must be free from objection, especially as the powers of that description were left to the selection of the Convention.]

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2. Cases to which the several States would be incompetent, or in which the harmony of the United States might be interrupted by individual legislation. [It cannot be supposed that these descriptive phrases were to be left in their indefinite extent to legislative discretion. A selection and definition of the cases embraced by them was to be the task of the Convention. If there could be any doubt that this was intended and so understood by the Convention, it would be removed by the course of proceeding on them as recorded in its journal. Many of the propositions made in the Convention fall within this remark; being, as is not unusual, general in their phrase, but, if adopted, to be reduced to their proper shape and specification.]

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3. To negative all laws passed by the several States, contravening, in the opinion of the national Legislature, the articles of union, or any treaty subsisting under their authority. [The necessity of some constitutional and effective provision, guarding the Constitution and laws of the Union against violations of them by the laws of the States, was felt and taken for granted by all, from the commencement to the conclusion of the work performed by the Convention. Every vote in the journal involving the opinion, proves a unanimity among the deputations on this point. A voluntary and unvaried concurrence of so many (then thirteen, with a prospect of continued increase) distinct and independent authorities in expounding and acting on a rule of conduct which must be the same for all or in force in none, was a calculation forbidden by a knowledge of human nature, and especially so by the experience of the Confederacy, the defects of which were to be supplied by the Convention.]

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With this view of the subject, the only question was, the mode of control on the individual Legislatures. This might be either preventive or corrective; the former by a negative on the State laws, the latter by a legislative repeal, by a judicial supersedeas, or by an administrative arrest of them. The preventive mode, as the best, if equally practicable with the corrective, was brought by Mr. Randolph to the consideration of the Convention. It was, though not a little favoured, as appears by the votes in the journal, finally abandoned as not reducible to practice. Had the negative been assigned to the Senatorial branch of the Government representing the State Legislatures, thus giving to the whole of these a control over each, the expedient would probably have been still more favourably received, though even in that form subject to insuperable objections, in the distance of many of the State Legislatures, and the multiplicity of the laws of each.

Writings of Madison, Volume 4: 1829-1836, p.284

Of the corrective modes, a repeal by the national Legislature was pregnant with inconveniences rendering it inadmissible.

Writings of Madison, Volume 4: 1829-1836, p.284

The only remaining safeguard to the Constitution and laws of the Union against the encroachment of its members and anarchy among themselves, is that which was adopted, in the declaration that the Constitution, laws, and treaties of the United States should be the supreme law of the land, and, as such, be obligatory on the authorities of the States as well as those of the United States.

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The last of the proposed legislative powers was "to call forth the force of the Union against any member failing to fulfil its duty under the articles of union."

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The evident object of this provision was not to enlarge the powers of the proposed Government, but to secure their efficiency. It was doubtless suggested by the inefficiency of the confederate system, from the want of such a sanction, none such being expressed in its articles; and if, as Mr. Jefferson\* argued, necessarily implied, having never been actually employed. The proposition, as offered by Mr. Randolph, was in general terms. It might have been taken into consideration as a substitute for, or as a supplement to, the ordinary mode of enforcing the laws by civil process; or it might have been referred to cases of territorial or other controversies between States and a refusal of the defeated party to abide by the decision; leaving the alternative of a coercive interposition by the Government of the Union, or a war between its members and within its bowels. Neither of these readings, nor any other which the language would bear, could countenance a just charge on the deputation or on Mr. Randolph of contemplating a consolidated Government with unlimited powers.

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The executive powers do not cover more ground than those inserted by the Convention to whose discretion the task of enumerating them was submitted. The proposed association with the executive of a council of revision could not give a consolidating feature to the plan.

Writings of Madison, Volume 4: 1829-1836, p.285

The judicial power in the plan is more limited than the jurisdiction described in the Constitution, with the exception of cases of "impeachment of any national officer," and questions which involve the national peace and harmony.

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The trial of impeachments is known to be one of the most difficult of constitutional arrangements. The reference of it to the judicial department may be presumed to have been suggested by the example in the Constitution of Virginia. The option seemed to lie between that and the other departments of the Government, no example of an organization excluding all the departments presenting itself. Whether the judicial mode proposed was preferable to that inserted in the Constitution or not, the difference cannot affect the question of a consolidating aspect or tendency.

Writings of Madison, Volume 4: 1829-1836, p.286

By questions involving "the national peace and harmony," no one can suppose more was meant than might be specified by the Convention as proper to be referred to the judiciary, either by the Constitution or the constitutional authority of the Legislature. They could be no rule in that latitude to a court, nor even to a Legislature with limited powers.

Writings of Madison, Volume 4: 1829-1836, p.286

That the Convention understood the entire resolutions of Mr. Randolph to be a mere sketch in which omitted details were to be supplied, and the general terms and phrases to be reduced to their proper details, is demonstrated by the use made of them in the Convention. They were taken up and referred to a committee of the whole in that sense; discussed one by one; referred occasionally to special committees, to committees of detail on special points, at length to a committee to digest and report the draught of a Constitution, and finally to a committee of arrangement and diction.

Writings of Madison, Volume 4: 1829-1836, p.286

On this review of the whole subject, candour discovers no ground for the charge, that the resolutions contemplated a Government materially different from, or more national than, that in which they terminated, and certainly no ground for the charge of consolidating views in those from whom the resolutions proceeded.

Writings of Madison, Volume 4: 1829-1836, p.286

What, then, is the ground on which the charge rests? It could not be on a plea that the plan of Mr. Randolph gave unlimited powers to the proposed Government, for the plan expressly aimed at a specification, and, of course, a limitation of the powers.

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It could not be on the supremacy of the general authority over the separate authorities, for that supremacy is, as already noticed, more fully and emphatically established by the text of the Constitution.

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It could not be on the proposed ratification by the people instead of the States, for such is the ratification on which the Constitution is founded.

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The charge must rest on the term national, prefixed to the organized departments in the propositions of Mr. Randolph; yet how easy is it to account far the use of the term without taking it in a consolidating sense?

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In the first place, it contradistinguished the proposed Government from the Confederacy which it was to supersede.

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2. As the system was to be a new and compound one, a nondescript without a technical appellation for it, the term "national" was very naturally suggested by its national features: 1. In being established, not by the authority of State Legislatures, but by the original authority of the people. 2. In its organization into legislative, executive, and judicial departments; and, 3. In its action on the people of the States immediately, and not on the governments of the States, as in a Confederacy.

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But what alone would justify and account for the application of the term national to the proposed Government is, that it would possess, exclusively, all the attributes of a National Government in its relations with other nations, including the most essential one of regulating foreign commerce, with the effective means of fulfilling the obligation and responsibility of the United States to other nations. Hence it was that the term national was at once so readily applied to the new Government, and that it has become so universal and familiar. It may safely be affirmed that the same would have been the case, whatever name might have been given to it by the propositions of Mr. Randolph or by the Convention. A Government which alone is known and acknowledged by all foreign nations, and alone charged with the international relations, could not fail to be deemed and called at home a National Government.

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After all, in discussing and expounding the character and import of a Constitution, let candour decide whether it be not more reasonable and just to interpret the name or title by facts on the face of it, than to torture the facts by a bed of Procrustes into a fitness to the title.

Writings of Madison, Volume 4: 1829-1836, p.287

I must leave it to yourself to judge whether this exposition of the resolutions in question be not sufficiently reasonable to protect them from the imputation of a consolidating tendency, and still more, the Virginia Deputies from having that for their object.

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With regard to Mr. Randolph particularly, is not some respect due to his public letter to the Speaker of the House of Delegates, in which he gives for his refusal to sign the Constitution, reasons irreconcilable with the supposition that he could have proposed the resolutions in a [the?] meaning charged on him? Of Colonel Mason, who also refused, it may be inferred, from his avowed reasons, that he could not have acquiesced in the propositions if understood or intended to effect a consolidated Government.

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So much use has been made of Judge Yates's minutes of the debates in the Convention, that I must be allowed to remark that they abound in inaccuracies, and are not free from gross errors, some of which do much injustice to the arguments and opinions of particular members. All this may be explained without a charge of wilful misrepresentation, by the very desultory manner in which his notes appear to have been taken; his ear catching particular expressions and losing qualifications of them; and by prejudices giving to his mind all the bias which an honest one could feel. He and his colleague were the representatives of the dominant party in New York, which was opposed to the Convention and the object of it; which was averse to any essential change in the Articles of Confederation; which had inflexibly refused to grant even a duty of five per cent. on imports for the urgent debts of the Revolution; which was avail-ing itself of the peculiar situation of New York for taxing the consumption of her neighbours; and which foresaw that a primary aim of the Convention would be to transfer from the States to the common authority the entire regulation of foreign commerce. Such were the feelings of the two Deputies, that, on finding the Convention bent on a radical reform of the Federal system, they left it in the midst of its discussions, and before the opinions and views of many of the members were drawn out to their final shape and practical application.

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Without impeaching the integrity of Luther Martin, it may be observed of him also, that his report of the proceedings of the Convention, during his stay in it, shows, by its colourings, that his feelings were but too much mingled with his statements and inferences. There is good ground for believing that Mr. Martin himself became sensible of this, and made no secret of his regret, that in his address to the Legislature of his State, he had been betrayed, by the irritated state of his mind, into a picture that might do injustice both to the body and to particular members.

To W. C. Rives.

MONTPELLIER, March 12, 1833.

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DEAR SIR,—I have received your very kind letter of the 6th, from Washington, and by the same mail a copy of your late speech in the Senate,\* for which I tender my thanks. I have found, as I expected, that it takes a very able and enlightening view of its subject. I wish it may have the effect of reclaiming to the doctrine and language held by all from the birth of the Constitution, and till very lately by themselves, those who now contend that the States have never parted with an atom of their sovereignty; and, consequently, that the constitutional band which holds them together is a mere league or partnership, without any of the characteristics of sovereignty or nationality.

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It seems strange that it should be necessary to disprove this novel and nullifying doctrine; and stranger still that those who deny it should be denounced as innovators, heretics, and apostates. Our political system is admitted to be a new creation—a real nondescript. Its character, therefore, must be sought within itself, not in precedents, because there are none; not in writers whose comments are guided by precedents. Who can tell, at present, how Vattel and others of that class would have qualified (in the Gallic sense of the term) a compound and peculiar system with such an example of it as ours before them?

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What can be more preposterous than to say that the States, as united, are in no respect or degree a nation, which implies sovereignty; although acknowledged to be such by all other nations and sovereigns, and maintaining, with them, all the international relations of war and peace, treaties, commerce, &c.; and, on the other hand, and at the same time, to say that the States separately are completely nations and sovereigns, although they can separately neither speak nor hearken to any other nation, nor maintain with it any of the international relations whatever, and would be disowned as nations if presenting themselves in that character?

Writings of Madison, Volume 4: 1829-1836, p.290

The nullifiers, it appears, endeavor to shelter themselves under a distinction between a delegation and a surrender of powers. But if the powers be attributes of sovereignty and nationality, and the grant of them be perpetual, as is necessarily implied, where not otherwise expressed, sovereignty and nationality according to the extent of the grant are effectually transferred by it, and a dispute about the name is but a battle of words. The practical result is not indeed left to argument or inference. The words of the Constitution are explicit that the Constitution and laws of the United States shall be supreme over the constitution and laws of the several States; supreme in their exposition and execution, as well as in their authority. Without a supremacy in these respects, it would be like a scabbard in the band of a soldier without a sword in it. The imagination itself is startled at the idea of twenty-four independent expounders of a rule that cannot exist but in a meaning and operation the same for all.

Writings of Madison, Volume 4: 1829-1836, p.290

The conduct of South Carolina has called forth not only the question of nullification, but the more formidable one of secession. It is asked whether a State, by resuming the sovereign form in which it entered the Union, may not of right withdraw from it at will. As this is a simple question, whether a State, more than an individual, has a right to violate its engagements, it would seem that it might be safely left to answer itself. But the countenance given to the claim shows that it cannot be so lightly dismissed. The natural feelings which laudably attach the people composing a State to its authority and importance, are at present too much excited by the unnatural feelings with which they have been inspired against their brethren of other States not to expose them to the danger of being misled into erroneous views of the nature of the Union and the interest they have in it. One thing, at least, seems to be too clear to be questioned; that while a State remains within the Union it cannot withdraw its citizens from the operation of the Constitution and laws of the Union. In the event of an actual secession without the consent of the co-States, the course to be pursued by these involves questions painful in the discussion of them. God grant that the menacing appearances which obtruded it may not be followed by positive occurrences requiring the more painful task of deciding them!

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In explaining the proceedings of Virginia in 1798-99, the state of things at that time was the more properly appealed to as it has been too much overlooked. The doctrines combated are always a key to the arguments employed. It is but too common to read the expressions of a remote period through the modern meaning of them, and to omit guards against misconstruction not anticipated. A few words with a prophetic gift might have prevented much error in the proceedings. The remark is equally applicable to the Constitution itself.

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Having thrown these thoughts on paper in the midst of interruptions, added to other dangers of inaccuracy, I will ask the favor of you to return the letter after perusal. I have latterly taken this liberty with more than one of my corresponding friends, and every lapse of very short periods becomes now a fresh apology for it.

Writings of Madison, Volume 4: 1829-1836, p.291

Neither Mrs. Madison nor myself have forgotten the promised visit, which included Mrs. Rives, and we flatter ourselves the fulfilment of it will not be very distant. Meanwhile we tender to you both our joint and affectionate salutations.

Writings of Madison, Volume 4: 1829-1836, p.291

P. S. I enclose a little pamphlet received a few days ago, which so well repaid my perusal that I submit it to yours, to be returned only at your leisure. It is handsomely written, and its matter well chosen and interesting. A like task as well executed in every State would be of historical value; the more so as the examples might both prompt and guide researches, not as yet too late, but rapidly becoming so.

To Baron De Humboldt.

MARCH 12, 1833.

Writings of Madison, Volume 4: 1829-1836, p.292

Will you permit me, my dear Baron, after such an oblivious lapse of time, to recall myself to you by a few lines introducing Professor Hoffman, who fills, with distinguished qualifications, the Chair of Law in the University of Maryland? He is about to take a look at Europe, and will be particularly gratified by an opportunity of paying his respects to one whose fruitful genius, philosophical researches, and moral excellences, have given him so high a rank everywhere among the benefactors of science and humanity.

Mr. Hoffman will be able to give you whatever information may be desired concerning his own country, in the destinies of which you have taken a philanthropic interest. You intimated once, that the unscrutinized region of which it makes a part offered physical attractions to another voyage across the Atlantic. To those would now be added a different one in the effect of our political institutions in a period of twenty years on our national growth, features, and condition.

Writings of Madison, Volume 4: 1829-1836, p.292

There may be little hope now that a fulfilment of your original intention would be compatible with the many interesting demands on your time elsewhere. I can only assure you, therefore, that on a more favorable supposition, you would nowhere be welcomed by more general gratulations than among the citizens of the United States; and that if the contingency should fall within the short span of life remaining to me, I shall be second to none of them in the sincerity of mine.

Writings of Madison, Volume 4: 1829-1836, p.292

Mrs. Madison, not having forgotten the pleasure afforded by the few social days passed at Washington, begs to be joined in the homage and all the good wishes which I pray you to accept.

To Daniel Webster.

MONTPELLIER, March 15, 1833.

Writings of Madison, Volume 4: 1829-1836, p.203

DEAR SIR,—I return my thanks for the copy of your late very powerful speech in the Senate of the United States. It crushes "nullification," and must hasten the abandonment of "secession." But this dodges the blow, by confounding the claim to secede at will with the right of seceding from intolerable oppression. The former answers itself, being a violation, without cause, of a faith solemnly pledged. The latter is another name only for revolution, about which there is no theoretic controversy. Its double aspect, nevertheless, with the countenance received from certain quarters, is giving it a popular currency here which may influence the approaching elections both for Congress and for the State Legislature. It has gained some advantage, also, by mixing itself with the question whether the Constitution of the United States was formed by the people or by the States, now under a theoretic discussion by animated partisans.

Writings of Madison, Volume 4: 1829-1836, p.203

It is fortunate when disputed theories can be decided by undisputed facts. And here the undisputed fact is, that the Constitution was made by the people, but as imbodied into the several States who were parties to it, and, therefore, made by the States in their highest authoritative capacity. They might, by the same authority and by the same process, have converted the Confederacy into a mere league or treaty; or continued it with enlarged or abridged powers; or have imbodied the people of their respective States into one people, nation, or sovereignty; or, as they did by a mixed form, make them one people, nation, or sovereignty for certain purposes, and not so for others.

Writings of Madison, Volume 4: 1829-1836, p.203

The Constitution of the United States being established by a competent authority, by that of the sovereign people of the several States who were the parties to it, it remains only to inquire what the Constitution is; and here it speaks for itself. It organizes a government into the usual legislative, executive, and judiciary departments; invests it with specified powers, leaving others to the parties to the Constitution; it makes the Government, like other governments, to operate directly on the people; places at its command the needful physical means of executing its powers; and, finally, proclaims its supremacy, and that of the laws made in pursuance of it, over the constitutions and laws of the States; the powers of the Government being exercised, as in other elective and responsible governments, under the control of its constituents, the people and legislatures of the States, and subject to the revolutionary rights of the people in extreme cases.

Writings of Madison, Volume 4: 1829-1836, p.294

It might have been added, that while the Constitution, therefore, is admitted to be in force, its operation in every respect must be precisely the same, whether its authority be derived from that of the people in the one or the other of the modes in question, the authority being equally competent in both; and that, without an annulment of the Constitution itself, its supremacy must be submitted to.

Writings of Madison, Volume 4: 1829-1836, p.294

The only distinctive effect between the two modes of forming a constitution by the authority of the people, is, that if formed by them as imbodied into separate communities, as in the case of the Constitution of the United States, a dissolution of the constitutional compact would replace them in the condition of separate communities, that being the condition in which they entered into the compact; whereas, if formed by the people as one community, acting as such by a numerical majority, a dissolution of the compact would reduce them to a state of nature, as so many individual persons. But while the constitutional compact remains undissolved, it must be executed according to the forms and provisions specified in the compact. It must not be forgotten that compact, express or implied, is the vital principle of free governments as contradistinguished from governments not free; and that a revolt against this principle leaves no choice but between anarchy and despotism.

To Joseph C. Cabell.

MONTPELLIER, April 1, 1833.

Writings of Madison, Volume 4: 1829-1836, p.294

DEAR SIR,—I received, by the last mail, yours from Albe-marle, with the documents referred to. That from Nelson, with its accompaniments, had previously come to hand. I regret much my loss of a visit which I was so near being favoured with. Besides the personal gratifications it would have afforded me, we could not well have been together without touching on topics not personal, and on which our ideas might be worth interchanging.

Writings of Madison, Volume 4: 1829-1836, p.295

As to the suggestion of a pamphlet comprising some of my letters on constitutional questions, it may be remarked that this has, as I understand, been lately done with respect to some of them—those to Mr. Everett and Mr. Ingersoll, if no more. Nor could such a task be now executed in time for any critical influence on public opinion. Whether it may become expedient during the next winter will be decided by the intermediate turn and complexion of the politics of the country.

Writings of Madison, Volume 4: 1829-1836, p.295

I had noticed the charge of inconsistency against me, but it had been so often refuted on different occasions and from different quarters, that I was content to let it die of its wounds. There would, indeed, be no end to refutations if applied to every repetition of unfounded imputations. The attempt to prove me a nullifier, by a misconstruction of the resolutions of 1798-99, though so often and so lately corrected, was, I observe, renewed some days ago in the Richmond Whig, by an inference from an erasure in the House of Delegates from one of those resolutions, of the words, "are null, void, and of no effect," which followed the word "constitutional." These words, though synonymous with "unconstitutional," were alleged by the critic to mean nullification; and being, of course, ascribed to me, I was, of course, a nullifier. It seems not to have occurred, that if the insertion of the words could convict me of being a nullifier, the erasure of them [unanimous, I believe] by the Legislature was the strongest of protests against the doctrine; a consideration of infinitely more importance than any opinion of mine, if real, could be. The vote in that case seems not to have engaged the attention due to it. It not merely deprives South Carolina of the authority of Virginia, on which she has relied and exulted so much in support of her cause, but turns that authority pointedly against her.

Writings of Madison, Volume 4: 1829-1836, p.296

In referring to this incident I am reminded of another erasure from one of the resolutions. After the word "States," as parties to the compact, the word "alone" was inserted. This was unanimously stricken out. I was always at a loss for the reason, till it was lately stated, on the authority of Mr. Giles, that the word was considered by some as excluding the people of a State from being a party to the compact. The word was not meant to guard against that misconstruction, which was not apprehended, the people being the State itself when acting in its highest capacity, but to exclude the idea of the State governments or the Federal Government being a party. The common notion previous to our Revolution had been, that the governmental compact was between the Governors and the governed; the former stipulating protection, the latter allegiance. So familiar was this view of the subject that it slipped into the speech of Mr. Hayne on Foot's resolution, and produced the prostrating reply of Mr. Webster. So apt, also, was the distinction between a State and its government to be overlooked, that Judge Roane, with all his sagacity and orthodoxy, was betrayed into a language that made the State government a party to the constitutional compact of the United States. In the fifth letter of his "Algernon Sidney," he says: "If without this jurisdiction [of the Supreme Court of the United States] now claimed, it is alleged that danger will ensue to the constitutional rights of the General Government, let us not forget that there is another party to the compact. That party is the State governments, who ought not to be deprived of their only defensive armour."

Writings of Madison, Volume 4: 1829-1836, p.296

What an example is here, where it would be so little looked for, of the erroneous and one-sided view so often taken of the relations between the Federal and the State governments! Is it not obvious that the jurisdiction claimed for the States is not their only defensive armour? and that another and more complete defence is in the responsibility of the Federal Government to the people and Legislatures of the States as its constituents? whereas the jurisdiction claimed for the Federal Judiciary is truly the only defensive armour of the Federal Government, or, rather, for the Constitution and laws of the United States. Strip it of that armour, and the door is wide open for nullification, anarchy, and convulsion, unless twenty-four States, independent of the whole and of each other, should exhibit the miracle of a voluntary and unanimous performance of every injunction of the parchment compact.

Writings of Madison, Volume 4: 1829-1836, p.297

I must not let the occasion pass without congratulating you on your successful progress in the arduous and patriotic plan of connecting the West and the East by a route through Virginia. I wish you may continue to triumph over all the difficulties to be encountered. Such works are among the antidotes to the poisonous doctrines of disunion, as well as otherwise of the most beneficial tendencies.

To George W. Bassett,

Chairman of the Monumental Committee.

MONTPELLIER, April 30, 1833.

Writings of Madison, Volume 4: 1829-1836, p.297

DEAR SIR,—I have received your letter of the 25th instant, which requests my company at the laying of the corner-stone of the proposed Monument to the memory of the Mother of Washington.

Writings of Madison, Volume 4: 1829-1836, p.297

I feel much regret that my very advanced age, to which is added a continued indisposition, will not permit me to be present on an occasion commemorative of the mother of him who was the Father of his own Country, and has left in his example and his counsels a rich legacy to every country.

Writings of Madison, Volume 4: 1829-1836, p.297

Be pleased to accept, sir, for yourself and your colleagues of the Monumental Committee, the expression of my cordial respects.

To Benjamin F. Papoon.

MONTPELLIER, May 18, 1833.

Writings of Madison, Volume 4: 1829-1836, p.297

DEAR SIR,—Your favor of the 13th ult. was duly received, and I thank you for the communication.

Writings of Madison, Volume 4: 1829-1836, p.298

It Cannot be doubted that the rapid growth of the individual States in population, wealth, and power must tend to weaken the ties which bind them together. A like tendency results from the absence and oblivion of external danger, the most powerful control on disuniting propensities in the parts of a political community. To these changes in the condition of the States, impairing the cement of their union, are now added the language and zeal which inculcate an incompatibility of interests between different sections of the country, and an oppression on the minor by the major section, which must engender in the former a resentment amounting to serious hostility.

Writings of Madison, Volume 4: 1829-1836, p.298

Happily these alienating tendencies are not without counter tendencies, in the complicated frame of our political system; in the geographical and commercial relations among the States, which form so many links and ligaments, thwarting a separation of them; in the gradual diminution of conflicting interests between the great sections of country, by a surplus of labour in the agricultural section, assimilating it to the manufacturing section; or by such a success of the latter, without obnoxious aids, as will substitute for the foreign supplies which have been the occasion of our discords, those internal interchanges which are beneficial to every section; and, finally, in the obvious consequences of disunion, by which the value of union is to be calculated.

Writings of Madison, Volume 4: 1829-1836, p.298

Still the increasing self-confidence felt by the members of the Union, the decreasing influence of apprehensions from without, and the natural aspirations of talented ambition for new theatres, multiplying the chances of elevation in the lottery of political life, may require the co-operation of whatever moral canoes may aid in preserving the equilibrium contemplated by the theory of our compound Government. Among these causes may justly be placed appeals to the love and pride of country; and few could be made in a form more touching than a well-executed picture of the magical effect of our national emblem, in converting the furious passions of a tumultuous soldiery into an enthusiastic respect for the free and united people whom it represented.

Writings of Madison, Volume 4: 1829-1836, p.299

How far the moral effect of the proposed exhibition may be countervailed by charging it with a party, instead of a national object, I cannot judge. That it should have originated in South Carolina may be well accounted for by the recent occurrences in that State, and particularly by the circumstance that the prominent figure in the scene was one of her gallant and patriotic sons. Should the original painting be consigned to a national depository, it will so far also give a nationality to its character and object.

Writings of Madison, Volume 4: 1829-1836, p.299

The tenor of your polite and friendly letter has led me into observations some of which may be more free than pertinent. I let them pass, however, in a letter which is marked private. Every day added to my prolonged life increases my anxiety not to be brought into public view. When age becomes an answer to argument, as it usually does at a period much short of mine, it is a signal for self-distrust as well as for avoiding obtrusions on public attention.

Writings of Madison, Volume 4: 1829-1836, p.299

I owe you an apology for so tardy an acknowledgment of your favor. Such has been latterly the state of my health, as to require a respite from the use of the pen.

To Henry Clay.

JUNE, 1833.

Writings of Madison, Volume 4: 1829-1836, p.299

DEAR SIR,—Your letter of May 28 was duly received. In it you ask my opinion on the retention of the land bill by the President.

Writings of Madison, Volume 4: 1829-1836, p.299

It is obvious that the Constitution meant to allow the President an adequate time to consider the bills, &c., presented to him, and to make his objections to them; and, on the other hand, that Congress should have time to consider and overrule the objections. A disregard on either side of what it owes to the other must be an abuse for which it would be responsible under the forms of the Constitution. An abuse on the part of the President, with a view sufficiently manifest, in a case of sufficient magnitude to deprive Congress of the opportunity of overruling objections to their bills, might doubtless be a ground for impeachment. But nothing short of the signature of the President, or a lapse of ten days without a return of his objections, or an overruling of the objections by two-thirds of each House of Congress, can give legal validity to a bill. In order to qualify [in the French sense of the term] the retention of the land bill by the President, the first inquiry is, whether a sufficient time was allowed him to decide on its merits; the next, whether, with a sufficient time to prepare his objections, he unnecessarily put it out of the power of Congress to decide on them. How far an anticipated passage of the bill ought to enter into the sufficiency of the time for Executive deliberation is another point for consideration. A minor one may be, whether a silent retention, or an assignment to Congress of the reasons for it, be the mode most suitable to such occasions.

Writings of Madison, Volume 4: 1829-1836, p.300

I hope, with you, that the compromising tariff will have a course and effect avoiding a renewal of the contest between the South and the North, and that a lapse of nine or ten years will enable the manufacturers to swim without the bladders which have supported them. Many considerations favour such a prospect. They will be saved in future much of the expense in fixtures which they had to encounter, and in many instances unnecessarily incurred. They will be continually improving in the management of their business. They will not fail to improve occasionally on the machinery abroad. The reduction of duties on imported articles consumed by them will be equivalent to a direct bounty. There will probably be an increasing cheapness of food from the increasing redundancy of agricultural labour. There will, within the experimental period, be an addition of four or five millions to our population, no part or little of which will be needed for agricultural labour, and which will consequently be an extensive fund of manufacturing recruits. The current experience makes it probable that not less than fifty or sixty thousand, or more, of emigrants will annually reach the United States, a large proportion of whom will have been trained to manufactures and be ready for that employment.

Writings of Madison, Volume 4: 1829-1836, p.301

With respect to Virginia, it is quite probable, from the progress already made in the Western culture of tobacco, and the rapid exhaustion of her virgin soil, in which alone it can be cultivated with a chance of profit, that, of the forty or fifty thousand labourers on tobacco, the greater part will be released from that employment and be applicable to that of manufactures. It is well known that the farming system requires much fewer hands than tobacco fields.

Writings of Madison, Volume 4: 1829-1836, p.301

Should a war break out in Europe, involving the manufacturing nations, the rise of the wages there will be another brace to the manufacturing establishments here. It will do more; it will prove to the "absolutists" for free trade that there is, in the contingency of war, one exception at least to their theory.\*

Writings of Madison, Volume 4: 1829-1836, p.301

It is painful to observe the unceasing efforts to alarm the South by imputations against the North of unconstitutional designs on the subject of the slaves. You are right, I have no doubt, in believing that no such intermeddling disposition exists in the body of our Northern brethren. Their good faith is sufficiently guarantied by the interest they have as merchants, as ship-owners, and as manufacturers, in preserving a union with the slaveholding States. On the other hand, what madness in the South to look for greater safety in disunion. It would be worse than jumping out of the frying-pan into the fire: it would be jumping into the fire for fear of the frying-pan. The danger from the alarm is, that the pride and resentment exerted by them may be an over-match for the dictates of prudence, and favor the project of a Southern Convention, insidiously revived, as promising, by its councils, the best securities against grievances of every sort from the North.

Writings of Madison, Volume 4: 1829-1836, p.301

The case of the tariff and land bills cannot fail of an influence on the question of your return to the next session of Congress. They are both closely connected with the public repose.

To P. R. Fendall.

MONTPELLIER, JUNE 12, 1833.

Writings of Madison, Volume 4: 1829-1836, p.302

DEAR SIR,—I have received your letter of the 6th instant, containing, among other communications on the part of the Managers of the Colonization Society, [?] the exhausted state of its treasury. This is the more to be lamented, as it is in one view an indication [un?] favorable to the interesting object for which the Society was formed. I hope the late circular appeal of the Board of Managers to the friends of that object will not be without effect.

Writings of Madison, Volume 4: 1829-1836, p.302

You will be so good as to place the inclosed fifty dollars in the proper depository, and to accept my friendly salutations.

To Benjamin Waterhouse.

MONTPELLIER, June 21, 1833.

Writings of Madison, Volume 4: 1829-1836, p.302

DEAR SIR,—Your letter of the 30th ult. was duly received with the little volume to which it refers. The facts contained in this are an acceptable appendix to the stock of information on a subject which has awakened much curiosity. I the less wonder at the relish shewn for such a treat as you have provided, considering the plums and the sauce you have added to the pudding.

Writings of Madison, Volume 4: 1829-1836, p.302

Although the state of my eyes permits me to read but little, and my rheumatic fingers abhor the pen, I did not resist the attraction of your literary present, and I drop you a line to thank you for it. Mrs. Madison's eyes being in the same state with mine, we found it convenient to read in a sort of partnership; and you may consider her as a partner also in the thanks for it. Should you enlarge a new edition, as you hint, by the introduction of a Pocahontas or two among the dramatis personæ, the redness of the skin would not, in her eyes, impair the merits it would cover. She offers a return of your kind remembrances, and joins me in the cordial respects and all good wishes which I pray you to accept.

To Professor Tucker.

JULY 6, 1833.

Writings of Madison, Volume 4: 1829-1836, p.303

DEAR SIR,—I inclose my answers to two letters from Mr. Jefferson referred to in your inquiries through Dr. Dunglison. They are in the form of extracts, the answers, one of them more particularly, containing irrelative paragraphs not free from delicate personalities. You will have noticed the letter of Mr. Jefferson to Dr. Gem immediately following that of Sepr 6 [1789] to me, as explaining the age of a generation.

Writings of Madison, Volume 4: 1829-1836, p.303

My letter of Octr 17, '88, appears to have been written currente calamo. Perhaps an extract from the extract may suffice for your purpose.

Writings of Madison, Volume 4: 1829-1836, p.303

The objection to the power of treaties made by the States had, as noted in my letter of Oct., '88, particular reference to the British Treaty on the subject of debts, the source of so much subsequent agitation.

Writings of Madison, Volume 4: 1829-1836, p.303

It is observable that Mr. Jefferson, in his letter of March 15, '89, says, "this instrument [the Constitution of U. S.] forms us into one State, for certain objects," &c. In a number of other places, if I mistake not, he speaks of the Constitution as making us one people and one nation for certain purposes. Yet his authority is made to support the doctrine that the States have parted with none of their sovereignty or nationality.

To W. C. Rives.

MONTPELLIER, August 2, 1833.

Writings of Madison, Volume 4: 1829-1836, p.303

Your favor of the 28 ult. was, my dear sir, duly received. I thank you for Mr. Tyler's pamphlet, with the accompanying newspaper; and I thank you still more for the friendly disposition you express on the subjects of them, as they relate to me. If I mistake not, Mr. T. has omitted in his pamphlet a passage in the newspaper edition of his speech, which was levelled against the Virginia Deputies to the Convention of 1787 generally, as well as against Mr. Randolph and myself.

Writings of Madison, Volume 4: 1829-1836, p.304

Should my health permit, which has varied a little the wrong way latterly, I will endeavor to point to some of the errors of "Mutius," if not of Mr. T. also, in the views they have taken of my political career.

Writings of Madison, Volume 4: 1829-1836, p.304

Dr. Mason and his companion called on me last evening and left me this morning, duly impressed with their title to your introduction. I learnt from them, that, with Mrs. Rives, you will soon be under weigh [way?] for the Springs, and, of course, for some time beyond any communication with you. I hope the excursion will have every advantage in confirming your health. We are glad to understand that the health of Mrs. Rives needs no aid of any sort. Mrs. Madison joins in respectful and affectionate salutations to you both.

To Gales & Seaton.

AUGUST 5, 1833.

Writings of Madison, Volume 4: 1829-1836, p.304

I have received your letter of the 29th ulto. The task in which you are engaged is a very interesting one, and I should feel much pleasure in aiding your researches for the necessary materials. But my recollections are very barren.

Writings of Madison, Volume 4: 1829-1836, p.304

I know of no "debates" during the period of Lloyd's, but his, which are very defective and abound in errors, some of them very gross, where the speeches were not revised by the authors. If there be any depositories of what passed, they must be the cotemporary newspapers or periodicals, to be found, I presume, in public Libraries. Whilst Congress sat in New York, Fenno was the printer most to be looked to. On the removal to Philadelphia, Freneau's National Gazette was the favorite of the other party, and contains reports of the debates, at least in some instances, when the speakers revised them. Whether the same be not in Fenno, also, or in other Gazettes of the day, or republished in Carey's Museum, or other periodicals, I cannot say. If there be any difference between Freneau and Fenno in a speech of mine, Freneau gives the correct one. Freneau's Gazette, I should suppose, would be among the bound newspapers in the Library of Mr. Jefferson, now in that of Congress. Callender and Carpenter took the debates at one period; but they, probably make a part of those published by Fenno, Brown, Dunlap, and Duane.

Writings of Madison, Volume 4: 1829-1836, p.305

I do not possess a manuscript copy of a single speech, having never written one beforehand, nor corrected the reporter's notes of one beyond making it faithful in substance, and to be reported as such in the third, not in the first person.

Writings of Madison, Volume 4: 1829-1836, p.305

You yielded too much to an apprehension that a visit might not in my condition be convenient to me. You would have been welcomed with the respect and cordiality of which I now beg you to accept the assurance.

To Thomas S. Grimke.

AUGUST 10, 1833.

Writings of Madison, Volume 4: 1829-1836, p.305

DR SIR,—I owe you many thanks for the several communications with which you have from time to time favored me since the date of my last; and I owe you many apologies for the delay in acknowledging them. The last favors just received are your "Oration on the 4th of July," and your "letter on temperance." In all of them I recognise the same ability, accurate information, and eloquence, the same vein of patriotic solicitude and Christian benevolence, by which your pen has always been characterized. My present knowledge has discovered a few errors of fact in some of the political passages, which future lights may correct.

Writings of Madison, Volume 4: 1829-1836, p.305

I owe you a special apology for so long failing to comply with your request on the subject of autographs. I must do myself the justice, at the same time, of saying that I have never entirely lost sight of it. But the thief, "procrastination," has taken advantage of the clumsiness of my rheumatic hands, the crowd of my epistolary files, and the uncertainty as to the names which you may already possess. If you will be so obliging as to make a note of these, I will add with real pleasure such of those deemed worthy of selection as my pigeon-holes will now furnish.

Writings of Madison, Volume 4: 1829-1836, p.306

I congratulate you on the effect of the comprising [compromis-ing] anodyne adopted by Congress. I hope it will keep the patient quiet, notwithstanding the renewed attempts to disturb him, till the "vis medicatrix" of time and a good constitution shall produce a permanent state of health.

To Major H. Lee.

AUGUST 14, 1833.

Writings of Madison, Volume 4: 1829-1836, p.306

SIR,—I have received your letter of June 5th under cover of one to Mr. P. A. Jay, of New York. I find that you have been misled on the subject of Mr. Jefferson's letter to me of December 28, 1794, by an unlucky misprint of Jay for Joy, [G. Joy, in London,] the writer of the letter to which Mr. Jefferson refers. This letter has no reference to Mr. Jay, nor to anything that could be within the scope of your conjectures.

Writings of Madison, Volume 4: 1829-1836, p.306

My great age, now considerably advanced into its 83d year with the addition of much disease to the usual infirmities incident to it, would alone forbid my engaging in the heavy task of correcting the "statements and inferences" in your "observations on the writings of Mr. Jefferson." I will not, however, suppress the brief remark, that if you had consulted the files of your father, you would have seen in his correspondence with me that he was among the harshest censors of the policy and measures of the Federal Government during the first term of Washington's Administration. You would have seen, also, that he patronized the Gazette of Mr. Freneau, and was anxious to extend the circulation of its strictures on the Administration through another Gazette. He had, indeed, a material agency in prevailing on Freneau, with whom he had been, as was the case with me, a College mate, to comply with Mr. Jefferson's desire of establishing him at the seat of Government.

To Peter Augustus Jay.

MONTPELLIER, Augst 14, 1833.

Writings of Madison, Volume 4: 1829-1836, p.307

SIR,—Your letter of the 8th instant, inclosing one from Major H. Lee, has been duly received. On recurring to the original letter of Decr 28, 1794, from Mr. Jefferson to me, it appears that both of you have been misled on the occasion of it, by an unlucky misprint of Jay for Joy, [G. Joy, in London,] the writer of the letter to me, referred to by Mr. Jefferson. This letter has no reference to your father, or to any subject connected with him or with Major Lee.

Writings of Madison, Volume 4: 1829-1836, p.307

I must ask the favor of you to let the inclosed letter pass under cover of your answer to Major Lee.

To Edward Everett.

AUGUST 22d, 1833.

Writings of Madison, Volume 4: 1829-1836, p.307

DEAR SIR,—I received in due time the copy of your address at Worcester on the last 4th of July, and I tender my thanks for it. Its value is enhanced by the recurrence to remote events interesting to the history of our country. It would be well if all our anniversary Orators would follow the example of substituting for part at least of their eloquent repetitions, occurrences now new because they have become old, and which would be acceptable contributions to the general reservoir from which the historian must draw the materials for his pen.

To James B. Longacre.

AUGUST 27, 1833.

Writings of Madison, Volume 4: 1829-1836, p.307

DEAR SIR,—I have duly received your letter of the 21 instant. I am aware of the wish you naturally feel for such a biographical sketch of me as will preserve a uniformity in your Gallery, and I am glad that you are sensible of the control I may feel in supplying materials for it.

Writings of Madison, Volume 4: 1829-1836, p.307

A friend will attempt a brief chronicle of my career, with, perhaps, a few remarks and references, and will forward the paper when prepared.

Writings of Madison, Volume 4: 1829-1836, p.308

Mrs. M. is much gratified by the impressions you carried from Montpelier, and desires me to say in reply to your letter to her, as I do for myself, that a hospitality so well merited is greatly overpaid by the terms in which you speak of it.

To W. A. Duer.

SEPTEMBER, 1833.

Writings of Madison, Volume 4: 1829-1836, p.308

DEAR SIR,—I have received your letter of the 28th ult., in-closing the outlines of your work on the Constitutional Jurisprudence of the United States. The object of the work is certainly important and well chosen, and the plan marked out in the analysis gives full scope for the instructive execution which is anticipated. I am very sensible, sir, of the friendly respect which suggested my name for the distinguished use made of it, and I am not less so of the too partial terms which are applied to it.

Writings of Madison, Volume 4: 1829-1836, p.308

As an attention to the design. of the work is invited from me as "the Head of the University of Virginia," as well as an individual, it is proper for me to observe, that I am but the presiding member of a Board of Visitors; that the superintendence of the Institution is in the Faculty of Professors. with a chairman annually appointed by the Visitors; and that the choice of text and class books is left to the Professors respectively. The only exception is in the school of law, in which the subject of Government is included, and on that the Board of Visitors have prescribed as text authorities, "The Federalist," the Resolutions of Virginia in 1798, with the comment on them in '99, and Washington's Farewell Address. The use, therefore, that will be made of any analogous publications will depend on the discretion of the Professor himself. His personal opinions, I believe, favor very strict rules .of expounding the Constitution of the U. States.

Writings of Madison, Volume 4: 1829-1836, p.308

I shall receive, sir, with thankfulness, the promised volume, with the outlines of which I have been favored; though such is the shattered state of my health, added to the 83d year of my age, that I fear I may be little able to bestow on it all the attention I might wish, and doubt not it will deserve. I can the less calculate the degree in which my views of the Constitution accord with or vary from yours, as I am so imperfectly acquainted with the authorities to which I infer yours are in the main conformable.

Writings of Madison, Volume 4: 1829-1836, p.309

I had, as you recollect, an acquaintance with your father, to which his talents and social accomplishments were very attractive; and there was an incidental correspondence between us, interchanging information at a critical moment when the elections and State conventions which were to decide the fate of the new Constitution were taking place. You are, I presume, not ignorant that your father was the author of several papers auxiliary to the numbers in the "Federalist." They appeared, I believe, in the Gazette of Mr. Childs.

To W. C. Rives.

MONTPELLIER, October 21, 1833.

Writings of Madison, Volume 4: 1829-1836, p.309

DEAR SIR,—Your favor of the 4th was duly received. I had not forgotten the intention of which I am reminded by it; but unabated interruptions, added to my crippled health, have produced a delay which I could not avoid; and since I have had notice of your return from the Springs the same causes have operated. I found also, on the trial, more of tediousness in consulting documents and noting references than was anticipated. Such tasks are indeed particularly tedious with my clumsy fingers and fading vision. I have, however, at length sketched the paper now enclosed. It is not, as you will observe, in a form for the press. I have hitherto thought it better, gross as the misrepresentations of me have been, to let them die a natural death, than to expose myself to answers drawn from my age, or to a repetition of teasing calls on my personal knowledge after an appeal to it myself; and apart from these, to sophistries and false statements forcing me into the dilemma of a war with the pen, for which I am unfit, or a surrender of truth to persevering assailants. The topics and authorities I have referred to are accessible to all; and through a version of them in the idiom of another, some of them might speak for themselves better, perhaps, than through me as their organ.

Writings of Madison, Volume 4: 1829-1836, p.310

We look with equal confidence and pleasure for the promised visit of Mrs. Rives and yourself, and beg you both to be assured of our affectionate regards.

October, 1833.

Writings of Madison, Volume 4: 1829-1836, p.310

As the charges of "Mutius" are founded, in the main, on "Yates's Debates in the Federal Convention of 1787," it may be remarked, without impeaching the integrity of the reporter, that he was the representative in that body of the party in New York which was warmly opposed to the Convention, and to any change in the principles of the "Articles of Confederation;" that he was doubtless himself, at the time, under all the political bias which an honest mind could feel; that he left the Convention, as the journals show, before the middle of the session, and before the opinions or views of the members might have been developed into their precise and practical application; that the notes he took are, on the face of them, remarkably crude and desultory, having often the appearance of scraps and expressions, as the ear hastily caught them, with a liability to omit the sequel of an observation, or an argument which might qualify or explain it.

Writings of Madison, Volume 4: 1829-1836, p.310

With respect to inferences from votes in the journal of the Convention, it may be remarked, that, being unaccompanied by the reasons for them, they may often have a meaning quite uncertain, and sometimes contrary to the apparent one. A proposition may be voted for with a view to an expected qualification of it, or voted against as wrong in time or place, or as blended with other matter of objectionable import.

Writings of Madison, Volume 4: 1829-1836, p.310

Although such was the imperfection of Mr. Yates's notes of what passed in the Convention, it is on that authority alone that J. M. is charged with having said "that the States never possessed the essential rights of sovereignty; that these were always vested in Congress."

Writings of Madison, Volume 4: 1829-1836, p.311

It must not be overlooked, that this language is applied to the condition of the States, and to that of Congress, under "the Articles of Confederation." Now can it be believed that Mr. Yates did not misunderstand J. M. in making him say "that the States had then never possessed the essential rights of sovereignty," and that "these had always been vested in the Congress then existing?" The charge is incredible when it is recollected that the second of the Articles of Confederation emphatically declares "that each State retains its sovereignty, freedom, and independence, and every power, &c., which is not expressly delegated to the United States in Congress assembled."

Writings of Madison, Volume 4: 1829-1836, p.311

It is quite possible that J. M. might have remarked that certain powers, attributes of sovereignty, had been vested in Congress; for that was true as to the powers of war, peace, treaties, &c. But that he should have held the language ascribed to him in the notes of Mr. Yates is so far from being credible, that it suggests a distrust of their correctness in other eases where a strong presumptive evidence is opposed to it.

Writings of Madison, Volume 4: 1829-1836, p.311

Again, J. M. is made to say "that the States were only great political corporations, having the power of making by-laws; and these are effectual only if they were not contradictory to the general confederation."

Writings of Madison, Volume 4: 1829-1836, p.311

Without admitting the correctness of this statement in the sense it seems meant to convey, it may be observed that, according to the theory of the old Confederation, the laws of the States contradictory thereto would be ineffectual. That they were not so in practice is certain; and this practical inefficacy is well known to have been the primary inducement to the exchange of the old for the new system of government for the United States.

Writings of Madison, Volume 4: 1829-1836, p.311

Another charge against J. M. is an "opinion that the States ought to be placed under the control of the General Government, at least as much as they formerly were under the King and Parliament of Great Britain."

Writings of Madison, Volume 4: 1829-1836, p.312

The British power over the Colonies, as admitted by them, consisted mainly of—1. The royal prerogatives of war and peace, treaties, coinage, &c., with a veto on the colonial laws as a guard against laws interfering with the general law and with each other. 2. The parliamentary power of regulating commerce, as necessary to be lodged somewhere, and more conveniently there than elsewhere. These powers are actually vested in the Federal Government, with the difference that for the veto power is substituted the general provision that the Constitution and laws of the United States shall be paramount to the constitutions and laws of the States; and the farther difference, that no tax whatever should be levied by the British Parliament, even as a regulation of commerce; whereas, an indefinite power of taxation is allowed to Congress, with the exception of a tax on exports, a tax the least likely to be resorted to. When it is considered that the power of taxation is the most commanding of powers, the one which Great Britain contended for, and the Colonies resisted by a war of seven years; and when it is considered that the British government was in every branch irresponsible to the American people, while every branch of the Federal Government is responsible to the States and the people as their constituents, it might well occur, on a general view of the subject, that, in an effectual reform of the federal system, as much power might be safely intrusted to the new Government as was allowed to Great Britain in the old one.

Writings of Madison, Volume 4: 1829-1836, p.312

An early idea taken up by J. M., with a view to the security of a government, for the union and harmony of the State governments, without allowing to the former an unlimited and consolidated power, appears to have been a negative on the State laws, to be vested in the senatorial branch of the Government, but under what modifications does not appear. This, again, is made a special charge against him. That he became sensible of the obstacles to such an arrangement, presented in the extent of the country, the number of the States, and the multiplicity of their laws, cannot be questioned. But is it wonderful that, among the early thoughts on a subject so complicated and full of difficulty, one should have been turned to a provision in the compound, and, on this point, analogous system of which this country had made a part, substituting for the distant, the independent, and irresponsible authority of a king, which had rendered the provision justly odious, an elective and responsible authority within ourselves?

Writings of Madison, Volume 4: 1829-1836, p.313

It must be kept in mind that the radical defect of the old Confederation lay in the power of the States to comply with, to disregard, or to counteract the authorized requisitions and regulations of Congress; that a radical cure for this fatal defect was the essential object for which the reform was instituted; that all the friends of the reform looked for such a cure; that there could, therefore, be no question but as to the mode of effecting it. The Deputies of Virginia to the Convention, consisting of George Washington, Governor Randolph, &c., appear to have proposed a power in Congress to repeal the unconstitutional and interfering laws of the States. The proposed negative on them, as the Journals show, produced an equal division of the votes. In every proceeding of the Convention where the question of paramountship in the Union could be involved, the necessity of it appears to have been taken for granted. The mode of controlling the legislation of the States, which was finally preferred, has been already noticed. Whether it be the best mode experience is to decide. But the necessity of some adequate mode of preventing the States, in their individual characters, from defeating the constitutional authority of the States in their united character, and from collisions among themselves, had been decided by a past experience. [It may be thought not unworthy of notice that Col. Taylor regarded the control of the Federal Judiciary over the State laws as more objectionable than a legislative negative on them. See New Views, &c., p. 18; contra, see Mr. Jefferson, vol. ii, p. 163.]

Writings of Madison, Volume 4: 1829-1836, p.313

Mutius asks, "If the States possessed no sovereignty, how could J. M. demonstrate that the States retained a residuary sovereignty, and call for a solution of the problem?" He will himself solve it by answering the question, which is most to be believed, that J. M. should have been guilty of such an absurdity, or that Mr. Yates should have erred in ascribing it to him ?

Writings of Madison, Volume 4: 1829-1836, p.314

Mr. Yates himself says that J. M. expressed as much attachment to the rights of the States as to the trial by jury.

Writings of Madison, Volume 4: 1829-1836, p.314

By associating J. M. with Mr. Hamilton, who entertained peculiar opinions, Mutius would fain infer that J. M. concurred with those opinions. The inference would have been as good if he lind made Mr. Hamilton concur in all the opinions of J. M. That they agreed, to a certain extent, as the body of the Convention manifestly did, in the expediency of an energetic Government adequate to the exigencies of the Union, is true. But when Mutius adds, "that Mr. Hamilton and Mr. Madison advocated a system not only independent of the States, but which would have reduced them to the meanest municipalities," he failed to consult the recorded differences of opinion between the two individuals.

Writings of Madison, Volume 4: 1829-1836, p.314

Mutius, in his anxiety to discredit the opinions of J. M., endeavours to discredit the "Federalist," in which he bore a part, by observing, "that the work was no favourite with Mr. Jefferson." Mutius is probably ignorant of, and will be best answered by, the fact that Mr. Jefferson proposed, that, with the Declaration of Independence, the Valedictory of General Washington, and the Resolutions and Report of 1798-99, the Federalist should be, as it now is, a text-book in the University. He describes it as "being an authority to which appeal is habitually made by all, and rarely declined or denied by any, as evidence of the general opinion of those who framed and of those who accepted the Constitution of the United States, on questions as to its general meaning." See in vol. ii, p. 382. [He\* speaks of the Federalist "as being, in his opinion, the best commentary on the principles of Government that ever was written. In some parts, it is discoverable that the author meant only to say what may be best said in defence of opinions in which he did not concur. But, in general, it establishes firmly the plan of Government. I confess it has rectified me on several points. As to the Bill of Rights, however, I think it should still be added." This was materially affected by the amendments to the Constitution.]

Writings of Madison, Volume 4: 1829-1836, p.315

Mutius finds another charge against J. M. of inconsistency between the report of 1799 and his letter to Mr. Everett in 1830; a charge which he endeavours to support by a comparison of the following extracts from the documents, but which is deprived of all its force, or rather is turned against him by the plain distinction between the "last resort" within the forms of the Constitution and the ulterior resort to the authority which is paramount to the Constitution itself.\*

Extract from the Report of 1799, 1800.

Writings of Madison, Volume 4: 1829-1836, p.315

"However true it may be that the Judicial department is, in all questions submitted to it by the forms of the Constitution, to decide in the last resort, this resort must necessarily be deemed the last in relation to the authorities of the other departments of the Government, not in relation to the rights of the parties to the constitutional compact, for which the judicial as well as the other departments hold their delegated trusts. On any other hypothesis the delegation of judicial power would annul the authority delegating it; and the concurrence of this department with the others in usurped powers might subvert forever, and beyond the possible reach of any rightful remedy, the very Constitution which all were instituted to preserve.

Writings of Madison, Volume 4: 1829-1836, p.315

"It appears to your committee to be a plain principle, founded in common sense, illustrated by common practice, and essential to the nature of compacts, that when resort can be had to no tribunal superior to the authority of the parties, the parties themselves must be the rightful judges in the last resort, whether the bargain made has been pursued or violated. The States being the parties to the constitutional compact, and in their sovereign capacity, it follows, of necessity, that there can be no tribunal above their authority to decide in the last resort whether the compact made by them be violated; and, consequently, that as the parties to it they must themselves decide, in the last resort, such questions as may be of sufficient magnitude to require their interposition.

Writings of Madison, Volume 4: 1829-1836, p.316

"If the deliberate exercise of dangerous powers, palpably withheld by the Constitution, could not justify the parties to it in interposing even so far as to arrest the progress of the evil, and thereby to preserve the Constitution itself, as well as to provide for the safety of the parties to it, there would be an end to all relief from usurped power, and a direct subversion of tho rights specified or recognised under all the State constitutions, as well as a plain denial of the fundamental principle on which our independence was declared.

Writings of Madison, Volume 4: 1829-1836, p.316

"The authority of constitutions over governments, and of the sovereignty of the people over constitutions, are truths which are at all times necessary to be kept in mind, and at no time, perhaps, more necessary than at the present."

Extracts from Mr. Madison's letter to the Editor of the

North American Review, dated August, 1830.\*

Writings of Madison, Volume 4: 1829-1836, p.316

"It is true that, in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide is to be established under the General Government. But this does not change the principle of the case. The decision is to be impartially made, according to the rules of the Constitution, and all the usual and most effectual precautions are taken to secure this impartiality. Some such tribunal is clearly essential to prevent an appeal to the sword and a dissolution of the compact, and that it ought to be established under the general rather than under the local governments; or, to speak more properly, that it could be safely established under the first alone, is a position not likely to be combated." Having quoted the above from the Federalist,\* Mr. Madison proceeded and remarked, "that the Constitution is a compact; that its text is to be expounded according to the provisions for expounding it, making a part of the compact; and that none of the parties can rightfully renounce the expounding provision more than any other part. When such a right accrues, as it may accrue, it must grow out of the abuses of the compact, releasing the sufferers from their fealty to it."

Writings of Madison, Volume 4: 1829-1836, p.317

"In the event of a failure of every constitutional resort, and an accumulation of usurpations and abuses rendering passive obedience and non-resistence a greater evil than resistence and revolution, there can be but one resort, the last of all, an appeal from the cancelled obligations of the constitutional compact to original rights and the law of self-preservation. This is the ultima ratio under all governments."

Writings of Madison, Volume 4: 1829-1836, p.317

The positions in the report are, that although the Judiciary department is, in all questions submitted to it by the forms of the Constitution, to decide in the last resort, the resort is not the last in relation to the rights of the parties to the constitutional compact; that these, from whom the judicial as well as the other departments hold their delegated trust, are the rightful judges in the last resort, whether the compact has been pursued or violated. [This view of the subject appears, from the report itself, to have been specially called for by the extravagant claims in behalf of judicial decisions as precluding any interposition whatever on the part of the States.]

Writings of Madison, Volume 4: 1829-1836, p.317

In the letter to Mr. Everett, the positions are, as cited from the ''Federalist," that, "in controversies relating to the boundaries between the two jurisdictions," [the Federal and the State,] "the tribunal which is ultimately to decide is to be established under the General Government; that the decision is to be impartially made, according to the rules of the Constitution; that some such tribunal was essential, to prevent an appeal to the sword and a dissolution of the Union; and that it ought to be established under the general rather than under the local governments; or, to speak more properly, that it could be safely established under the first alone, is a position not likely to be combated."

Writings of Madison, Volume 4: 1829-1836, p.317

It is sufficiently clear that the ultimate decision of the tribunal here referred to is confined to cases within the judicial scope of the Government; that it had reference to interfering decisions of a local or State authority; and that it neither denies nor excludes a resort to the authority of the parties to the Constitution, an authority above that of the Constitution itself.

Writings of Madison, Volume 4: 1829-1836, p.318

That the letter to Mr. Everett understood the term ultimately, as applied to the decisions of the Federal tribunal, to be of a limited scope, is shown by the paragraph omitted by Mutius. "Should the provisions of the Constitution as here reviewed" [including the judiciary] "be found not to secure the governments and rights of the States against usurpations and abuses on the part of the United States, the final resort within the purview of the Constitution lies in an amendment of the Constitution according to a process applicable by the States." [Here is a special resort provided by the Constitution, which is ulterior to the judicial authority; the authority of three-fourths of the States being made equivalent, with two specified exceptions, to the entire authorities of the parties to the Constitution.]

Writings of Madison, Volume 4: 1829-1836, p.318

And that the ultimate decision of the judicial authority could not be meant, in the letter to Mr. Everett, to be the last of all, is shown by the paragraph not omitted by Mutius. "And in the event of a failure of every constitutional resort, and an accumulation of usurpations and abuses rendering passive obedience and non-resistence a greater evil than resistence and revolution, there can remain but one resort, the last of all, an appeal from the cancelled obligations of the constitutional compact to original rights and the law of self-preservation. This is the ultima ratio under all governments."

Writings of Madison, Volume 4: 1829-1836, p.318

Instead of the paragraph omitted by Mutius, he has inserted from the letter a remark, "that the Constitution is a compact; that its text is to be expounded according to the provisions for expounding it, making a part of the compact; and that none of the parties can rightfully renounce the expounding provision more than any other part. When such a right accrues, as it may accrue, it must grow out of the abuses of the compact releasing the sufferers from their fealty to it." What is this but saying that the compact is binding in all its parts on those who made it? that the acts of the authorities constituted by it must be observed by the parties till the compact be changed or abolished? Is not this true of all compacts, and the dictate of common sense as well as universal practice?

Writings of Madison, Volume 4: 1829-1836, p.319

Where, now, is the inconsistency between the report of 1799 and the letter to Mr. Everett? They both recognise and adhere to the distinction between a last resort in behalf of constitutional rights, within the forms of the Constitution, and the ulterior resorts to the authority paramount to the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.319

These different resorts, instead of being incompatible, necessarily result from the principles of all free Governments, whether of a Federal or other character. Is not the expound-ing authority, wherever lodged by the constitution of Virginia, the last resort within the purview of the Constitution against violations of it? and are not the people who made the Constitution a last resort against violations of it, even when committed by the last resort within the constitutional provisions? The people as composing a State, and the States as composing the Union, may, in fact, interpose either as constituents of their respective governments, according to the forms of their respective constitutions, or as the creators of their constitutions, and as paramount to them as well as to the governments.

Writings of Madison, Volume 4: 1829-1836, p.319

It cannot, as is believed, be shown that J. M. ever admitted that a single State had a constitutional right to annul, resist, or control a law of the United States, or that he ever denied either the right of the States as parties to the Constitution [not a single State or party] to interpose against usurped power; or the right of a single State, as a natural right, to shake off a yoke too oppressive to be borne. These distinctions are clear, and, if kept in view, would dispel the verbal and sophistical confusion so apt to bewilder the weak and to disgust the wise.

Writings of Madison, Volume 4: 1829-1836, p.319

It has been a charge against J. M. that, in his letter to Mr. Everett, he represents the people of the several States as constituting themselves one people for certain purposes.

Writings of Madison, Volume 4: 1829-1836, p.319

That the authority of the people of the States, which, exercised as it was in their highest sovereign capacity in each, could have made them, if they had so pleased, one people for all purposes, was sufficient to make them one people for certain purposes, cannot be denied; and that they did make themselves one people for certain purposes, results from the nature of the Constitution formed by them, which, like the State constitutions-presents a Government organized into the regular departments of legislative, executive, and judiciary, and, like the State governments, operating immediately and individually on the people, by the same coercive forms and means.

Writings of Madison, Volume 4: 1829-1836, p.320

The oneness, the sovereignty, and the nationality of the people of the United States, within the prescribed limits, has hitherto been the language of all parties; and of no one of the Republican party more expressly than of Mr. Jefferson, whose opinions have been so often misunderstood and misapplied. Take some of the extracts which his printed writings furnish. In a letter to J. M., vol. ii, p. 442, he says: "This instrument [the Federal Constitution] forms us into one State, as to certain objects, and gives us a legislative and executive body for those objects." He elsewhere uses the expression, "to make us one as to others, but several as to ourselves." In his letter to Destutt Tracy, he applies the term amalgamated to the union of the States; and in one to Mr. Hopkinson, the term consolidated to the Government. These terms are doubtless to be taken with the proper qualifications; but surely they would not have been applied to a constitution purely and exclusively federal in its character.

Writings of Madison, Volume 4: 1829-1836, p.320

In a letter to Mr. Wythe, vol. ii, p. 230, he says: "My own general idea was, that the States should severally preserve their sovereignty, and that the exercise of the federal sovereignty should be divided among the three several bodies, legislative, executive, and judiciary, as the State sovereignties are; and that some peaceable means should be contrived for the federal head to force compliance on the part of the States." [Having reference, it may be presumed, to an obstruction of their trade, repeatedly suggested in his correspondence with his friends as applicable even to the "Articles of Confederation," or to the operation of the laws on the people, as in the Constitution of the United States, which was then before him.]

Writings of Madison, Volume 4: 1829-1836, p.320

In a letter to J. M., vol. ii., p. 64, alluding to the expected Convention of 1787, his language is, "to make us one nation as to foreign concerns, and keep us distinct as to domestic ones; gives the outline of the proper division of power between the general and particular governments."

Writings of Madison, Volume 4: 1829-1836, p.321

To question the nationality of the States in their united character has a strange appearance, when in that character only they are known to and acknowleged by other nations; in that only can make war, peace, and treaties; and in that only can entertain the diplomatic and all the other international relations which appertain to the national character.

Writings of Madison, Volume 4: 1829-1836, p.321

With all this evidence at hand, what ought to be the designation of those who, renouncing the views and language which have been applied by the Republican party to the Constitution of the United States, are now charging, in the name of republicanism, those who remain steadfast to their creed, with innovation, inconsistency, heresy, and apostasy? Such an outrage on truth, on justice, and even on common decorum, must be of short endurance. The illusion under which it is propagated is the misapplication to a peculiar and complex modification of political power, views of it applicable only to ordinary and simple forms of Government. Happily, appeals can be always triumphantly made from such perversions to the nature and text of the Constitution and the facts inseparable from it.

Writings of Madison, Volume 4: 1829-1836, p.321

Returning to the special charge of inconsistency against J. M., it is not more than justice to him to say, that it will be difficult to find among our public men, who have passed through the same changes of circumstances and vicissitudes of parties, one who has been more uniform in his opinions on the great constitutional questions which have agitated the country. To the constitutionality of the bank, originally opposed by him, he acceded; but, as appears by his letter to Mr. Ingersoll. on the ground of the authoritative and multiplied sanctions given to it, amounting, he conceived, to an evidence of the judgment and will of the nation; and on the ground of a consistency of this change of opinion with his unchanged opinion, that such a sanction ought to overrule the abstract and private opinions of individuals.

Writings of Madison, Volume 4: 1829-1836, p.322

With the exception of the case of the bank thus explained, he has preserved a uniform consistency on the great constitutional questions, the caption, "We, the people;" the phrase "common defence and general welfare;" "roads and canals;" the "alien and sedition laws." It might not improperly be added, that he appears to have originated and perseveringly supported the amendments to the Constitution adopted at the first session of the first Congress, as guards against constructive enlargements of the Federal powers. And it nowhere appears that he has ever changed his opinions with regard to them.

Writings of Madison, Volume 4: 1829-1836, p.322

If be advocates the constitutionality of a tariff for the encouragement of domestic manufactures, it must be admitted that it is in conformity with his course on that subject at, and ever since, the first Congress under the present Constitution of the United States; that in this opinion he has had the concurrence of Washington and all his successors, and especially of Mr. Jefferson. In the same opinion he has been supported by that of every Congress, from the first to the last.\* It may not be improper to remark, that while be maintains the constitutionality of a protective tariff, he is a friend to the theory of free trade, and in favour of such exceptions only as are consistent with its principle, and as are dictated either by a regard to the public safety or by a fair calculation that a temporary sacrifice of cheapness will be followed by a greater cheapness, permanent as well as independent.\*

Writings of Madison, Volume 4: 1829-1836, p.322

If he considers decisions of the Supreme Court of the United States, in cases within its constitutional jurisdiction, as paramount to State decisions, it is not the effect of change in his opinion; for the same appears in his original exposition and vindication of the Constitution of the United States. In his letter to Mr. Everett he maintains (does he not prove?) that the controlling authority of the Federal Judiciary is the only defence against nullifying acts of a State through its judiciary organ. It will be as difficult for those who deny the nullifying power Of a State to deny this inference, as for those who assert the doctrine to reconcile it with the text and principles of the Constitution or with the existence of the Union.

Writings of Madison, Volume 4: 1829-1836, p.323

Mutius is probably a young man. He certainly possesses talents worthy of literary cultivation. When he shall mingle with political zeal a due portion of the candour which it is hoped belongs to his nature, it may safely be left to his own judgment to decide whether the scanty and hasty notes of Mr. Yates, or inferences from naked votes in the Journal of the Convention, ought to outweigh, in a charge of inconsistency against J. M., the authority of his earliest writings on the subject of the Constitution, his language in the Convention of Virginia when the Constitution was under discussion, and the whole course of his opinions, official and unofficial, down to the latest date.

Writings of Madison, Volume 4: 1829-1836, p.323

With the advantage of a cooler temper and maturer reflection, he will be a better judge also of his own consistency, in his eager efforts to discredit that of J. M., while his eulogies and confidence are lavished on others who have passed abruptly from one extreme to its opposite, on subjects vital to the Constitution, the Union, and the happiness of our country.

To Francis Page.

MONTPELLIER, Novr 7th, 1833.

Writings of Madison, Volume 4: 1829-1836, p.323

DR SIR,—I have received your letter inclosing a printed copy of a petition to the General Assembly in behalf of the heirs and representatives of General Nelson, and requesting any information I may be able to give respecting his advances and engage-merits for the public service at a trying period of the Revolutionary war in Virginia.

Writings of Madison, Volume 4: 1829-1836, p.323

I regret that my absence from the State during his meritorious services as a military commander and Governor, deprived me of the opportunity of having any personal knowledge of them. But my general acquaintance with his character, and the impressions left by whatever was of public notoriety, make me readily confide in the statements of the petition and inspire a sincere wish that it may be favorably received.

Writings of Madison, Volume 4: 1829-1836, p.324

My personal acquaintance with General Nelson was limited to a few opportunities at an early stage of the Revolution. But it was sufficient, however, to disclose to me his distinguished worth. He was excelled by no man in the generosity of his nature, in the nobleness of his sentiments, in the purity of his Revolutionary principles, and in an exalted patriotism that ensured every service and sacrifice that his country might need.

Writings of Madison, Volume 4: 1829-1836, p.324

With this view of the subject, it could not but accord with my best sympathies that nothing which may be duc to the ancestor may be withheld from the heirs to them. I must be allowed to add, that the gratification will be increased by the knowledge that the benefit will be shared by descendants of Governor Page, whose memory will always be classed with that of the most distinguished patriots of the Revolution. Nor was he less endeared to his friends, among whom I had an intimate place, by the interesting accomplishments of his mind and the warmth of his social affections, than he was to his country, by the evidence he gave of devotion to the republicanism of its institutions.

To Major H. Lee.

MONTPELLIER, Novr 26, 1833.

Writings of Madison, Volume 4: 1829-1836, p.324

I received, sir, on the 9th instant your letter of Septr 15, and inclose copies of such of your father's letters to me as are embraced by your request. They are entire, with the exception of one, from which the conclusion had been cut off for an auto-graphic collection.

Writings of Madison, Volume 4: 1829-1836, p.324

Finding that my files do not contain copies of my letters to your father, as is the case with his files and his letters to me, I must ask the favor of you to supply the omission as far, at least, as relates to the period of those herewith forwarded.

Writings of Madison, Volume 4: 1829-1836, p.324

I thank you for your friendly wishes on the subject of my health. The most that can be expected is, that it will not decrease beyond the increase of my years. The two causes taken together produce a state of feebleness and emaciation more than justifying me in declining the task to which you invited me. It may be hoped that truth enough will escape oblivion for future justice to all parties.

To G. W. Featherstonhaugh.

MONTPELLIER, Decr 8, 1833.

Writings of Madison, Volume 4: 1829-1836, p.325

DEAR SIR,—I have just received yours of the 6th. I am glad to find the public attention in Virginia at length turning towards the mineral resources of the State, and that you are promoting it by the communications which your science and observations enable you to make. A geological survey, skil-fully conducted, seems to be the most obvious and effectual preparation for the discoveries in view, as well in relation to public utility and wealth as to a branch of knowledge becoming every day more and more curious and interesting. With such impressions I may readily be supposed to wish success to all the means that may be employed in so meritorious a work.

To Frederick Peyster.

Writings of Madison, Volume 4: 1829-1836, p.325

DR SIR,—I received by the last mail your letter of July 19th. The volumes containing "The published collections of the New York Historical Society," to which it refers, arrived a few days ago. I beg you, sir, to tender to the Society my grateful acknowledgments for so valuable a testimony of their regard. I sincerely wish it every success in its laudable undertaking, and that its example may be followed in all the States composing our Union. Such Institutions will afford the best aids in procuring, and preserving, the materials otherwise but too perishable, from which a faithful history of our country must be formed—a history which, if well executed, will be superior to the most distinguished, in the authenticity of its facts, and inferior to none in the lessons which it is the province of the Historian to convey to posterity.

Writings of Madison, Volume 4: 1829-1836, p.326

I thank you, sir, for the friendly sentiments which your letter expresses, and beg you to accept assurances of my esteem and my respectful salutations.

To ——.

1833.

Writings of Madison, Volume 4: 1829-1836, p.326

[Majority Governments.]

Writings of Madison, Volume 4: 1829-1836, p.326

DEAR SIR,—You justly take alarm at the new doctrine that a majority government is of all other governments the most oppressive. The doctrine strikes at the root of republicanism, and, if pursued into its consequences, must terminate in absolute monarchy, with a standing military force; such alone being impartial between its subjects, and alone capable of overpowering majorities as well as minorities.

Writings of Madison, Volume 4: 1829-1836, p.326

But it is said that a majority government is dangerous only where there is a difference in the interest of the classes or sections composing the community; that this difference will generally be greatest in communities of the greatest extent; and that such is the extent of the United States and the discordance of interests in them, that a majority cannot be trusted with power over a minority.

Writings of Madison, Volume 4: 1829-1836, p.326

Formerly, the opinion prevailed that a republican government was in its nature limited to a small sphere; and was in its true character only when the sphere was so small that the people could, in a body, exercise the government over themselves.

Writings of Madison, Volume 4: 1829-1836, p.326

The history of the ancient republics, and those of a more modern date, had demonstrated the evils incident to popular assemblages, so quickly formed, so susceptible of contagious passions, so exposed to the misguidance of eloquent and ambitious leaders, and so apt to be tempted by the facility of forming interested majorities, into measures unjust and oppressive to the minor parties.

Writings of Madison, Volume 4: 1829-1836, p.326

The introduction of the representative principle into modern governments, particularly of Great Britain and her colonial offsprings, had shown the practicability of popular governments in a larger sphere, and that the enlargement of the sphere was a cure for many of the evils inseparable from the popular forms in small communities.

Writings of Madison, Volume 4: 1829-1836, p.327

It remained for the people of the United States, by combining a federal with a republican organization, to enlarge still more the sphere of representative government, and, by convenient partitions and distributions of power, to provide the better for internal justice and order, while it afforded the best protection against external dangers.

Writings of Madison, Volume 4: 1829-1836, p.327

Experience and reflection may be said not only to have exploded the old error, that republican governments could only exist within a small compass, but to have established the important truth, that, as representative governments are necessary substitutes for popular assemblages, so an association of free communities, each possessing a responsible government under a collective authority also responsible, by enlarging the practicable sphere of popular governments, promises a consummation of all the reasonable hopes of the patrons of free government.

Writings of Madison, Volume 4: 1829-1836, p.327

It was long since observed by Montesquieu, has been often repeated since, and, may it not be added, illustrated within the United States, that in a confederal system, if one of its members happens to stray into pernicious measures, it will be reclaimed by the frowns and the good examples of the others, before the evil example will have infected the others.

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But whatever opinions may be formed on the general subjects of confederal systems, or the interpretation of our own, every friend to republican government ought to raise his voice against the sweeping denunciation of majority governments as the most tyrannical and intolerable of all governments.

Writings of Madison, Volume 4: 1829-1836, p.327

The patrons of this new heresy will attempt in vain to mask its anti-republicanism under a contrast between the extent and the discordant interests of the Union, and the limited dimensions and sameness of interests within its members. Passing by the great extent of some of the States, and the fact that these cannot be charged with more unjust and oppressive majorities than the smaller States, it may be observed that the extent of the Union, divided as the powers of government are between it and its members, is found to be within the compass of a successful administration of all the departments of Government, notwithstanding the objections and anticipations founded on its extent when the Constitution was submitted to the people. It is true that the sphere of action has been and will be not a little enlarged by the territories embraced by the Union. But it will not be denied, that the improvements already made in internal navigation by canals and steamboats, and in turnpikes and railroads, have virtually brought the most distant parts of the Union, in its present extent, much closer together than they were at the date of the Federal Constitution. It is not too much to say, that the facility and quickness of intercommunication throughout the Union is greater now than it formerly was between the remote parts of the State of Virginia.

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But if majority governments, as such, are so formidable, look at the scope for abuses of their power within the individual States, in their division into creditors and debtors, in the distribution of taxes, in the conflicting interests, whether real or supposed, of different parts of the State, in the case of improving roads, cutting canals, &c., to say nothing of many other sources of discordant interests or of party contests, which exist or would arise if the States were separated from each other. It seems to be forgotten, that the abuses committed within the individual States previous to the present Constitution by interested or misguided majorities were among the prominent causes of its adoption, and particularly led to the provision contained in it which prohibits paper emissions and the violations of contracts, and which gives an appellate supremacy to the judicial department of the United States. Those who framed and ratified the Constitution believed that, as power was less likely to be abused by majorities in representative governments than in democracies, where the people assembled in mass, and less likely in the larger than in the smaller communities under a representative government, inferred also, that by dividing the powers of government, and thereby enlarging the practicable sphere of government, unjust majorities would be formed with still more difficulty, and be, therefore, the less to be dreaded; and whatever may have been the just complaints of unequal laws and sectional partialities under the majority Government of the United States, it may be confidently observed that the abuses have been less frequent and less palpable than those which disfigured the administrations of the State governments, while all the effective power of sovereignty were separately exercised by them. If bargaining interests and views have created majorities under the federal system, what, it may be asked, was the case in this respect antecedent to this system, and what, but for this, would now be the case in the State governments? It has been said that all government is an evil. It would be more proper to say that the necessity of any government is a misfortune. This necessity, however, exists; and the problem to be solved is, not what form of government is perfect, but which of the forms is least imperfect; and here the general question must be between a republican government, in which the majority rule the minority, and a government in which a lesser number or the least number rule the majority. If the republican form is, as all of us agree, to be preferred, the final question must be, what is the structure of it that will best guard against precipitate counsels and factious combinations for unjust purposes, without a sacrifice of the fundamental principle of republicanism? Those who denounce majority governments altogether because they may have an interest in abusing their power, denounce at the same time all republican government, and must maintain that minority governments would feel less of the bias of interest or the seductions of power.

Writings of Madison, Volume 4: 1829-1836, p.329

As a source of discordant interests within particular States, reference may be made to the diversity in the applications of agricultural labour, more or less visible in all of them. Take, for example, Virginia herself. Her products for market are in one district Indian corn and cotton; in another, chiefly tobacco; in another, tobacco and wheat; in another, chiefly wheat, rye, and live stock. This diversity of agricultural interests, though greater in Virginia than elsewhere, prevails in different degrees within most of the States.

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Virginia is a striking example also of a diversity of interests, real or supposed, in the great and agitating subjects of roads and water communications, the improvements of which are little needed in some parts of the State, though of the greatest importance in others; and in the parts needing them much disagreement exists as to the times, modes, and the degrees of the public patronage, leaving room for an abuse of power by majorities, and for majorities made up by affinities of interests, losing sight of the just and general interest.

Writings of Madison, Volume 4: 1829-1836, p.330

Even in the great distinctions of interest and of policy generated by the existence of slavery, is it much less between the Eastern and Western districts of Virginia than between the Southern and Northern sections of the Union? If proof were necessary, it would be found in the proceedings of the Virginia Convention of 1829-30, and in the debates of her Legislature in 1830-31. Never were questions more uniformly or more tenaciously decided between the North and the South in Congress, than they were on those occasions between the West and the East of Virginia.

Writings of Madison, Volume 4: 1829-1836, p.330

But let us bring this question to the test of the tariff itself [out of which it has grown,] and under the influences of which it has been inculcated, that a permanent incompatibility of interests exists in the regulations of foreign commerce between the agricultural and the manufacturing population, rendering it unsafe for the former to be under a majority power when patronizing the latter.

Writings of Madison, Volume 4: 1829-1836, p.330

In all countries, the mass of people become, sooner or later, divided mainly into the class which raises food and raw materials, and the class which provides clothing and the other necessaries and conveniences of life. As bands fail of profitable employment in the culture of the earth, they enter into the latter class. Hence, in the Old World, we find the nations everywhere formed into these grand divisions, one or the other being a decided majority of the whole, and the regulations of their relafive interests among the most arduous tasks of the government. Although the mutuality of interest in the interchanges useful to both may, in one view, be a bond of amity and union, yet, when the imposition of taxes, whether internal or external, takes place, as it must do, the difficulty of equalising the burden and adjusting the interests between the two classes is always more or less felt. When imposts on foreign commerce have a protective as well as a revenue object, the task of adjustment assumes a peculiar arduousness.

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This view of the subject is exemplified in all its features by the fiscal and protective legislation of Great Britain; and it is worthy of special remark that there the advocates of the protective policy belong to the landed interest, and not, as in the United States, to the manufacturing interest; though, in some particulars, both interests are suitors for protection against foreign competition.

Writings of Madison, Volume 4: 1829-1836, p.331

But so far as abuses of power are engendered by a division of a community into the agricultural and manufacturing interests, and by the necessary ascendency of one or the other, as it may comprise the majority, the question to be decided is, whether the danger of oppression from this source must not soon arise within the several States themselves, and render a majority government as unavoidable an evil in the States individually, as it is represented to be in the States collectively.

Writings of Madison, Volume 4: 1829-1836, p.331

That Virginia must soon become manufacturing as well as agricultural, and be divided into these two great interests, is obvious and certain. Manufactures grow out of the labour not needed for agriculture, and labour will cease to be so needed or employed as its products satisfy and satiate the demands for domestic use and for foreign markets. Whatever be the abundance or fertility of the soil, it will not be cultivated when its fruits must perish on hand for want of a market. And is it not manifest that this must be henceforwad more and more the case in this State particularly? The earth produces at this time as much as is called for by the home and the foreign markets; while the labouring population, notwithstanding the emigration to the West and the Southwest, is fast increasing. Nor can we shut our eyes to the fact, that the rapid increase of the exports of flour and tobacco from a new and more fertile soil will be continually lessening the demand on Virginia for her two great staples, and be forcing her, by the inability to pay for imports by exports, to provide within herself substitutes for the former.

Writings of Madison, Volume 4: 1829-1836, p.332

Under every aspect of the subject, it is clear that Virginia must be speedily a manufacturing as well as an agricultural State; that the people will be formed into the same great classes here as elsewhere; that the case of the tariff must, of course, among other conflicting cases, real or supposed, be decided by the republican rule of majorities; and, consequently, if majority governments, as such, be the worst of governments, those who think and say so cannot be within the pale of the republican faith. They must either join the avowed disciples of aristocracy, oligarchy, or monarchy, or look for a Utopia exhibiting a perfect homogeneousness of interests, opinions, and feelings nowhere yet found in civilized communities. Into how many parts must Virginia be split before the semblance of such a condition could be found in any of them? In the smallest of the fragments, there would soon be added to previous sources of discord a manufacturing and an agricultural class, with the difficulty experienced in adjusting their relative interests in the regulation of foreign commerce if any, or, if none, in equalising the burden of internal improvement and of taxation within them. On the supposition that these difficulties could be surmounted, how many other sources of discords to be decided by the majority would remain? Let those who doubt it consult the records of corporations of every size, such even as have the greatest apparent simplicity and identity of pursuits and interests.

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In reference to the conflicts of interests between the agricultural and manufacturing States, it is a consoling anticipation that, as far as the legislative encouragements to one may not involve an actual or early compensation to the other, it will accelerate a state of things in which the conflict between them will cease and be succeeded by an interchange of the products profitable to both; converting a source of discord among the States into a new cement of the Union, and giving to the country a supply of its essential wants independent of contingencies and vicissitudes incident to foreign commerce.

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It may be objected to majority governments, that the majority, as formed by the Constitution, may be a minority when compared with the popular majority. This is likely to be the case more or less in all elective governments. It is so in many of the States. It will always be so where property is combined with population in the election and apportionment of representation. It must be still more the case with confederacies, in which the members, however unequal in population, have equal votes in the administration of the government. In the compound system of the United States, though much less than in mere confederacies, it also necessarily exists to a certain extent. That this departure from the rule of equality, creating a political and constitutional majority in contradistinction to a numerical majority of the people, may be abused in various degrees oppressive to the majority of the people, is certain; and in modes and degrees so oppressive as to justify ultra or anti-constitutional resorts to adequate relief is equally certain. Still the constitutional majority must be acquiesced in by the constitutional minority, while the Constitution exists. The moment that arrangement is successfully frustrated, the Constitution is at an end. The only remedy, therefore, for the oppressed minority is in the amendment of the Constitution or a subversion of the Constitution. This inference is unavoidable. While the Constitution is in force, the power created by it, whether a popular minority or majority, must be the legitimate power, and obeyed as the only alternative to the dissolution of all government. It is a favourable consideration, in the impossibility of securing in all cases a coincidence of the constitutional and numerical majority, that when the former is the minority, the existence of a numerical majority with justice on its side, and its influence on public opinion, will be a salutary control on tire abuse of power by a minority constitutionally possessing it: a control generally of adequate force, where a military force, the disturber of all the ordinary movements of free governments, is not on the side of the minority.

Writings of Madison, Volume 4: 1829-1836, p.334

The result of the whole is, that we must refer to the monitory reflection that no government of human device and human administration can be perfect; that that which is the least imperfect is therefore the best government; that the abuses of all other governments have led to the preference of republican government as the best of all governments, because the least imperfect; that the vital principle of republican government is the lex majoris partis, the will of the majority; that if then will of a majority cannot be trusted where there are diversified and conflicting interests, it can be trusted nowhere, because such interests exist everywhere; that if the manufacturing and agricultural interests be of all interests the most conflicting in the most important operations of government, and a majority government over them be the most intolerable of all governments, it must be as intolerable within the States as it is represented to be in the United States; and, finally, that the advocates of the doctrine, to be consistent, must reject it in the former as well as ia the latter, and seek a refuge under an authority master of both.

To "A Friend of Union and State Rights."

(Confidential.)

1833.

Writings of Madison, Volume 4: 1829-1836, p.334

I have received the letter signed "A Friend of Union and State Rights," enclosing two printed essays under the same signature.

Writings of Madison, Volume 4: 1829-1836, p.334

It is not usual to answer communications without the proper names to them. But the ability and motives disclosed in the essays induce me to say, in compliance with the wish expressed, that I do not consider the proceedings of Virginia in 1798-99 as countenancing the doctrine that a State may at will secede from its constitutional compact with the other States. A rightful secession requires the consent of the others, or an abuse of the compact absolving the seceding party from the obligations imposed by it.

Writings of Madison, Volume 4: 1829-1836, p.334

In order to understand the reasoning on one side of a question, it is necessary to keep in view the precise state of the question, and the positions and arguments on the other side. This is particularly necessary in questions arising under our novel and compound system of government, and much error and confusion has grown out of a neglect of this precaution.

Writings of Madison, Volume 4: 1829-1836, p.335

The case of the alien and sedition laws was a question between the Government of the United States and the constituent body, Virginia making an appeal to the latter against the assumptions of power by the former.

Writings of Madison, Volume 4: 1829-1836, p.335

The case of a claim in a State to secede from its union with the others resolves itself into a question among the States themselves as parties to the compact.

Writings of Madison, Volume 4: 1829-1836, p.335

In the former case it was asserted against Virginia, that the States had no right to interpose a legislative declaration of opinion on a constitutional point; nor a right to interpose at all against a decision of the Supreme Court of the United States, which was to be regarded as a tribunal from which there could be no appeal.

Writings of Madison, Volume 4: 1829-1836, p.335

The object of Virginia was to vindicate legislative declarations of opinion; to designate the several constitutional modes of interposition by the States against abuses of power;and to establish the ultimate authority of the States as parties to and creators of the Constitution, to interpose against the decisions of the judicial as well as other branches of the Government, the authority of the judicial being in no sense ultimate out of the purview and forms of the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.335

Much use has been made of the term "respective" in the third resolution of Virginia, which asserts the right of the States, in cases of sufficient magnitude, to interpose for maintaining within their respective limits the authorities, &c., appertaining to them, the term "respective" being construed to mean a constitutional right in each State separately to decide on and resist by force encroachments within its limits. But, to say nothing of the distinction between the ordinary and extreme cases, it is observable that in this as in other instances throughout the resolutions, the plural number "States" is used in referring to them; that a concurrence and co-operation of all might well be contemplated in interpositions for effecting the objects within each; and that the language of the closing resolution corresponds with this view of the third. The course of reasoning in the report on the resolutions required the distinction between a State and the States. It surely does not follow from the fact of the States, or, rather, the people imbodied in them, having, as parties to the compact, no tribunal above them, that, in controverted meanings of the compact, a minority of the parties can rightfully decide against the majority; still less that a single party can decide against the rest; and as little that it can at will withdraw itself altogether from its compact with the rest.

Writings of Madison, Volume 4: 1829-1836, p.336

The characteristic distinction between free governments and governments not free is, that the former are founded on compact, not between the government and those for whom it acts, but among the parties creating the government. Each of these being equal, neither can have more right to say that the compact has been violated and dissolved, than every other has to deny the fact and to insist on the execution of the bargain. An inference from the doctrine that a single State has a right to secede at its will from the rest, is, that the rest would have an equal right to secede from it; in other words, to turn it against its will out of its union with them. Such a doctrine would not, till of late, have been palatable anywhere, and nowhere less so than where it is now most contended for.

Writings of Madison, Volume 4: 1829-1836, p.336

A careless view of the subject might find an analogy between State secession and individual expatriation. But the distinction is obvious and essential. Even in the latter case, whether regarded as a right impliedly reserved in the original social compact, or as a reasonable indulgence, it is not exempt from certain conditions. It must be used without injustice or injury to the community from which the expatriating party separates himself. Assuredly he could not withdraw his portion of territory from the common domain. In the case of a State seceding from the Union, its domain would be dismembered, and other consequences brought on not less obvious than pernicious.

Writings of Madison, Volume 4: 1829-1836, p.336

I ought not to omit my regret, that in the remarks on Mr. Jefferson and myself, the names had not been transposed.

Writings of Madison, Volume 4: 1829-1836, p.337

Having many reasons for making this letter confidential, I must request that its publicity may not be permitted in any mode or through any channel. Among the reasons is the risk of misapprehensions or misconstructions so common without more attention and more development than I could conveniently bestow on what is said.

Writings of Madison, Volume 4: 1829-1836, p.337

Wishing to be assured that this letter has not miscarried, a single line acknowledging its receipt will be acceptable.

1834

To Thomas S. Grimke.

MONTPELLIER, Jany 6, 1834.

Writings of Madison, Volume 4: 1829-1836, p.337

DEAR SIR,—Your letter of the 21st of August last was duly received, and I must leave the delay of this acknowledgment of it to your indulgent explanation. I regret the delay itself less than the scanty supply of autographs requested from me. The truth is, that my files have been so often resorted to on such occasions, within a few years past, that they have become quite barren, especially in the case of names most distinguished. There is a difficulty, also, not readily suggesting itself, in the circumstance that wherever letters do not end on the first or third page, the mere name cannot be cut off without the mutilation of a written page. Another circumstance is, that I have found it convenient to spare my pigeon-holes by tearing off the superscribed parts where they could be separated, so that autographs have been deprived even of that resource.

Writings of Madison, Volume 4: 1829-1836, p.337

You wish to be informed of the errors in your pamphlet alluded to in my last. The first related to the proposition of Doctor Franklin in favour of a religious service in the Federal Convention. The proposition was received and treated with the respect due to it; but the lapse of time which had preceded, with considerations growing out of it, had the effect of limiting what was done to a reference of the proposition to a highly respectable committee. This issue of it may be traced in the printed Journal. The Quaker usage, never discontinued in the State and the place where the Convention held its sittings, might not have been without an influence, as might also the discord of religious opinions within the Convention, as well as among the clergy of the spot. The error into which you had fallen may have been confirmed by a communication in the National Intelligencer some years ago, said to have been received through a respectable channel from a member of the Convention. That the communication was erroneous is certain; whether from misapprehension or misrecollection, uncertain.

Writings of Madison, Volume 4: 1829-1836, p.338

The other error lies in the view which your note L for the 18th page gives of Mr. Pinckney's draught of a Constitution for the United States, and its conformity to that adopted by the Convention. It appears that the draught laid by Mr. Pinckney before the Convention was, like some other important documents, not among its preserved proceedings. And you are not aware that insuperable evidence exists that the draught in the published Journal could not, in a number of instances, material as well as minute, be the same with that laid before the Convention. Take, for an example of the former, the article relating to the House of Representatives, more than any the corner-stone of the fabric. That the election of it by the people as proposed by the printed draught in the Journal could not be the mode of election proposed in the lost draught, must be inferred from the face of the Journal itself; for on the 6th of June, but a few days after the lost draught was presented to the Convention, Mr. Pinckney moved to strike the word "people" out of Mr. Randolph's proposition, and to "Resolve that the members of the first branch of the National Legislature ought to be elected by the Legislatures of the several States." But there is other and most conclusive proof that an election of the House of Representatives by the people could not have been the mode proposed by him. There are a number of other points in the published draught, some conforming most literally to the adopted Constitution, which, it is ascertainable, could not have been the same in the draught laid before the Convention. The conformity, and even identity of the draught in the Journal, with the adopted Constitution, on points and details the result of conflicts and compromises of opinion apparent in the Journal, have excited an embarrassing curiosity often expressed to myself or in my presence. The subject is in several respects a delicate one; and it is my wish that what is now said of it may be understood as yielded to your earnest request, and as entirely confined to yourself. I knew Mr. Pinckney well, and was always on a footing of friendship with him. But this consideration ought not to weigh against justice to others, as well as against truth on a subject like that of the Constitution of the United States.

Writings of Madison, Volume 4: 1829-1836, p.339

The propositions of Mr. Randolph were the result of a consultation among the seven Virginia Deputies, of which he, being at the time Governor of the State, was the organ. The propositions were prepared on the supposition that, considering the prominent agency of Virginia in bringing about the Convention, some initiative step might be expected from that quarter. It was meant that they should sketch a real and adequate Government for the Union, but without committing the parties against a freedom in discussing and deciding on any of them. The Journal shews that they were, in fact, the basis of the deliberations and proceedings of the Convention. And I am persuaded that, although not in a developed and organized form, they sufficiently contemplated it; and, moreover, that they embraced a fuller outline of an adequate system than the plan laid before the Convention, variant as that ascertainably must have been, from the draught now in print.

Writings of Madison, Volume 4: 1829-1836, p.339

Memo.—No provision in the draught of Mr. P. printed in the Journal for the mode of electing the President of the U. S.

To W. C. Rives.

MONTPELLIER, Feby 15, 1834.

Writings of Madison, Volume 4: 1829-1836, p.339

DR SIR,—I have received the copy of your speech on the "Removal of the Deposits," kindly forwarded in pamphlet form. It has certainly treated the questions embraced by it with the distinguished ability which was looked for. Whilst I feel a pleasure in doing it this justice I must not forget, as I presume you are aware, that some of them are not viewed by me in the lights in which your reasoning presents them.

To Dr. Ben. Waterhouse.

MONTPELLIER, Mar. 1, 1834.

Writings of Madison, Volume 4: 1829-1836, p.340

DR SIR,—I have received your favor of the 20th ult. with a copy of your "Public Lecture." The lecture is a good medicine for the bad habits which it paints in such warning colours. The temperance societies appear to have had a salutary effect in diminishing the use of ardent spirits, the worst of the passions, because it is a moral as well as a physical one. I wish the societies all the success they merit; but I am not in the honorable relation to either of them which you suppose.

Writings of Madison, Volume 4: 1829-1836, p.340

I have not yet seen the "History of the Hartford Convention;" and such are the arrears in the reading I have assigned to myself, that I am not sure, if I possessed the book, that I should ever be able, with my waning strength and fading vision, to examine a work filling so many pages. It will be fortunate for historical truth, and for individual as well as political justice, if a chastising notice of its spurious contents should fall within the scope of the masterly pen you refer to.\*

Writings of Madison, Volume 4: 1829-1836, p.340

I am glad to find that your penmanship remains so perfect. My greater age, with its rheumatic auxiliary, have so stiffened my fingers as to make writing laborious and clumsy. Hence the resort, you will perceive, to borrowed ones.

To Major Henry Lee.

MONTPELLIER, March 3, 1834

Writings of Madison, Volume 4: 1829-1836, p.340

MAJR H. LEE,—Your letter of November 14th came safely, though tardily, to hand.

Writings of Madison, Volume 4: 1829-1836, p.340

I must confess that I perceive no ground on which a doubt could be applied to the statement of Mr. Jefferson which you cite. Nor can it, I think, be difficult to account for my declining an Executive appointment under Washington and accepting it under Jefferson, without making it a test of my comparative attachment to them, and without looking beyond the posture of things at the two epochs.

Writings of Madison, Volume 4: 1829-1836, p.341

The part I had borne in the origin and adoption of the Constitution determined me at the outset of the Government to prefer a seat in the House of Representatives, as least exposing me to the imputation of selfish views; and where, if anywhere, I could be of service in sustaining the Constitution against the party adverse to it. It was known to my friends when making me a candidate for the Senate that my choice was the other branch of the Legislature. Having commenced my legislative career as I did, I thought it most becoming to proceed, under the original impulse, to the end of it; and the rather, as the Constitution, in its progress, was encountering trials of a new sort, in the formation of new parties attaching adverse constructions to it.

Writings of Madison, Volume 4: 1829-1836, p.341

The crisis at which I accepted the Executive appointment under Mr. Jefferson is well known. My connexion with it, and the part I had borne in promoting his election to the Chief Magistracy, will explain my yielding to his pressing desire that I should be a member of his Cabinet.

Writings of Madison, Volume 4: 1829-1836, p.341

I hope you received the copies of your father's letters to me, which were duly forwarded; and I am not without a hope that you will have been enabled to comply with my request of copies of mine to him.

To Revd William Cogswell.

Writings of Madison, Volume 4: 1829-1836, p.341

MONTPELLIER, March 10, 1834. DEAR SIR,—Your letter of the 18th ultimo was duly received.

Writings of Madison, Volume 4: 1829-1836, p.341

You give me a credit to which I have no claim, in calling me "the writer of the Constitution of the United States." This was not, like the fabled Goddess of Wisdom, the offspring of a single brain. It ought to be regarded as the work of many heads and many hands.

Writings of Madison, Volume 4: 1829-1836, p.342

Your criticism on the "collocation" [?] of books in the Library of our University may not be without foundation. But the doubtful boundary between some subjects and the mixture of different subjects in the same works, necessarily embarrass the task of classification.

Writings of Madison, Volume 4: 1829-1836, p.342

Being now within a few days of my 84th year, with a decaying health and faded vision, and in arrears also of the reading I have assigned to myself, I have not been able sooner to acknowledge your politeness in sending me the two pamphlets. The sermon combats very ably the veteran error of entwining the civil and ecclesiastical polity. Whether it has not left unremoved a fragment of the argumentative root of' the combination, is a question which I leave others to decide.

Writings of Madison, Volume 4: 1829-1836, p.342

With friendly respects and salutations.

To John M. Patton.

MARCH 24, 1834.

Writings of Madison, Volume 4: 1829-1836, p.342

DEAR SIR,—I have duly received the copy of your speech on the "Virginia Resolutions." Though not permitting myself to enter into a discussion of the several topics embraced by them, for which, indeed, my present condition would unfit me, I will not deny myself the pleasure of saying that you have done great justice to your views of them. I must say, at the same time, that the warmth of your feelings has done infinitely more than justice to any merits that can be claimed for your friend.

Writings of Madison, Volume 4: 1829-1836, p.342

Should the controversy on removals from office end in the establishment of a share in the power, as claimed for the Senate, it would materially vary the relations among the component parts of the Government, and disturb the operation of the checks and balances as now understood to exist. If the right of the Senate be, or be made, a constitutional one, it will enable that branch of the Government to force on the Executive depertinent a continuance in office even of the Cabinet officers, notwithstanding a change from a personal and political harmony with the President, to a state of open hostility towards him. If the right of the Senate be made to depend on the Legislature, it would still be grantable in that extent; and even with the exception of the heads of departments and a few other officers, the augmentation of the Senatorial patronage, and the new relation between the Senate directly and the Legislature indirectly, with the Chief Magistrate, would be felt deeply in the general administration of the Government. The innovation, however modified, would more than double the danger of throwing the Executive machinery out of gear, and thus arresting the march of the Government altogether.

Writings of Madison, Volume 4: 1829-1836, p.343

The legislative power is of an elastic and Protean character, but too imperfectly susceptible of definitions and landmarks. In its application to tenures of office, a law passed a few years ago, declaring a large class of offices vacant at the end of every four years, and, of course, to be filled by new appointments. Was not this as much a removal as if made individually and in detail? The limitation might have been three, two, or one year, or even from session to session of Congress, which would have been equivalent to a tenure at the pleasure of the Senate.

Writings of Madison, Volume 4: 1829-1836, p.343

The light in which the large States would regard any innovation increasing the weight of the Senate, constructed and endowed as it is, may be inferred from the difficulty of reconciling them to that part of the Constitution when it was adopted.

Writings of Madison, Volume 4: 1829-1836, p.343

The Constitution of the United States may doubtless disclose, from time to time, faults which call for the pruning or the in-grafting hand. But remedies ought to be applied, not in the paroxysms of party and popular excitements: but with the more leisure and reflection, as the great departments of power according to experience may be successively and alternately in and out of public favour; and as changes hastily accommodated to these vicissitudes would destroy the symmetry and the stability aimed at in our political system. I am making observations, however, very superfluous when addressd to you, and I quit them, therefore, with a tender of cordial regards and salutations which I pray you to accept.

To the Committee of 4th July

Democratic Festival,

Philadelphia.

Writings of Madison, Volume 4: 1829-1836, p.344

I have received, fellow-citizens, your letter inviting me to the Democratic festival to be given on the 4th of July. I beg that the company may be assured of my due respect for so kind a mark of their attention. But the gratification I might feel in being present on an occasion cherishing the constitutional doctrines maintained by Virginia in 1798-9, as an authentic view of the relations between the Government of the Union and the governments of the States, is denied to me by the debility and indisposition under which I continue to labour.

Writings of Madison, Volume 4: 1829-1836, p.344

For the friendly and flattering terms in which the committee have conveyed the invitation, they will please to accept my sincere acknowledgments; and for the requested toast I beg leave to offer the memory of "the author of the Declaration of Independence, author of the bill establishing religious freedom in Virginia, and Father of her University."

JUNE 29, 1834.

To John P. Kennedy.

JULY 7th, 1834.

Writings of Madison, Volume 4: 1829-1836, p.344

DR SIR,—I have received with your letter of June 19th the copy of your discourse on the life and character of William Wirt.

Writings of Madison, Volume 4: 1829-1836, p.344

The condition of my eyes, added to my general debility and my continued indisposition, obliging me to read but little, and that little broken by intervals, I have not sooner been able to avail myself of the pleasure afforded by the discourse.

Writings of Madison, Volume 4: 1829-1836, p.344

I have ever regarded Mr. Wirt as among the most distinguished ornaments which his country could boast, and though much admired, to become more so as he should be more known in all the interesting features which characterized him: all his friends, therefore, must be thankful for the biographical tribute to his memory, which groups these features in a portrait not unworthy the pencil of Mr. Wirt himself.

To J. Q. Adams.

MONTPELLIER, July 30, 1834.

Writings of Madison, Volume 4: 1829-1836, p.345

DR SIR,—The copy of your intended speech on the "Removal of the Deposits" was received in the due time; but such was and has since been the deterioration of my health, that I could not give it a proper perusal. Being at present somewhat relieved from the supervening malady under which I have been more particularly suffering, I avail myself of this circumstance to thank you for your polite attention. I have found in the pamphlet, as was anticipated, the very able and impressive views which have always distinguished your investigations of important subjects.

Writings of Madison, Volume 4: 1829-1836, p.345

I have just received a letter from Mr. George Joy, of London, with whom I observe you are not unacquainted. One of the papers enclosed by him contains an incident in the career of Lafayette, which he seems very anxious should not pass into oblivion, and which, indeed, emphatically marks the indelible affection of that truly admirable man for our country and for liberty. As it is understood that you do not decline the task to which you have been invited, of preparing an obituary tribute to his memory, I have thought it not amiss to give you an opportunity of deciding whether the narrative of Mr. Joy furnishes or suggests anything worthy of a more durable repository than it yet has.

Writings of Madison, Volume 4: 1829-1836, p.345

Mr. Joy would, I am sure, be gratified by your perusal of his other communications. I enclose the whole, which may be returned at your leisure.

Writings of Madison, Volume 4: 1829-1836, p.345

You are, I presume, not unaware that this gentleman was, during our last contest with G. Britain, a copious and zealous writer on the depending topics, with views always of the best sort, and presenting often considerations deserving more attention than they received from the British rulers. Some of his private letters to me, relating to the "Orders in Council," whilst known on the spot to be in ovo, and expected every moment to burst the shell, are valuable as confirming the grounds on which the embargo was recommended as a safeguard to our commerce and seamen, against the sweeping depredations in wait for them.

Writings of Madison, Volume 4: 1829-1836, p.346

On the supposition that you are on a visit to Quincy, I address my letter accordingly. Wherever it may find you, it will faithfully express the high esteem and cordial regard, with the best wishes for a prolonged and happy life.

To Edward Livingston.

MONTPELLIER, August 2, 1834.

Writings of Madison, Volume 4: 1829-1836, p.346

DEAR SIR,—Your favor of February 8 was duly received, and I regret that it has not been sooner acknowledged. But such was and has since been the decrepit state of my health, that I have been obliged to avoid as much as possible the use of the pen. Being at present partially relieved from a supervening malady under which I have for a considerable time been particularly suffering, I avail myself of the circumstance to tender you the delayed thanks for your kind attention to my letter to Major Lee. Previous to the receipt of your letter, I had taken the liberty of a second intrusion on it, for which I must thank you in advance.

Writings of Madison, Volume 4: 1829-1836, p.346

I must particularly thank you also for your outline of the condition of France. It has given me a more distinct view of the actual state of things there than I had derived from all the public accounts put together. The death of General La Fayette will probably not be without an influence on the future game of parties. But at this distance it is not easy to say in what respect it will be most felt. As the head of the Republican party, which is understood to be the predominant one, he gave it its full force. It received at the same time from his prudence and patriotism a control from the impetuous and misdirected career, which may be stimulated by other leaders, if his mantle should fall on such as will make it a cloak for factious or selfish objects. How far the external prospects of France may be affected by the late results in Portugal and Spain, and the consequent policy of the great powers of the North, is a problem which well may puzzle those with better means for solving it than we can have here. The general conjecture and hope is, that the popular sympathies throughout Europe are becoming an overmatch for the intrigues, combinations, and machinations of Despotism.

Writings of Madison, Volume 4: 1829-1836, p.347

Of the present condition of our country I could not, if I were to make the attempt, in my retired situation, give you as intelligible a view as you will obtain from other sources. The scene has been and is so checkered by the new divisions and of parties, that a development of it requires a knowledge of secrets I do not possess. The only thing certain and notorious is, that party spirit rages with all its vigor, and nowhere more than in Virginia, which is among the States where the scales seem most on a poise.

Writings of Madison, Volume 4: 1829-1836, p.347

I have the satisfaction of informing you that in the midst of our political agitations, the earth is silently and bountifully making its contributions to our comfort and enjoyment. The wheat harvest has, with but few exceptions, been a good one; and the crops of maize, of cotton, and of tobacco, now in embryo, promise well.

Writings of Madison, Volume 4: 1829-1836, p.347

With my best wishes for your health and a prolonged and happy life, I pray you to be assured of my great and cordial esteem, in all which Mrs. M. joins me, as I do her in the offer of respectful and kind remembrances to Mrs. L. and your daughter.

To Linn Banks and Others, Committee.

MONTPELLIER, Aug. 18, 1834.

Writings of Madison, Volume 4: 1829-1836, p.348

I have received, fellow-citizens, your letter of the 1st instant, inviting me, in the name of a large number of Democratic Republicans of your county, to a public dinner to be given on the 23d to the Honorable John M. Patton, their representative in Congress.

Writings of Madison, Volume 4: 1829-1836, p.348

My continued debility from age and sickness not permitting me to accept the invitation, I can only express my grateful acknowledgements for the favorable opinions and friendly feelings which prompted it, with an expression of the high respect in which I hold the talents and patriotism accorded by all to the character of the representative of the district.

Writings of Madison, Volume 4: 1829-1836, p.348

Adhering myself to the Resolutions of Virginia in 1798, as expounded and vindicated in the Report of 1799, I derive pleasure from every proof of constancy to them proceeding from respectable portions of my fellow-citizens. The report, too often overlooked in comments on the resolutions, having been deliberately sanctioned by representatives chosen by the people with the resolutions before them, forms the fullest and surest test of the principles and views of the State.

Writings of Madison, Volume 4: 1829-1836, p.348

I am particularly happy in being able to say, that the long period during which you refer to me as a witness of the benign operation of our system of government, not only confirmed my belief that the system, in its twofold character of a Government for the Union and a Government for each of the States, was Superior to any other system known to us, but that it strengthened, moreover, a confidence that the causes which had been so often fatal to free governments would find in the healing efficacy of the Constitution itself, and in the amending power always residing in its creators, conservative resources adequate to the most trying occasions; and, consequently, that to our country will belong the glory you claim for it, of having solved propitiously for the destinies of man the problem of his capacity for self-government.

Writings of Madison, Volume 4: 1829-1836, p.348

I beg the committee, in communicating the acknowledgements due from me to those whom they represent, to accept for themselves my great respect and best wishes.

To Mr. ———.

1834.

Writings of Madison, Volume 4: 1829-1836, p.349

DEAR SIR, Having alluded to the Supreme Court of the United States as a constitutional resort in deciding questions of jurisdiction between the United States and the individual States, a few remarks may be proper, showing the sense and degree in which that character is more particularly ascribed to that department of the Government.

Writings of Madison, Volume 4: 1829-1836, p.349

As the Legislative, Executive, and Judicial departments of the United States are co-ordinate, and each equally bound to support the Constitution, it follows that each must, in the exercise of its functions, be guided by the text of the Constitution according to its own interpretation of it; and, consequently, that in the event of irreconcilable interpretations, the prevalence of the one or the other department must depend on the nature of the case, as receiving its final decision from the one or the other, and passing from that decision into effect, without involving the functions of any other.

Writings of Madison, Volume 4: 1829-1836, p.349

It is certainly due from the functionaries of the several departments to pay much respect to the opinions of each other; and, as far as official independence and obligation will permit, to consult the means of adjusting differences and avoiding practical embarrassments growing out of them, as must be done in like cases between the different co-ordinate branches of the Legislative department.

Writings of Madison, Volume 4: 1829-1836, p.349

But notwithstanding this abstract view of the co-ordinate and independent right of the three departments to expound the Constitution, the Judicial department most familiarizes itself to the public attention as the expositor, by the order of its functions in relation to the other departments; and attracts most the public confidence by the composition of the tribunal.

Writings of Madison, Volume 4: 1829-1836, p.349

It is the Judicial department in which questions of constitutionality, as well as of legality, generally find their ultimate discussion and operative decision: and the public deference to and confidence in the judgment of the body are peculiarly inspired by the qualities implied in its members; by the gravity and deliberation of their proceedings; and by the advantage their plurality gives them over the unity of the Executive department, and their fewness over the multitudinous composition of the Legislative department.

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Without losing sight, therefore, of the co-ordinate relations of the three departments to each other, it may always be expected that the judicial bench, when happily filled, will, for the reasons suggested, most engage the respect and reliance of the public as the surest expositor of the Constitution, as well in questions within its cognizance concerning the boundaries between the several departments of the Government as in those between the Union and its members.

Writings of Madison, Volume 4: 1829-1836, p.350

Power of the President to appoint Public Ministers and Consuls in the recess of the Senate.

Writings of Madison, Volume 4: 1829-1836, p.350

The place of a foreign minister or consul is not an office in the constitutional sense of the term.

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1. It is not created by the Constitution.

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2. It is not created by a law authorized by the Constitution. 3. It cannot, as an office, be created by the mere appointment for it, made by the President and Senate, who are to fill, not create offices. These must be "established by law," and therefore by Congress only.

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4. On the supposition even that the appointment could create an office, the office would expire with the expiration of the appointment, and every new appointment would create a new of-rice, not fill an old one. A law reviving an expired law is a new law.

Writings of Madison, Volume 4: 1829-1836, p.350

The place of a foreign minister or consul is to be viewed as created by the law of nations, to which the United States, as an independent nation, is a party, and as always open for the proper functionaries, when sent by the constituted authority of one nation and received by that of another. The Constitution, in providing for the appointment of such functionaries, presupposes this mode of intercourse as a branch of the law of nations:

Writings of Madison, Volume 4: 1829-1836, p.351

The question to be decided is, What are the cases in which the President can make appointments without the concurrence of the Senate? and it turns on the construction of the power "to fill up all vacancies that may happen during the recess of the Senate."

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The term "all" embraces both foreign and municipal cases; and in examining the power in the foreign, however failing in exact analogy to the municipal, it is not improper to notice the extent of the power in the municipal.

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If the text of the Constitution be taken literally, no municipal officer could be appointed by the President alone to a vacancy not originating in the recess of the Senate. It appears, however, that under the sanction of the maxim, qui hæret in litera hæret in cortice, and of the argumentum ab inconvenienti the power has been understood to extend, in cases of necessity or urgency, to vacancies happening to exist in the recess of the Senate, though not coming into existence in the recess. In the case, for example, of an appointment to a vacancy by the President and Senate of a person dead at the time, but not known to be so till after the adjournment and dispersion of the Senate, it has been deemed within the reason of the constitutional provision that the vacancy should be filled by the President alone, the object of the provision being to prevent a failure in the execution of the laws, which, without such a scope to the power, must very inconveniently happen, more especially in so extensive a country. Other cases of like urgency may occur; such as an appointment by the President and Senate rendered abortive by a refusal to accept it.\*

Writings of Madison, Volume 4: 1829-1836, p.351

If it be admissible at all to make the power of the President, without the Senate, applicable to vacancies happening unavoidably to exist, though not to originate in the recess of the Senate, and which the public good requires to be filled in the recess, the reasons are far more cogent for considering the sole power of the President as applicable to the appointment of foreign functionaries, inasmuch as the occasions demanding such appointments may not only be far more important, but, on the farther consideration, that, unlike appointments under the municipal law, the calls for them may depend on circumstances altogether under foreign control, and sometimes on the most improbable and sudden emergencies, and requiring, therefore, that a competent authority to meet them should be always in existence. It would be a hard imputation on the framers and rati-fiers of the Constitution, that while providing for casualties of inferior magnitude, they should have intended to exclude from the provisions the means usually employed ih obviating a threatened war; in putting an end to its calamities; in conciliating the friendship or neutrality of powerful nations; or even in seizing a favourable moment for commercial or other arrangements material to the public interest. And it would surely be a hard rule of construction that would give to the text of the Constitution an operation so injurious, in preference to a construction that would avoid it, and not be more liberal than would be applied to a remedial statute. Nor ought the remark to be omitted, that by rejecting such a construction this important function, unlike some others, would be excluded altogether from our political system, there being no pretension to it in any other department of the General Government, or in any department of the State governments. To regard the power of appointing the highest functionaries employed in foreign missions, though a specific and substantive provision in the Constitution, as incidental merely, in any case, to a subordinate power, that of a provisional negotiation by the President alone, would be a more strained construction of the text than that here given to it.

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The view which has been taken of the subject overrules the distinction between missions to foreign courts, to which there had before been appointments and to which there had not been. Not to speak of diplomatic appointments destined, not for stations at foreign courts, but for special negotiations, no matter where, and to which the distinction would be inapplicable, it cannot bear a rational or practical test in the cases to which it has been applied. An appointment to a foreign court at one time, unlike an appointment to a municipal office always requiring it, is no evidence of a need for the appointment at another time; while an appointment where there had been none before, may, in the recess of the Senate, be of the greatest urgency. The distinction becomes almost ludicrous when it is asked for what length of time the circumstance of a former appointment is to have the effect assigned to it on the power of the President. Can it be seriously alleged, that after the interval of a century, and the political changes incident to such a lapse of time, the original appointment is to authorize a new one without the concurrence of the Senate, while a like appointment to a new court, or even a new nation, however immediately called for, is barred by the circumstance that no previous appointment to it had taken place? The case of diplomatic missions belongs to the law of nations, and the principles and usages on which that is founded are entitled to a certain influence in expounding the provisions of the Constitution which have relation to such missions. The distinction between courts to which there had, and to which there had not been previous missions, is believed to be recorded in none of the oracular works on international law, and to be unknown to the practice of Governments, where no question was involved as to the de facto establishment of a Government.

Writings of Madison, Volume 4: 1829-1836, p.353

With this exposition the practice of the Government of the United States has corresponded, and with every sanction of reason and public expediency. If in any particular instance the power has been misused, which it is not meant to suggest, that could not invalidate either its legitimacy or its general utility any more than any other power would be invalidated by a like fault in the use of it.

To N. P. Trist.

MONTPELLIER, August 25, 1834.

Writings of Madison, Volume 4: 1829-1836, p.354

DEAR SIR,—I have received yours of the 20th, and enclose a fair copy of so much of Mr. Jefferson's letter to me as relates to the resolutions of 1798-99. The letter is dated August 23, not 28, but is so identical with the printed letter to W. C. Nicholas as to prove that one of the dates is erroneous. I return the letter of W. C. N., which I found in the letter of Mr. J. I find no letter from Mr. Jefferson to me dated November 26, 1799.

Writings of Madison, Volume 4: 1829-1836, p.354

The letter from Mr. Monroe to Mr. Jefferson, of which you enclosed an extract, is important. I have one from Mr. Monroe on the same occasion, more in detail, and not less emphatic in its anti-nullifying language. You may look at it when on your promised visit; when, also, we will examine the the of my correspondence with Col. J. Taylor, which is not of much extent. In his printed argument on the carriage tax, he is explicit as to the judicial supremacy of the United States, though a champion afterward against it.

Writings of Madison, Volume 4: 1829-1836, p.354

Have you seen the Journal of the House of Delegates in 1798-99? The closing scenes of the resolutions contain a vote of the minority, expressly denying the right of a State to declare, protest, &c., &c., and crushing the assertion that the right was denied by no one, with the inference that the resolutions must have intended to claim for a State a nullifying interposition.

Writings of Madison, Volume 4: 1829-1836, p.354

The paper enclosed in yours has been disposed of as you suggested. We look with pleasure to the visit which your letter promises; in the mean time, accept and communicate the affectionate and joint salutations of Mrs. M. and myself.

To Edward Coles.

MONTPELLIER, August 29, 1834.

Writings of Madison, Volume 4: 1829-1836, p.354

I have received, my dear sir, your favor of the 17th. The motives to it are as precious to me as its object is controvertible.

Writings of Madison, Volume 4: 1829-1836, p.355

You have certainly presented your views of the subject with great skill and great force. But you have not sufficiently adverted to the position I have assumed, and which has been accorded, or rather assigned, to me by others, of being withdrawn from party agitations by the debilitating effects of age and disease.

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And how could I say that the present exciting questions in which you expect me to engage are not party questions? How could I say that the Senate was not a party, because representing the States, and claiming the support of the people, or that the other House, representing the people and confiding in their support, with the Executive at their head, was less than a party? How could I say that the former is the nation, and the latter but a faction?

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What a difference again between my relation to the Resolutions of 98-99, charged on my individual responsibility, and my common relation only to the constitutional questions now agitated! to which might be added the difference of my present condition from what it was at the date of my published exposition of those Resolutions, and the habit now of invalidating opinions emanating from me by a reference to my age and infirmities.

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Would not candor and consistency oblige me, in denouncing the heresies of one side, not to pass in silence those of the other? For claims are made by the Senate in opposition to the principles and practice of every Administration, my own included, and varying materially, in some instances, the relations between the great departments of the Government. A want of impartiality in this respect would enlist me into one of the parties, shut the ear of the other, and discredit me with those, if there be now such, who are wavering between them.

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How, in justice or in truth, could I join in the charge against the President of claiming a power over the public money, including a right to apply it to whatever purpose he pleased, even to his own? However unwarrantable the removal of the deposits, or culpable the mode of effectuating it, the act has been admitted by some of his leading opponents to have been not a usurpation, as charged, but an abuse only of power. And however unconstitutional the denial of a legislative power over the custody of the public money as being an Executive prerogative, there is no appearance of a denial to the Legislature of an absolute and exclusive right to appropriate the public money, or of a claim for the Executive of an appropriating power, the charge, nevertheless, pressed with most effect against him. The distinction is so obvious and so essential between a custody and an appropriation, that candour would not permit a condemnation of the wrongful claim of custody without condemning at the same time the wrongful charge of a claim of appropriation.

Writings of Madison, Volume 4: 1829-1836, p.356

Candour would require from me also a notice of the disavowal by the President, doubtless real, though informal, of the obnoxious meaning put on some of his acts, particularly his Proclamation; a notice which would detract from my credit with those who carefully keep the disavowal out of view in their strictures on the Proclamation. When I remarked to you my entire condemnation of the Proclamation, I added, "in the sense which it bore, but which it appeared had been disclaimed." In fact, I have in conversations, from which I apprehended no publicity, frankly pointed at what I regarded as heretical doctrines on every side, my wish to avoid publicity being prescribed by my professed as well as proper abstraction from the polemic scene. I have accordingly, in my unavoidable answers to dinner invitations received from quarters adverse to each other, but equally expressing the kindest regard for me, endeavored to avoid involving myself in their party views, by confining myself to subjects in which all parties profess to concur, and to the proceedings of Virginia generally referred to in the invitations, and with respect to which my adherence was well known.

Writings of Madison, Volume 4: 1829-1836, p.356

You call my attention with much emphasis to the principle openly avowed by the President and his friends, that offices and emoluments were the spoils of victory, the personal property of the successful candidate for the Presidency, to be given as rewards for electioneering services, and in general to be used as the means of rewarding those who support, and of punishing those who do not support, the dispenser of the fund. I fully agree in all the odium you attach to such a rule of action. But I have not seen any avowal of such a principle by the President, and suspect that few if any of his friends would openly avow it. The first, I believe, who openly proclaimed the right and policy in a successful candidate for the Presidency to reward friends and punish enemies by removals and appointments, is now the most vehement in branding the practice. Indeed, the principle if avowed without the practice, or practised without the avowal, could not fail to degrade any Administration; both together, completely so. The odium itself would be an antidote to the poison of the example, and a security against the permanent danger apprehended from it.

Writings of Madison, Volume 4: 1829-1836, p.357

What you dwell on most is, that nullification is more on the decline, and less dangerous, than the popularity of the President with which his unconstitutional doctrines are armed. In this I cannot agree with you. His popularity is evidently and rapidly sinking under the unpopularity of his doctrines. Look at the entire States which have abandoned him; look at the increasing minorities in States where they have not yet become majorities; look at the leading partisans who have abandoned and turned against him; and at the reluctant and qualified support given by many who still profess to adhere to him. It cannot be doubted that the danger and even existence of the parties which have grown up under the auspices of his name will expire with his natural or his official life, if not previously to either.

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On the other hand, what more dangerous than nullification, or more evident than the progress it continues to make, either in its original shape or in the disguises it assumes? Nullification has the effect of putting powder under the Constitution and Union, and a match in the hand of every party to blow them up at pleasure; and for its progress, hearken to the tone in which it is now preached; cast your eye on its menacing increasing minorities in most of the Southern States without a decrease in any one of them. Look at Virginia herself, and read in the gazettes, and in the proceedings of popular meetings, the figure which the anarchical principle now makes, in contrast with the scouting reception given to it but a short time ago.

Writings of Madison, Volume 4: 1829-1836, p.357-p.358

It is not probable that this offspring of the discontents of South Carolina will ever approach success in a majority of the States. But a susceptibility of the contagion in the Southern States is visible, and the danger is not to be concealed that the sympathies arising from known causes, and the inculcated impression of a permanent incompatibility of interests between the South and the North, may put it in the power of popular leaders aspiring to the highest stations, and despairing of success on the Federal theatre, to unite the South, on some critical occasion, in a course that will end in creating a new theatre of great though inferior extent. In pursuing this course, the first and most obvious step is nullification; the next, secession; and the last, a farewell separation. How near was this course being lately exemplified? and the danger of its recurrence in the same, or some other quarter, may be increased by an increase of restless aspirants, and by the increasing impracticability of retaining in the Union a large and cemented section against its will. It may, indeed, happen that a return of danger from abroad, or a revived apprehension of danger at home, may aid in binding the States in one political system, or that the geographical and commercial ligatures may have that effect; or that the present discord of interests between the North and the South may give way to a less diversity in the applications of labor, or to the mutual advantage of a safe and constant interchange of the different products of labor in different sections. All this may happen, and, with the exception of foreign hostilities, is hoped for. But, in the mean time, local prejudices and ambitious leaders may be but too successful in finding or creating occasions for the nullifying experiment of breaking a more beautiful China vase\* than the British Empire ever was, into parts which a miracle only could reunite.

Writings of Madison, Volume 4: 1829-1836, p.358

I have thought it due to the affectionate interest you take in what concerns me, to submit the observations here sketched, crude as they are. The field they open for reflection I leave to yours, and to your opportunity, which I hope will be a long one, of witnessing the developments and vicissitudes of the future. I need not say that the letter is entirely confidential. It would otherwise do what it endeavours to shew I ought not to do, and could not consistently do.

Writings of Madison, Volume 4: 1829-1836, p.359

My health has not improved since you left us. Mrs. Madison joins in wishing a continuance of yours, and that of your amiable partner, and all other happiness to you both.

To George Joy.

MONTPELLIER, Septr 9, 1834.

Writings of Madison, Volume 4: 1829-1836, p.359

DEAR SIR,—I have received your two letters of June 4th and 11th, with their inclosures. The letter to your brother records a touching incident in the life of Lafayette; a life which, if history does it justice, will fill some of its most conspicuous and interesting pages. Observing that Mr. Adams had been designated by Congress to prepare an obituary memoir of the man so much admired and beloved by our country, I took the liberty of inclosing to him your letter to your brother, that the incident, should Mr. Adams not decline the task assigned him, might have the chance of being better guarded against the oblivion you wish it to escape. And as you were an acquaintance of Mr. Adams, I thought it not amiss to add to it your letter to Sir James Graham, and to both your two letters to me, presuming that the liberty would not be disagreeable to you, nor unacceptable to Mr. Adams. The manner in which he speaks of you, and of the long intimacy between the two families, makes me glad that I did so.

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The Orders in Council at which you glance have a relation to our Embargo and to our declaration of war, which gives them a historical importance. They were most certainly the ground of the Embargo. They were printed in an English newspaper in the very words they bore, with an intimation that they would be forthwith promulgated; and the newspaper was lying on the table of the Cabinet when the message recommending the Embargo was prepared. With this authority for their existence your letters to me were in precise accordance. Yet the spirit of party denied at the time that the Executive had any knowledge of the fact, and there are probably not a few still under that delusion, with a danger that it may gain credit with posterity. Had Congress, by disregarding such a state of things, exposed our whole commerce to the sweeping depredation which awaited it, they would have deserved the reproaches which have been lavished on the Embargo. The duration of it is more open for discussion; but if it failed of success it might be explained by the evasions and obstructions practised in the most commercial quarter of the Union. Had these been apprehended in time, and five or six hundred Marblehead seamen who offered their services been put on board vessels commissioned, and by proper encouragements animated to capture smugglers and carry them into faithful ports, where they would have been condemned, the measure would have had a fair trial, and the issue might have been very different.

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In relation to the declaration of war, the Orders in Council had an agency of the most pointed character. Although it could not be unknown that the U. States had made a revocation of the Orders a sine qua non of the continuance of peace, the British envoy here, according to instructions, communicated in ex-tenso, and for the eye of the President, a dispatch declaring that the Orders in Council would not and could not be revoked, leaving to the U. States no alternative but disgraceful submission or an appeal to the ultima ratio. Notwithstanding this communication, not many weeks elapsed before a revocation was produced by the popular distress, but not in time to prevent the war which the categorical refusal had precipitated.

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There were circumstances attending the termination of the war not unworthy of recollection. During the negotiation at Ghent, the Chancellor of the Exchequer was called upon to say whether "the war taxes," limited by a ministerial pledge to the continuance of the war, would be prolonged after the peace in Europe by the supervening war with the U. States. Aware that the objects to which the war had been reduced would not reconcile the nation to the obnoxious taxes, the minister made no reply, the Parliament was prorogued, and in the mean time the treaty at Ghent brought to a conclusion.

Writings of Madison, Volume 4: 1829-1836, p.361

It is not improbable that some of the particulars I have referred to may be more accurately preserved in your memory than in mine, and quite certain that you possess more convenient means of verifying and extending them than my situation permits.

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I sincerely hope, for the sake of humanity, that you may be right in your anticipation that G. Britain will put an end to her practice of impressment at home, and, for the peace of the world, that it may be accompanied by a relinquishment of her pretensions on the high seas, relating to impressments, blockades, the list of contraband, and some others vexatious if not illegal, not excepting the seizure of enemy goods in friendly vessels, against which she herself courted a stipulation from the Dutch when her naval power had a match in that of the Dutch, and for which she is now the sole advocate. In these sacrifices, if so to be called, a facility is afforded to her pride, by the liberalizing spirit of the age, to which she is becoming a party; and it cannot escape her foresight, that without them she will have the maritime world to contend with, the new as well as the old half. The former presents a rapidity of growth, forcing itself into the calculations of all sagacious statesmen. Judging from the past twenty years; what the effect of the next twenty will be in the northern portion of the hemisphere, and may be in the southern, and comparing the resources for building and loading ships on this side of the Atlantic with those on the other, the vanity of an American may be excused for supposing that the Trident itself will at no remote day cross the Atlantic. Nor will such an event be retarded by arbitrary or monopolizing expedients. Navigation is now a favorite object with all nations having an interest in it, and there is no case in which unequal and grasping regulations admit a more simple and effectual reciprocation, especially if the articles to be exchanged should give an advantage to the defensive party.

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I cannot doubt that a compilation from your laudable efforts in print and in your private correspondences, first to prevent a war between G. Britain and the U. States, and next to hasten a close to it, will be acceptable even now to many readers, and a valuable contribution at any time to the annals of the period. But I doubt whether any of the communications from me will merit a place in the work. Of some of my letters copies may not have been retained, in the hurry of an extensive private correspondence incident to my public situation. Those on my files are but few, and if not to be prohibited, not of sufficient moment to be recommended for the public eye.

Writings of Madison, Volume 4: 1829-1836, p.362

The last letter from you, previous to the two now acknowledged, introduced a Mr. Fuller. Having been arrested, on his way to Montpelier, by some requisite change in his arrangements, he informed me of it in a letter to which the inclosed was an answer. From the return of it lately, as a dead letter, I infer that he is now in England. If so, please to renew the seal, and let him find that the due attention was given to him.

Writings of Madison, Volume 4: 1829-1836, p.362

You express a regret, and almost complaint, at the intermission of my letters. I cannot but feel regret myself at the cause of yours. But I mingle with mine the reflection that yours implies a continuance of the esteem and regard which I have always valued. In the case of a compliment [?] I should have pleas, of which I am in the habit of reminding my friends, and to which I am sure you would be among the last to demur. I am now far advanced into my eighty-fourth year, with a constitution crippled by a tedious and distressing rheumatism, to the effects of which have been added other indispositions, one of which is still hanging on me, and with the further addition that my fingers are so stiffened as to make writing awkward and laborious, and my vision so faded as to make reading a task to me. I sincerely wish that your days may outnumber mine, with an exemption from the infirmities which have beset mine. With this wish accept all other good ones.

Writings of Madison, Volume 4: 1829-1836, p.362

The freedom of some of my remarks, and the extravagance, as it may be deemed, of some of my speculations, will sufficiently suggest that my letter is not for the public eye.

To William H. Winder.

MONTPELLIER, Sepr 15, 1834.

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DEAR SIR,—I am sensible of the delay in acknowledging your letter of and regret it. But apart from the crippled condition of my health, which almost forbids the use of the pen, I could not forget that I was to speak of occurrences after a lapse of twenty years, and at an age in its 84th year; circumstances so readily and for the most part justly referred to, as impairing the confidence due to recollections and opinions.

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You wish me to express personally "my approval of your father's character and conduct at the battle of Bladensburg," on the ground "of my being fully acquainted with everything connected with them, and of an ability to judge of which no man can doubt."

Writings of Madison, Volume 4: 1829-1836, p.363

You appear not to have sufficiently reflected, that having never been engaged in military service, my judgment in the case could not have the weight with others which your partiality assumes for it, but might rather expose me to a charge of presumption in deciding on points purely of a professional description. Nor was I on the field as a spectator till the order of the battle had been formed, and had approached the moment of its commencement.

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With respect to the order of the battle, that being known, will speak for itself; and the gallantry, activity, and zeal of your father during the action, had a witness in every observer. If his efforts were not rewarded with success, candour will find an explanation in the peculiarities he had to encounter; especially in the advantage possessed by the veteran troops of the enemy over a militia, which, however brave and patriotic, could not be a match for them in the open field.

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I cannot but persuade myself that the evidence on record, and the verdict of the court of enquiry, will outweigh and outlive censorious comments doing injustice to the character and memory of your father. For myself, I have always had a high respect for his many excellent qualities, and am gratified by the assurance you give me of the place I held in his esteem and regard.

To Isaac S. Lyon.

MONTPELLIER, Septr 20, 1834.

Writings of Madison, Volume 4: 1829-1836, p.364

DR SIR,—I must apologise for the great delay in acknowledging your letter of Apl 20, by referring (now a common and necessary resort) to the feebleness of age, accompanied by severe and continued inroads on my health.

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My respect for your object would make it very agreeable to me to aid it in the way you mention. But in looking into the parcels of pamphlets I possess, I find none that would supply the specified chasm. Of orations, I do not recollect that I ever delivered one that was printed. Of addresses, mine have been but answers to addresses; and if printed, it has been in newspapers, not in pamphlets. My speeches, so far as printed, have been, with scarce an exception, bound up in stenographic volumes. I recollect that my share in the debates in Congress on the Commercial Resolutions, called the Virginia Resolutions, was published in pamphlet form; but it happens that I do not possess more than a single copy, and that not a little mutilated and defaced. It may not be amiss to remark, that the stenographic reports of my speeches, as doubtless of others, those of Lloyd's particularly, are, where they were not revised by the speaker, very defective and often erroneous; and that where revised, I limited myself to the substance, with as much adherence to the language as my memory could effect.

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I am sorry that, after so much delay, I have not been able to give a more adequate answer to your letter. I hope the explanation offered will be found not inconsistent with the respect and good wishes which I pray you to accept.

To Mann Butler.

OCTOBER 11, 1834.

Writings of Madison, Volume 4: 1829-1836, p.364

DR SIR,—I have received your letter of the 21 ult., in which you wish to obtain my recollection of what passed between Mr. John Brown and me in 1788, on the overture of Gardoqui, "that if the people of Kentucky would erect themselves into an independent State, and appoint a proper person to negotiate with him, he had authority for that purpose and would enter into an arrangement with them for the exportation of their produce to New Orleans."

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My recollection, with which references in my manuscript papers accord, leaves no doubt that the overture was communicated to me by Mr. Brown. Nor can I doubt that, as stated by him, I expressed the opinion and apprehension that a knowledge of it in Kentucky might, in the excitements there, be mischievously employed. This view of the subject evidently resulted from the natural and known impatience of the Western people on the waters of the Mississippi for a market for the products of their exuberant soil; from the distrust of the Federal policy produced by the project of surrendering the use of that river for a term of many years; and from a coincidence of the overture, in point of time, with the plan on foot for consolidating the Union by arming it with new powers—an object, to embarrass and defeat which the dismembering aims of Spain would not fail to make the most tempting sacrifices, and to spare no intrigues.

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I owe it to Mr. Brown, with whom I was in intimate friendship when we were associates in public life, to observe that I always regarded him, whilst steadily attentive to the interests of his constituents, as duly impressed with the importance of the Union, and anxious for its prosperity.

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Of the other particular enquiries in your letter, my great age, now in its 84th year, and with more than the usual infirmities, will, I hope, absolve me from undertaking to speak without more authoritative aids to my memory than I can avail myself of. In what relates to General Wilkinson, official investigations in the archives of the War Department, and the files of Mr. Jefferson, must, of course, be among the important sources of the light you wish for.

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It would afford me pleasure to aid the interesting work which occupies your pen by materials worthy of it. But I know not that I could point to any which are not in print or in public offices, and which, if not already known to you, are accessible to your researches. I can only, therefore, wish for your historical task all the success which the subject merits, and which is promised by the qualifications ascribed to the author.

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I regret the tardiness of this acknowledgment of your letter. My feeble condition and frequent interruptions are the apology, which I pray you to accept with my respects and my cordial salutations.

To Edward Coles.

OCTOBER 15, 1834.

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I have received, my dear sir, your letter of the 15th ultimo. I did not anticipate a complaint that mine was not full enough, being an effort which, in my present condition, I had rarely made. It was not my object to offer either a plenary or a public review of the agitated topics, but to satisfy a friend that I ought not, in my eighty-fourth year, and with a constitution crippled by disease, to put myself forward on the implied ground that my opinions were to have an effect which I ought not to presume, and which I was well persuaded they would not have. If I did not extend my remarks to every obnoxious doctrine or measure of the Executive, I was under no apprehension of an inference from my silence that I approved them; and there was the less occasion to guard against the inference, as I had, with respect to the omitted cases, freely expressed my views of them in our private conversations.

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Notwithstanding your cogent observations on the comparative dangers from the popularity and example of General Jackson, and from the doctrines and example of South Carolina, I must adhere to the opinion that the former are daily losing, and the latter gaining ground; for the proof of which, I renew my appeal to the facts of daily occurrence. And if the declension of his popular influence be such during his official life, and with the peculiar hold he has on party feelings, there is little reason to suppose that any succeeding President will attempt a like career. That a series of them should do so with the support of the people, is a possibility opposed to a moral certainty.

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May I not appeal, also, to facts which will satisfy yourself of the error which supposes that a respect for my opinion, even naked opinion, would control the adverse opinions of others? On the subject of the bank, on that of the tariff, and on that of nullification, three great constitutional questions of the day, my opinions, with the grounds of them, are well known, being in print with my name to them. Yet the bank was, perhaps, never more warmly opposed than at present; the tariff seems to have lost none of its unpopularity; whilst nullification has been for some time, and is at present, notoriously advancing, with some of my best personal, and heretofore political, friends among its advocates.

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It must not be thought that I am displeased or disappointed at this result. On the contrary, I honor the independent judgment that decides for itself; and I know well that a spirit of party is not less unyielding.

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You observe that the absorbing question of Executive misrule has diverted attention from nullification. This may be true, and it is a reason for not mitigating the danger from it; for it is equally observable, that whilst nullification is, on one hand, taking advantage of the diverted attention, it is, on the other, propagating itself under the name of State rights, by diminishing the importance of questions between the Executive and other departments of the Federal Government, compared with questions between the Federal and State governments, and by inculcating the necessity of nullification as the only safeguard to the latter against the former. In a late speech of the reputed author of the heresy, which has been lauded as worthy of letters of gold, this view of the subject is presented in the form most likely to make converts of the State rights opponents of the tariff and other unpopular measures of the Federal policy.

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Your reasoning, ingenious as it is, has not disproved the fairness of the distinction between a claim to the custody of the public money and a claim to the absolute use or appropriation of it. In inferring abuses of power from particular instances, it is always proper to keep within the range of a certain degree of probability. The distinction in this case is so palpable and so important that the inference from a claim to the custody, however unsound, to a claim of appropriation, is not only disavowed by the partisans of the former, who are, probably, not numerous, but the distinction is triumphantly urged against their adversaries, who disregard it, as a proof of their disingenuous and fallacious purposes.

Writings of Madison, Volume 4: 1829-1836, p.368

You are at a loss for the innovating doctrines of the Senate to which I alluded. Permit me to specify the following:

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The claim, on constitutional ground, to a share in the removal as well as appointment of officers, is in direct opposition to the uniform practice of the Government from its commencement. It is clear that the innovation would not only vary, essentially, the existing balance of power, but expose the Executive, occasionally, to a total inaction, and at all times to delays fatal to the due execution of the laws.

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Another innovation brought forward in the Senate, claims for the Legislature a discretionary regulation of the tenure of offices. This, also, would vary the relation of the departments to each other, and leave a wide field for legislative abuses. The power of removal, like that of appointment, ought to be fixed by the Constitution, and both, like the right of suffrage and apportionment of Representatives, to be not dependent on the legislative will. In republican governments the organization of the executive department will always be found the most difficult and delicate, particularly in regard to the appointment, and, most of all, to the removal of officers. It may well deserve consideration, how far the present modification of these powers can be constitutionally improved. But apart from the distracting and dilatory operation of a veto in the Senate on the removal from office, it is pretty certain that the large States would not invest with that additional prerogative a body constructed like the Senate, and endowed, as it already is, with a share in all the departments of power, Legislative, Executive, and Judiciary. It is well known that the large States, in both the Federal and State Conventions, regarded the aggregate powers of the Senate as the most objectionable feature in the Constitution.

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Another novelty of great practical importance is the alleged limitation of the qualified veto of the President to constitutional objections. That it extends to cases of inexpediency also, and was so understood and so vindicated, (see the Federalist,) cannot be doubted. My veto to the bank was expressly to the inexpediency of its plan, and the validity of the veto was never questioned. As a shield to the Executive department against legislative encroachments, and a general barrier to the Constitution against them, it was doubtless expected to be a valuable provision. But a primary object of the prerogative most assuredly was that of a check to the instability in legislation, which had been found the besetting infirmity of popular governments, and been sufficiently exemplified among ourselves in the Legislatures of the States; and I leave yourself to decide how far, in a reversal of the case, an application of the veto to a defence of the bank against a legislative hostility to it would have been welcomed by those who now denounce it as a usurpation. It should be kept in mind that each of the departments has been alternately in and out of favor, and that changes in the organization of them hastily made, particularly in accordance with the vicissitudes of party ascendency, would produce a constitutional instability worse than a legislative one.

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Another innovation of great practical importance espoused by the Senate, relates to the power of the Executive to make diplomatic and consular appointments in the recess of the Senate. Hitherto it has been the practice to make such appointments to places calling for them, whether the places had or had not before received them. Under no Administration was the distinction more disregarded than under that of Mr. Jefferson, particularly in consular appointments, which rest on the same text of the Constitution with that of public ministers. It is now assumed that the appointments can only be made for occurring vacancies; that is, places which had been previously filled. The error lies in confounding foreign missions under the law of nations with municipal officers under the local law. If they were officers in the constitutional sense, a legislative creation of them being expressly required, they could not be created by the President and Senate. If, indeed, it could be admitted that as offices they would ipso facto be created by the appointment from the President and Senate, the office would expire with the appointment, and the next appointment would create a new office, not fill a vacant one. By regarding those missions not as offices, but as stations or agencies, always existing under the law of nations for governments agreeing, the one to send the other to receive the proper functionaries, the case, though not perhaps altogether free from difficulty, is better provided for than by any other construction. The doctrine of the Senate would be as injurious in practice as it is unfounded in authority. It might and probably would be of infinitely greater importance to send a public minister where one had never been sent, than where there had been a previous mission. If regarded as offices, it follows, moreover, that the President would be bound, as in case Of other offices, to keep them always filled, whether the occasion required it or not; the opposite extreme of not being permitted to provide for the occasion, however urgent.

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The new doctrine involves a difficulty also in providing for treaties, even treaties of peace, on favorable emergencies, the functionaries not being officers in a constitutional sense, nor perhaps ministers to any foreign government. An attempt was, I believe, made by a distinguished individual to derive a power in the President to provide for the case of terminating a war, from his military power to establish a truce. This would have opened a wider door for construction than has yet been contended for.

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I might add the claim for the Senate of a right to be consulted by the President, and to give their advice previous to his foreign negotiations; a course of proceeding which I believe was condemned by the result of a direct or analogous experiment, and which it was presumed would not again be revived. That the secrecy generally essential in such negotiations would be safe in a numerous body, however individually worthy of the usual confidence, would be little short of a miracle.

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If you call for proofs of the reality of these claims, by or in behalf of the Senate, I may refer to their equal notoriety with facts on which you rely, and to a greater authenticity than those which you state on hearsay only.

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I have thrown together these remarks, as suggested by the one-sided view you have taken of subjects which ought to be viewed on both sides, whatever be the decision on them. It is not improbable that a free and full conversation would bring us much nearer together on the most important points than might be inferred from our correspondence on paper. When or whether at all such a conversation can take place, will depend on the movements on your part, and contingencies on mine.

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In the meantime I beg you to regard the present desultory communication in the same confidential light with the former, and to be assured of my constant affection, and my best wishes for the happy life of which you have so flattering a prospect.

To Edward Everett.

MONTPELLIER, October 22d, 1834.

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DEAR SIR,—I have received the copy of your eulogy on La Fayette; and though obliged, in my personal condition, to read but little at a time, have gone through it, and with great pleasure, finding a reward in every page as I proceeded. It is a fine picture finally framed, with a likeness faithful to the noble original; the more noble for having renounced the vain title. It cannot fail to be universally admired.

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I am reminded by the occasion of unpaid thanks for interesting communications received from your kindness, when I was unable to attend to them. Among them was the speech of Mr. Binney, who appears to have sustained, throughout the session, the high character he brought into it.

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Be pleased to accept, with my thanks for your present favor, the arrears referred to; and with both, a reassurance of my cordial esteem and my best wishes.

To the New England Society in New York.

DECR 20th, 1834.

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I have received, fellow-citizens, your letter inviting me, in behalf of the New England Society in New York, to a dinner on the 22d instant, their anniversary celebration of the principles and virtues of their Pilgrim Fathers. The obstacle to my acceptance of the invitation being insuperable, I can only express my acknowledgments for the kindness and politeness which dictated it.

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The exalted feelings which determined the Pilgrims to seek in a New World, through the perils and sufferings to be encountered, the liberty, religious and civil, denied them in the old; and. the fruits of their heroic virtues, in the multiplied blessings now enjoyed by their expanding posterity, cannot fail to inspire admiration and gratitude.

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With an assurance of my cordial sympathy in these sentiments, I tender that of the great respect and good wishes which I pray may also be accepted.

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To SAMUEL A. FOOT,

SAMUEL F. TISDALE,

WILLIAM BURNS,

EDMUND S. GOULD,

THOMAS FESSENDEN,

SHEPHERD KNAPP,

JOSEPH HOXIE,

JOHN CLEAVELAND,

J. M. CATLIN,

Committee of Arrangements.

1835

To Doctor Daniel Drake.

MONTPELLIER, Jany 12, 1835.

Writings of Madison, Volume 4: 1829-1836, p.372

DEAR SIR,—The copy of your discourse on the "History, character, and prospects of the West," was duly received; and I have read, with pleasure, the instructive views taken of its interesting and comprehensive theme. Should the youth addressed, and their successors, follow your advice, and their example be elsewhere imitated in noting from period to period the progress and changes of our country under the aspects ad-verted to, the materials added to the supplies of the decennial census, improved as that may be, will form a treasure of incalculable value to the Philosopher, the Law-giver, and the Political Economist. Our history, short as it is, has already disclosed great errors sanctioned by great names, in political science, and it may be expected to throw new lights on problems still to be decided.

Writings of Madison, Volume 4: 1829-1836, p.373

The "note" at the end of the discourse, in which the geographical relations of the States are delineated, merits particular attention. Hitherto hasty observers, and unfriendly prophets, have regarded the Union as too frail to last, and to be split at no distant day into the two great divisions of East and West. It is gratifying to find that the ties of interest are now felt by the latter not less than the former; ties that are daily strengthened by the improvements made by art in the facilities of beneficial intercourse. The positive advantages of the Union would alone endear it to those embraced by it; but it ought to be still more endeared by the consequences of disunion; in the jealousies and collisions of commerce; in the border wars, pregnant with others, and soon to be engendered by animosities between the slaveholding and other States; in the higher toned Governments, especially in the Executive branch; in the military establishments provided against external danger, but convertible also into instruments of domestic usurpation; in the augmentations of expense, and the abridgment, almost to the exclusion, of taxes on consumption (the least unacceptable to the people) by the facility of smuggling among communities locally related, as would be the case. Add to all these the prospect of entangling alliances with foreign powers multiplying the evils of internal origin. But I am rambling into observations, with proof in the "Discourse" before me, that, however just, they cannot be needed.

Writings of Madison, Volume 4: 1829-1836, p.374

With the thanks, sir, which I owe to your politeness in favoring me with it, I tender my respectful and cordial salutations.

To Henry Clay.

31 JANUARY, 1835.

Writings of Madison, Volume 4: 1829-1836, p.374

Perceiving that I am indebted to you for a copy of your Report on our Relations with France, I beg you to accept this return of my thanks for it. The document is as able in its execution, as it is laudable in its object of avoiding war without incurring dishonor.

Writings of Madison, Volume 4: 1829-1836, p.374

It must be the wish of all that the issue may correspond with the object. But may not a danger of rupture lurk under the conflicting grounds taken on the two sides—that taken by the Message and by the Report, also, in a softened tone, that the Treaty is binding on France, and is in no event to be touched; and the ground taken or likely to be taken by France, with feelings roused by the peremptory alternative of compliance or self-redress, that the Treaty is not binding on her, appealing for the fact to the structure of her government, which all nations treating with her are presumed and bound to understand.

Writings of Madison, Volume 4: 1829-1836, p.374

It may be well for both parties if France should have yielded before the arrival of the Message, or not decided before that of the Report, or, at least, should not be inflexible in rejecting the terms of the Treaty. A war between the two nations, which may cost them many millions for a stake not exceeding a few, would be an occurrence peculiarly unpropitious to the cause of popular representation, in the present crisis of the political world.

Writings of Madison, Volume 4: 1829-1836, p.374

War is the more to be avoided, if it can be done without in admissible sacrifices, as a maritime war to which the United States should be a party, and Great Britain neutral, has no aspect which is not of an ominous cast. Enforce the belligerent rights of search and seizure against British ships, and it would be a miracle if serious collisions did not ensue. Allow the rule of "free ships, free goods," and the flag covers the property [of] France and enables her to employ all her naval resources against us. The tendency of the new rules in favor of the neutral flag is, to displace the mercantile marine of nations at war, by neutral substitutes; and to confine the war on water, as on land, to the regular force; a revolution friendly to humanity as lessening the temptations to war and the severity of its operations, but giving an advantage to the nations which keep up large navies in time of peace over nations dispensing with them, or compelling the latter to follow the burdensome example. France has at present this advantage over us in the extent of her public ships now or that may be immediately brought into service, whilst the privilege of the neutral flag would deprive us of the cheap and efficient aid of privateers.

Writings of Madison, Volume 4: 1829-1836, p.375

I do not relinquish the hope, however, that these views of the subject will be obviated by amicable and honorable adjustment.

Writings of Madison, Volume 4: 1829-1836, p.375

Should the course of your movements at any time approach Montpelier, I need not express the pleasure which a call from you would give to Mrs. Madison and myself.

To C. J. Ingersoll.

FEBRUARY 12, 1835.

Writings of Madison, Volume 4: 1829-1836, p.375

DEAR SIR,—I have received your favor inclosing a copy of your "View of the Committee powers of Congress."

Writings of Madison, Volume 4: 1829-1836, p.375

Without entering into questions which may grow out of the twofold character of the Senate of the United States as a Legislative and a Judicial body, your observations suggest a fuller investigation and more accurate definition of the privileges and authorities of the several departments and branches of our Republican Governments than have yet been bestowed on them. The task would be well worthy the most skilful hands.

Writings of Madison, Volume 4: 1829-1836, p.375

With my thanks, sir, for your communication, I tender my friendly salutations and good wishes.

To M. Van Buren.

Writings of Madison, Volume 4: 1829-1836, p.376

J. Madison, with his respectful compliments to Mr. Van Buren, returns his thanks for the copy of Mr. Adams's Oration on the "Life and character of La Fayette." It is a signal illustration of the powers and resources of the Orator, and will deservedly aid in making more known a character which will be the more admired the more it is known.

MONTPELLIER, Feby 18, 1835.

To John Trumbull.

MARCH 1, 1835.

Writings of Madison, Volume 4: 1829-1836, p.376

DEAR SIR,—Your late letter in the "New York Commercial Advertiser" having referred to my recollection of what passed between us as to the Revolutionary subjects for the paintings provided for by Congress, it may be a satisfaction to yourself for me to say, that you justly inferred from it that the omission of the battle of Bunker Hill in the final selection did not proceed from the circumstance that it was not, in the ordinary sense, a victory.

Writings of Madison, Volume 4: 1829-1836, p.376

The general impression I retain of what occurred in making the selection is, that in my first communication with those officially around me, the battle of Bunker's Hill first presented itself for consideration, being the first in order of time, and known to have given an inspiring pledge of what might be expected from the bravery and patriotism of the American people in the impending struggle for their liberties. But as the resolution of Congress limited the number of paintings to four, and the Declaration of Independence, with the events at Saratoga and York, stood forth with irresistible claims, that at Bunker's Hill was yielded to Washington's resignation of his commission as a spectacle too peculiarly interesting, whether as a contrast to the military usurpations so conspicuous in history, or as a lesson and example to leaders of victorious armies who aspire to true glory; and it was a circumstance agreeable to us all that the subjects finally adopted had been the choice of the artist himself, whose pencil had been chosen for the execution of them.

To A. G. Gano and A. N. Riddle, Committee.

MONTPELLIER, March 25, 1835.

Writings of Madison, Volume 4: 1829-1836, p.377

I have received, fellow-citizens, your letter of the 13th instant inviting me "to a celebration by the native citizens of Ohio of the anniversary of her first settlement in 1788."

Writings of Madison, Volume 4: 1829-1836, p.377

Having now reached my 85th year, and being otherwise enfeebled by much indisposition, I am necessarily deprived of the pleasure of accepting the invitation. I am not the less sensible, however, of what I owe to the kind spirit and flattering terms in which it is offered. Under circumstances permitting me to join in the festive scene, I should, besides the gratification of making my acknowledgments in person, have that, also, of visiting a highly interesting portion of our country which would be new to me, and of witnessing the natural, social, and political advantages which are attracting so much admiration. Taking into view the enterprise which planted the germ of a flourishing State in a savage wilderness; the rapidity of its growth under the nurturing protection of the Federal Councils; the variety and value of the improvements already spread over it at the age of less than half a century, and the prospect of an expanding prosperity, of which it has sufficient pledges, Ohio may be justly regarded, with every congratulation, as a monument of the happy agency of the free institutions which characterize the political system of the United States.

Writings of Madison, Volume 4: 1829-1836, p.377

I pray you to accept, with my cordial respects, the assurance of my best wishes.

To W. A. Duer.

MONTPELLIER, June 5th, 1835.

Writings of Madison, Volume 4: 1829-1836, p.378

DEAR SIR,—I have received your letter of April 25th, and with the aid of a friend and amanuensis, have made out the following answer:

Writings of Madison, Volume 4: 1829-1836, p.378-p.379

On the subject of Mr. Pinckney's proposed plan of a Constitution, it is to be observed that the plan printed in the Journal was not the document actually presented by him to the Convention. That document was no otherwise noticed in the proceedings of the Convention than by a reference of it, with Mr. Randolph's plan, to a committee of the whole, and afterwards to a committee of detail, with others; and not being found among the papers left with President Washington, and finally deposited in the Department of State, Mr. Adams, charged with the publication of them, obtained from Mr. Pinckney the document in the printed Journals as a copy supplying the place of the missing one. In this there must be error, there being sufficient evidence, even on the face of the Journals, that the copy sent to Mr. Adams could not be the same with the document laid before the Convention. Take, for example, the article constituting the House of Representatives the corner-stone of the fabric, the identity, even verbal, of which, with the adopted Constitution, has attracted so much notice. In the first place, the details and phraseology of the Constitution appear to have been anticipated. In the next place, it appears that within a few days after Mr. Pinckney presented his plan to the Convention, he moved to strike out from the resolution of Mr. Randolph the provision for the election of the House of Representatives by the people, and to refer the choice of that House to the Legislatures of the States, and to this preference it appears he adhered in the subsequent proceedings of the Convention. Other discrepancies will be found in a source also within your reach, in a pamphlet\* published by Mr. Pinckney soon after the close of the Convention, in which he refers to parts of his plan which are at variance with the document in the printed Journal. A friend who had examined and compared the two documents has pointed out the discrepancies noted below.\* Further evidence\* on this subject, not within your own reach, must await a future, perhaps a posthumous disclosure.

Writings of Madison, Volume 4: 1829-1836, p.380

One conjecture explaining the phenomenon has been, that Mr. Pinckney interwove with the draught sent to Mr. Adams passages as agreed to in the Convention in the progress of the work, and which, after a lapse of more than thirty years, were not separated by his recollection.

Writings of Madison, Volume 4: 1829-1836, p.380

The resolutions of Mr. Randolph, the basis on which the deliberations of the Convention proceeded, were the result of a consultation among the Virginia Deputies, who thought it possible that, as Virginia had taken so leading a part\* in reference to the Federal Convention, some initiative propositions might be expected from them. They were understood not to commit any of the members absolutely or definitively on the tenor of them. The resolutions will be seen to present the characteristic provisions and features of a Government as complete (in some respects, perhaps, more so) as the plan of Mr. Pinckney, though without being thrown into a formal shape. The moment, indeed, a real Constitution was looked for as a substitute for the Confederacy, the distribution of the Government into the usual departments became a matter of course with all who speculated on the prospective change, and the form of general resolutions was adopted as the most convenient for discussion. It may be observed, that in reference to the powers to be given to the General Government the resolutions comprehended as well the powers contained in the articles of Confederation, without enumerating them, as others not overlooked in the resolutions, but left to be developed and defined by the Convention.

Writings of Madison, Volume 4: 1829-1836, p.380

With regard to the plan proposed by Mr. Hamilton, I may say to you, that a Constitution such as you describe was never proposed in the Convention, but was communicated to me by him at the close of it. It corresponds with the outline published in the Journal. The original draught being in possession of his family and their property, I have considered any publicity of it as lying with them.

Writings of Madison, Volume 4: 1829-1836, p.381

Mr. Yates's notes, as you observe, are very inaccurate; they are, also, in some respects, grossly erroneous. The desultory manner in which he took them, catching sometimes but half the language, may, in part, account for it. Though said to be a respectable and honorable man, he brought with him to the Convention the strongest prejudices against the existence and object of the body, in which he was strengthened by the course taken in its deliberations. He left the Convention, also, long before the opinions and views of many members were finally developed into their practical application. The passion and prejudice of Mr. L. Martin betrayed in his published letter could not fail to discolour his representations. He also left the Convention before the completion of their work. I have heard, but will not vouch for the fact, that he became sensible of, and admitted his error. Certain it is, that he joined the party who favored the Constitution in its most liberal construction.

Writings of Madison, Volume 4: 1829-1836, p.381

I can add little to what I have already said in relation to the agency of your father in the adoption of the Federal Constitution. My only correspondence with him was a short one, introduced by a letter from him written during the Convention of New York, at the request of Mr. Hamilton, who was too busy to write himself, giving and requesting information as to the progress of the Constitution in New York and Virginia. Of my letter or letters to him I retain no copy. The two letters from him being short, copies of them will be sent if not on his files, and if desired. They furnish an additional proof that he was an ardent friend of the depending Constitution.

Writings of Madison, Volume 4: 1829-1836, p.381

I have marked this letter "confidential," and wish it to be considered for yourself only. In my present condition, enfeebled by age and crippled by disease, I may well be excused for wishing not to be in any way brought to public view on subjects involving considerations of a delicate nature. I thank you, sir, for your kind sentiments and good wishes, and pray you to accept a sincere return of them.

To W. Cranch, First Vice President

Washington National Monument Society,

Washington City.

JULY 25th, 1835.

Writings of Madison, Volume 4: 1829-1836, p.382

DR SIR,—I have received your letter of the 20th, informing me that I have been unanimously elected President of the Washington National Monument Society, in the place of its late lamented President, Chief Justice Marshall.

Writings of Madison, Volume 4: 1829-1836, p.382

I am very sensible of the distinction conferred by the relations in which the Society has placed me, and feeling, like my illustrious predecessor, a deep interest in the object of the Association, I cannot withhold, as an evidence of it, the acceptance of the appointment, though aware that in my actual condition it cannot be more than honorary, and that under no circumstances it could supply the loss which the Society has sustained.

Writings of Madison, Volume 4: 1829-1836, p.382

A monument worthy of the memory of Washington, reared by the means proposed, will commemorate at the same time a virtue, a patriotism, and a gratitude truly national, with which the friends of liberty everywhere will sympathize, and of which our country may always be proud.

Writings of Madison, Volume 4: 1829-1836, p.382

I tender to the Society the acknowledgments due from me, and to yourself the assurance of my high and cordial esteem.

To Hubbard Taylor.

MONTPELLIER, Aug. 15, 1835.

Writings of Madison, Volume 4: 1829-1836, p.382

DR SIR,—Your letter of July was duly received. The recollections it so kindly expresses are very gratifying, coming from one whose friendship I have always valued, and to whom I have been often indebted for attentions useful to me.

Writings of Madison, Volume 4: 1829-1836, p.382

I join in all your good wishes for more tranquillity and harmony in our public affairs, which will always be best promoted by a course avoiding the extremes to which party excitements are liable. But a sickly countenance occasionally is not inconsistent with the self-healing capacity of a constitution such as I hope ours is, and still less with the medical resources in the hands of a people such as I hope ours will prove to be. As long as the parts composing our Union are faithful to it, despair ought never to be indulged, and that pledge for the propitious destinies of our country may be relied on as long as the consequences of disunion are sufficiently anticipated. There are ills with which such a catastrophe is pregnant, that cannot escape the most short-sighted, and there are doubtless others beyond the reach of the most prophetic sagacity.

Writings of Madison, Volume 4: 1829-1836, p.383

I am glad to learn that you enjoy so much vigor of health, at the entrance of your 76th year. You have erred in supposing me in my 84th; I am now considerably advanced in my 85th; to the infirmities belonging to which are added inroads on my health, which, among other effects, have so crippled my fingers as to oblige me to avail myself of borrowed ones. I am, however, freed from the most painful stages of the rheumatic cause, for which, as for other blessings, I ought to be thankful.

To Richard D. Cutts.

MONTPELLIER, Septr 12, 1835.

Writings of Madison, Volume 4: 1829-1836, p.383

DEAR RICHARD,—I have received your letter of the 5th instant, in which you request my advice on the choice of a profession.

Writings of Madison, Volume 4: 1829-1836, p.383

Observing your decided bias in favor of the law, and not dissenting from it, I need only express the pleasure with which I find you so determined to aim at success by distinguished qualifications for it. You will be apprized by better counsellors than I am, that you will have so much to learn after your arrival at the bar, that you cannot diminish it too much by the stock you will carry with you. This, at all times commendable, is particularly enforced by the present condition and prospects of our country. The great and increasing number of our universities, colleges, and academies, and other seminaries, are already throwing out crops of educated youth beyond the demand for them in the professions and pursuits requiring such preparations. [This] is likely to be more and more the case, giving to the few only who distinguish themselves the expected rewards. I hope you are duly sensible of the value of the studies through which you have just passed, and of the expediency of keeping them alive by a collateral and incidental cultivation of them. Philosophy and literature are always a recreation and improvement grateful to an unvitiated mind; and it may be repeated, with the oracular sanction of Cicero, that there is no branch of knowledge which may not be involved in legal questions, or made to illustrate or embellish forensic discussions.

Writings of Madison, Volume 4: 1829-1836, p.384

Allow me to close this brief answer to your letter, dictated in the crippled state of my health, with the affectionate wish that your career in life, whatever it may be, will in every respect be such as to render it the harbinger of a better.

To President Jackson.

MONTPELLIER, October 11th, 1835.

Writings of Madison, Volume 4: 1829-1836, p.384

DEAR SIR,—I have duly received your favor of the 7th, with the letter and medal from Mr. Goddard which you were good enough to forward under your cover.

Writings of Madison, Volume 4: 1829-1836, p.384

The use made of our expressed opinion on the temperance subject denotes the peculiar zeal with which its patrons are inspired. Should ardent spirits be everywhere banished from the list of drinks, it will be a revolution not the least remarkable in this revolutionary age, and our country will have its full share in that as in other merits.

Writings of Madison, Volume 4: 1829-1836, p.384

I thank you, sir, for the kind interest you express in my health. It has been for a considerable time much broken by chronic complaints, which, added to my great age, have reduced me to a state of much debility, particularly in my limbs.

Writings of Madison, Volume 4: 1829-1836, p.384

I observed with pleasure that you had returned from your periodical trip to the Rip-Raps with the salubrious advantage promised by it.

Writings of Madison, Volume 4: 1829-1836, p.384

Mrs. Madison joins me in a return of your good wishes, and we pray you to be assured of the sincerity and high respect with which it is offered.

To Charles Francis Adams.

MONTPELLIER, October 13, 1835.

Writings of Madison, Volume 4: 1829-1836, p.385

DEAR SIR,—I have received your letter of September 30, with a copy of "An Appeal" from the new to the old Whigs. The pamphlet contains very able and interesting views of its subject.

Writings of Madison, Volume 4: 1829-1836, p.385

The claims for the Senate of a share in the removal from office, and for the legislature an authority to regulate its tenure, have had powerful advocates. I must still think, however, that the text of the Constitution is best interpreted by reference to the tripartite theory of government to which practice has conformed, and which so long and uniform a practice would seem to have established.

Writings of Madison, Volume 4: 1829-1836, p.385

The face of the Constitution and the journalized proceedings of the Convention strongly indicate a partiality to that theory, then at its zenith of favor among the most distinguished commentators on the organizations of political power.

Writings of Madison, Volume 4: 1829-1836, p.385

The right of suffrage, the rule of apportioning representation, and the mode of appointing to and removing from office, are fundamentals in a free government, and ought to be fixed by the Constitution. If alterable by the legislature, the Government might become the creator of the Constitution of which it is itself but the creature; and if the large States could be reconciled to an augmentation of power in the Senate, constructed and endowed as that branch of the Government is, a veto on removals from office would at all times be worse than inconvenient in its operation, and in party times might, by throwing the executive machinery out of gear, produce a calamitous interregnum.

Writings of Madison, Volume 4: 1829-1836, p.385

In making these remarks I am not unaware that in a country wide and expanding as ours is, and in the anxiety to convey information to the door of every citizen, an unforeseen multiplication of offices may add a weight to the executive scale, disturbing the equilibrium of the Government. I should therefore see with pleasure a guard against the evil, by whatever regulations having that effect may be within the scope of legislative power; or, if necessary, even by an amendment of the Constitution when a lucid interval of party excitement shall invite the experiment.

Writings of Madison, Volume 4: 1829-1836, p.386

With my thanks for your friendly communication and for the interest you express in my health, which is much broken by chronic complaints added to my great age, I pray you to accept the assurance of my respect and good wishes.

To Charles J. Ingersoll.

Writings of Madison, Volume 4: 1829-1836, p.386

MONTPELLIER, Novr 8.

Writings of Madison, Volume 4: 1829-1836, p.386

DR SIR,—I thank you as a friend for the printed copy of your discourse kindly sent me, and I thank you still more as a citizen for such an offering to the free institutions of our country. In testing the tree of liberty by its fruits you have shewn how precious it ought to be held by those who enjoy the blessing. I wish the discourse could be translated and circulated wherever the blessing is not enjoyed. Were the truths it contains in possession of every adult in Europe, the portentous league against the rights and happiness of the human race would be formidable only to its authors and abettors.

To Robert H. Goldsborough.

MONTPELLIER, Decr 21, 1835.

Writings of Madison, Volume 4: 1829-1836, p.386

DR SIR,—I have received your letter of the 15th, with the tobacco seed it refers to. I tender the thanks due respectively to Mr. Vaughan and yourself for the obliging attention to which I am indebted, and will take measures for turning the seed to the best account.

Writings of Madison, Volume 4: 1829-1836, p.386

I was favored many years ago by Col. G. Mason with a sample of the like seed, and had hills enough planted from it to test its character in our climate. It was found to retain, though not entirely, its characteristic fragrance; but it was so inferior in size and weight, that, with the idea of its anticipated degeneracy, and my general absence from home, the experiment was not continued. It certainly merits the fuller one which is now promised by the several hands into which the seed will be committed; especially as seed from the Island can be occasionally obtained in the event of a progressive degeneracy. It is not unworthy of consideration that the extending culture of the ordinary tobacco in the West will rapidly glut the market for that of Virginia and Maryland, and that the Cuba tobacco may succeed better in these States than in the Western soils. I have been informed by a gentleman who has resided in Cuba, and took notice of the tobacco crop, that it there requires a particular soil; and, as is said of your finest Maryland tobacco, that it is not every plant or even every leaf of the same plant that will possess the distinguished quality.

Writings of Madison, Volume 4: 1829-1836, p.387

I pray you, sir, to accept for yourself, and to convey to Mr. Vaughan, with my best respects, a cordial return of the friendly sentiments and good wishes which your letter expresses on the part of both.

To Charles J. Ingersoll.

MONTPELLIER, Decr 30th, 1835.

Writings of Madison, Volume 4: 1829-1836, p.387

DEAR SIR,—I thank you, though at a late day, for the pamphlet comprising your address at New York.

Writings of Madison, Volume 4: 1829-1836, p.387

The address is distinguished by some very important views of an important subject.

Writings of Madison, Volume 4: 1829-1836, p.387

The absolutists on the "Let alone theory" overlook the two essential pre-requisites to a perfect freedom of external commerce—1. That it be universal among nations. 2. That peace be perpetual among them.

Writings of Madison, Volume 4: 1829-1836, p.387

A perfect freedom of international commerce, manifestly requires that it be universal. If not so, a nation departing from the theory might regulate the commerce of a nation adhering to it, in subserviency to its own interest, and disadvantageously to the latter. In the case of navigation, so necessary under different aspects, nothing is more clear than that a discrimination by one nation in favor of its own vessels, without an equivalent discrimination on the side of another, must at once banish from the intercourse the navigation of the latter. This was verified by our own ante-Constitution experience, as the remedy for it has been by the post-Constitution experience.

Writings of Madison, Volume 4: 1829-1836, p.388

But to a perfect freedom of commerce, universality is not the only condition; perpetual peace is another. War, so often occurring, and so liable to occur, is a disturbing incident entering into the calculations by which a nation ought to regulate its foreign commerce. It may well happen to a nation adhering strictly to the rule of buying cheap, that the rise of prices in nations at war may exceed the cost of a protective policy in time of peace; so that, taking the two periods together, protection would be cheapness. On this point, also, an appeal may be made to our own experience. The champions for the "Let alone policy" forget that theories are the offspring of the closet; exceptions and qualifications the lessons of experience.

To Thomas Gilmer and Others of the Committee.

Writings of Madison, Volume 4: 1829-1836, p.388

I have received, fellow-citizens, your letter inviting me, in behalf of a number of citizens of Albemarle, to partake of a public dinner on the approaching 4th of July.

Writings of Madison, Volume 4: 1829-1836, p.388

For this mark of their kind attention, I can only offer an expression of my grateful sensibility; the debility of age, with a continuance of much indisposition, rendering it impossible for me to join them on the occasion.

Writings of Madison, Volume 4: 1829-1836, p.388

However conscious of the extent in which the partiality of my friends has overvalued my public career, I may be allowed to say that they have done but justice in supposing that, though abstracted from a participation in public affairs, I have not ceased to feel a deep interest in the purity and permanence of our free and Republican institutions, characterized, as they are, first, by a division of the powers of Government between the States in their united and in their individual capacities; 2d, by defined relations between the several departments and branches of Government. Having witnessed the defects in the first organization of the Union sufficiently evinced during the war of the Revolution, and still further developed in the interval between its termination and the substitution of the present Constitution; having witnessed, also, the happy fruits of the latter, presenting in so many important respects a contrast to the preceding state of things; no one can be more anxious than I am that its permanent success be ensured by a faithful adherence to its principles and objects.

Writings of Madison, Volume 4: 1829-1836, p.389

The Committee, in making the respectful acknowledgments due from me for the favorable and affectionate sentiments communicated in their letter, will please to accept for themselves an assurance of my high esteem and cordial regards.

To the Committee—Peyton, Grymes, and Others.

Writings of Madison, Volume 4: 1829-1836, p.389

I have received, friends and fellow-citizens, your letter of —inviting me, in behalf of a portion of the Republican citizens of this District, to a public dinner to be given to John M. Patton, its Representative in the Congress of the United States.

Writings of Madison, Volume 4: 1829-1836, p.389

Gratified as I should be in meeting so many of my neighbours and friends, among them the able and highly respected Representative of the District, the opportunity is rendered of no avail to me by a continuance, and of late increase of the causes which have long confined me to my home, and at this time confines me for the most part to a sick chamber.

Writings of Madison, Volume 4: 1829-1836, p.389

The favorable views which my friends have taken of my public and private life justly demand my grateful and affectionate acknowledgments. Such a testimony from those whom I know to be sincere, and to whom I am best known, is very precious to me. If it gives me a credit far beyond my claims, which I am very conscious that it does, I cannot be insensible to the partiality which commits the error.

Writings of Madison, Volume 4: 1829-1836, p.389

Though withdrawn from the theatre of public affairs, and from the excitements incident to them, I may be permitted to say to my friends that I join them most cordially in their devotion to the great and fundamental principles of Republicanism, to which Virginia has been constant; and that I am not less persuaded than they are of the dependence of our prosperity on those principles, and of the ultimate connextion of both with the preservation of the Union in its integrity, and of the Constitution in its purity. The value of the Union will be most felt by those who look with most forecast into the consequences of disunion. Nor will the Constitution, with its wise provisions for its improvement under the lights of experience, be undervalued by any who compare the distracted and ominous condition from which it rescued the country, with the security and prosperity so long enjoyed under it, with the bright prospects which it has opened on the civilized world. It is a proud reflection for the people of the United States, proud for the cause of liberty, that history furnishes no example of a Government producing like blessings in an equal degree, and for the same period, as the modification of political power in the compound Government of the U. States, of which the vital principle pervading the whole and all its parts is the elective and responsible principle of Republicanism. May not esto perpetua express the hopes as well as the prayer of every citizen who loves liberty and loves his country?

Writings of Madison, Volume 4: 1829-1836, p.390

I pray the committee, in communicating my thanks to the meeting for the kind invitation conveyed to me, to accept for themselves my cordial respects and best wishes.

Sovereignty.

1835.

Writings of Madison, Volume 4: 1829-1836, p.390

It has hitherto been understood that the supreme power, that is, the sovereignty of the people of the States, was in its nature divisible, and was, in fact, divided, according to the Constitution of the United States, between the States in their united and the States in their individual capacities, and so viewed by the Convention in transmitting the Constitution to the Congress of the Confederation; so viewed and called in official, in controversial. and in popular language; that as the States, in their highest sovereign character, were competent to surrender the whole sovereignty and form themselves into a consolidated State, so they might surrender a part and retain, as they have done, the other part, forming a mixed Government, with a division of its attributes as marked out in the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.391

Of late, another doctrine has occurred, which supposes that sovereignty is in its nature indivisible; that the societies denominated States, in forming the constitutional compact of the United States, acted as indivisible sovereignties, and, consequently, that the sovereignty of each remains as absolute and entire as it was then, or could be at any time; and it is contended by some that it renders the States individually the paramount expositors of the true meaning of the Constitution itself.

Writings of Madison, Volume 4: 1829-1836, p.391

This discord of opinions arises from a propensity in many to prefer the use of theoretical guides and technical language to the division and depositories of political power, as laid down in the constitutional charter, which expressly assigns certain powers of Government, which are the attributes of sovereignty to the United States, and even declares a practical supremacy of them over the powers reserved to the States, a supremacy essentially involving that of exposition as well as of execution; for a law could not be supreme in one depository of power if the final exposition of it belonged to another.

Writings of Madison, Volume 4: 1829-1836, p.391

In settling the question between these rival claims of power, it is proper to keep in mind that all power in just and free governments is derived from compact; that when the parties to the compact are competent to make it, and when the compact creates a government, and arms it not only with a moral power, but the physical means of executing it, it is immaterial by what name it is called. Its real character is to be decided by the compact itself; by the nature and extent of the powers it specifies, and the obligations imposed on the parties to it.

Writings of Madison, Volume 4: 1829-1836, p.391

As a ground of compromise, let, then, the advocates of State rights acknowledge this rule of measuring the Federal share of sovereign power under the constitutional compact; and let it be conceded, on the other hand, that the States are not deprived by it of that corporate existence and political unity which would, in the event or a dissolution, voluntary or violent, of the Constitution, replace them in the condition of separate communities, that being the condition in which they entered into the compact. (See letter to Mr. Webster, March 15, 1833.)

Writings of Madison, Volume 4: 1829-1836, p.392

At the period of our Revolution it was supposed by some that it dissolved the social compact within the Colonies, and produced a State of nature which required a naturalization of those who had not participated in the Revolution. the question was brought before Congress at its first session by Doctor Ramsay, who contested the election of William Smith; who, though born in South Carolina, had been absent at the date of independence. The decision was, that his birth in the Colony made him a member of the society in its new as well as its original state.

Writings of Madison, Volume 4: 1829-1836, p.392

To go to the bottom of the subject, let us consult the theory which contemplates a certain number of individuals as meeting and agreeing to form one political society, in order that the rights, the safety, and the interest of each may be under the safeguard of the whole.

Writings of Madison, Volume 4: 1829-1836, p.392

The first supposition is, that each individual being previously independent of the others, the compact which is to make them one society must result from the free consent of every individual.

Writings of Madison, Volume 4: 1829-1836, p.392

But as the objects in view could not be attained if every measure conducive to them required the consent of every member of the society, the theory farther supposes, either that it was a part of the original compact, that the will of the majority was to be deemed the will of the whole, or that this was a law of nature, resulting from the nature of political society itself, the offspring of the natural wants of man.

Writings of Madison, Volume 4: 1829-1836, p.392

Whatever be the hypothesis of the origin of the lex majoris partis, it is evident that it operates as a plenary substitute of the will of the majority of the society for the will of the whole society; and that the sovereignty of the society, as vested in and exercisable by the majority, may do anything that could be rightfully done by the unanimous concurrence of the members; the reserved rights of individuals (conscience, for example) in becoming parties to the original compact being beyond the legitimate reach of sovereignty, wherever vested or however viewed.

Writings of Madison, Volume 4: 1829-1836, p.393

The question then presents itself, how far the will of a majority of the society, by virtue of its identity with the will of the society, can divide, modify, or dispose of the sovereignty of the society; and quitting the theoretic guide, a more satisfactory one will perhaps be found—1, In what a majority of a society has done, and been universally regarded as having had a right to do; 2, What it is universally admitted that a majority, by virtue of its sovereignty, might do, if it chose to do.

Writings of Madison, Volume 4: 1829-1836, p.393

1. the majority has not only naturalized, admitted into social compact again, but has divided the sovereignty of the society by actually dividing the society itself into distinct societies equally sovereign. Of this operation we have before us examples in the separation of Kentucky from Virginia and of Maine from Massachusetts; events which were never supposed to require a unanimous consent of the individuals concerned.

Writings of Madison, Volume 4: 1829-1836, p.393

In the case of naturalization, a new member is added to the social compact, not only without a unanimous consent of the members, but by a majority of the governing body, deriving its powers from a majority of the individual parties to the social compact.

Writings of Madison, Volume 4: 1829-1836, p.393

2. As, in those cases just mentioned, one sovereignty was divided into two by dividing one State into two States; so it will not be denied that two States equally sovereign might be incorporated into one by the voluntary and joint act of majorities only in each. The Constitution of the United States has itself provided for such a contingency. And if two States could thus incorporate themselves into one by a mutual surrender of the entire sovereignty of each, why might not a partial incorporation, by a partial surrender of sovereignty, be equally practicable if equally eligible? and if this could be done by two States, why not by twenty or more?

Writings of Madison, Volume 4: 1829-1836, p.393

A division of sovereignty is in fact illustrated by the exchange of sovereign rights often involved in treaties between independent nations, and still more in the several confederacies which have existed, and particularly in that which preceded the present Constitution of the United States.

Writings of Madison, Volume 4: 1829-1836, p.394

Certain it is that the constitutional compact of the United States has allotted the supreme power of government partly to the United States by special grants, partly to the individual States by general reservations; and if sovereignty be in its nature divisible, the true question to be decided is, whether the allotment has been made by the competent authority; and this question is answered by the fact that it was an act of the majority of the people in each State in their highest sovereign capacity, equipollent to a unanimous act of the people composing the State in that capacity.

Writings of Madison, Volume 4: 1829-1836, p.394

It is so difficult to argue intelligibly concerning the compound system of government in the United States, without admitting the divisibility of sovereignty, that the idea of sovereignty, as divided between the Union and the members composing the Union, forces itself into the view, and even into the language of those most strenuously contending for the unity and indivisibility of the moral being created by the social compact. "For security against oppression from abroad we look to the sovereign power of the United States to be exerted according to the compact of union; for security against oppression from within, or domestic oppression, we look to the sovereign power of the State. Now all sovereigns are equal; the sovereignty of the State is equal to that of the Union, for the sovereignty of each is but a moral person. That of the State and that of the Union are each a moral person, and in that respect precisely equal." These are the words in a speech which, more than any other, has analyzed and elaborated this particular subject, and they express the view of it finally taken by the speaker,\* notwithstanding the previous one in which he says, "the States, while the Constitution of the United States was forming, were not shorn of any of their sovereign power by that process."\*

Writings of Madison, Volume 4: 1829-1836, p.395

That a sovereignty would be lost and converted into a vassalage if subjected to a foreign sovereignty over which it had no control and in which it had no participation, is clear and certain; but far otherwise is a surrender of portions of sovereignty by compacts among sovereign communities, making the surrenders equal and reciprocal, and of course giving to each as much as is taken from it.

Writings of Madison, Volume 4: 1829-1836, p.395

Of all free governments compact is the basis and the essence, and it is fortunate that the powers of government, supreme as well as subordinate, can be so moulded and distributed, so compounded and divided by those on whom they are to operate, as will be most suitable to their conditions, will best guard their freedom, and best provide for their safety and happiness.

On Nullification.

1835-'6.

Writings of Madison, Volume 4: 1829-1836, p.395

Although the Legislature of Virginia declared, at a late session, almost unanimously, that South Carolina was not supported in her doctrine of nullification by the resolutions of 1798, it appears that those resolutions are still appealed to as expressly or constructively favoring the doctrine.

Writings of Madison, Volume 4: 1829-1836, p.395

That the doctrine of nullification may be clearly understood, it must be taken as laid down in the report of a special committee of the House of Representatives of South Carolina in the year 1828. In that document it is asserted that a single State has a constitutional right to arrest the execution of a law of the United States within its limits; that the arrest is to be presumed right and valid, and is to remain in force, unless three-fourths of the States, in a convention, should otherwise decide.

Writings of Madison, Volume 4: 1829-1836, p.395

The forbidding aspect of a naked creed, according to which a process instituted by a single State is to terminate in the ascendency of a minority of seven over a majority of seventeen, has led its partisans to disguise its deformity under the position that a single State may rightfully resist an unconstitutional and tyrannical law of the United States; keeping out of view the essential distinction between a constitutional right and the natural and universal right of resisting intolerable oppression. But the true question is, whether a single State has a constitutional right to annul or suspend the operation of a law of the United States within its limits, the State remaining a member of the Union, and admitting the Constitution to be in force.

Writings of Madison, Volume 4: 1829-1836, p.396

With a like policy the nullifiers pass over the state of things at the date of the proceedings of Virginia, and the particular doctrines and arguments to which they were opposed, without an attention to which the proceedings in this, as in other cases, may be insecure against perverted construction.

Writings of Madison, Volume 4: 1829-1836, p.396

It must be remarked, also, that the champions of nullification attach themselves exclusively to the third resolution, averting their attention from the seventh resolution, which ought to be coupled with it, and from the report, also, which comments on both, and gives a full view of the object of the Legislature on the occasion.

Writings of Madison, Volume 4: 1829-1836, p.396

Recurring to the epoch of the proceedings, the facts of the case are, that Congress had passed certain acts bearing the name of the alien and sedition laws, which Virginia and some of the other States regarded as not only dangerous in their tendency but unconstitutional in their text, and as calling for a remedial interposition of the States. It was found, also, that not only was the constitutionality of the acts vindicated by a predominant party, but that the principle was asserted at the same time that a sanction to the acts given by the supreme judicial authority of the United States was a bar to any interposition whatever on the part of the States, even in the form of a legislative declaration that the acts in question were unconstitutional.

Writings of Madison, Volume 4: 1829-1836, p.396

Under these circumstances the subject was taken up by Virginia in her resolutions, and pursued at the ensuing session of the Legislature in a comment explaining and justifying them, her main and immediate object evidently being to produce a conviction everywhere that the Constitution had been violated by the obnoxious acts, and to produce a concurrence and co-operation of the other States in effectuating a repeal of the acts. She accordingly asserted, and offered her proofs at great length, that the acts were unconstitutional. She asserted, moreover, and offered her proofs, that the States had a right in such cases to interpose, first in their constituent character, to which the Government of the United States was responsible, and otherwise as specially provided by the Constitution; and farther, that the States, in their capacity of parties to and creators of the Constitution, had an ulterior right to interpose, notwithstanding any decision of a constituted authority, which, however it might be the last resort under the forms of the Constitution in cases falling within the scope of its functions, could not preclude an interposition of the States as the parties which made the Constitution, and as such possessed an authority paramount to it.

Writings of Madison, Volume 4: 1829-1836, p.397

In this view of the subject there is nothing which excludes a natural right in the States individually, more than in any portion of an individual State suffering under palpable and insupportable wrongs, from seeking relief by resistence and revolution.

Writings of Madison, Volume 4: 1829-1836, p.397

But it follows from no view of the subject that a nullification of a law of the United States can, as is now contended, belong rightfully to a single State as one of the parties to the Constitution, the State not ceasing to avow its adherence to the Constitution. A plainer contradiction in terms, or a more fatal inlet to anarchy, cannot be imagined.

Writings of Madison, Volume 4: 1829-1836, p.397

And what is the text in the proceedings of Virginia which this spurious doctrine of nullification claims for its patronage? It is found in the third of the resolutions of 1798, which is in the following words:

Writings of Madison, Volume 4: 1829-1836, p.397

"That in case of a deliberate, a palpable, and dangerous exercise of powers not granted by the [constitutional] compact, the States who are parties thereto have a right and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them."

Writings of Madison, Volume 4: 1829-1836, p.397

Now is there anything here from which a single State can infer a right to arrest or annul an act of the General Government which it may deem unconstitutional? So far from it, that the obvious and proper inference precludes such a right on the part of a single State, the plural number being used in every application of the term.

Writings of Madison, Volume 4: 1829-1836, p.398

In the next place, the course and scope of the reasoning requires that by the rightful authority to interpose in the cases and for the purposes referred to, was meant not the authority of the States singly and separately, but their authority as the parties to the Constitution; the authority which, in fact, made the Constitution; the authority which, being paramount to the Constitution, was paramount to the authorities constituted by it; to the judiciary as well as the other authorities. The resolution derives the asserted right of interposition for arresting the progress of usurpations by the Federal Government from the fact that its powers were limited to the grant made by the States; a grant certainly not made by a single party to the grant, but by the parties to the compact containing the grant. The mode of their interposition, in extraordinary cases, is left by the resolution to the parties themselves, as the mode of interposition lies with the parties to other constitutions, in the event of usurpations of power not remediable in the forms and by the means provided by the Constitution. If it be asked why a claim by a single party to the constitutional compact to arrest a law, deemed by it a breach of the compact, was not expressly guarded against, the simple answer is sufficient, that a pretension so novel, so anomalous, and so anarchical, was not and could not be anticipated.

Writings of Madison, Volume 4: 1829-1836, p.398

In the third place, the nullifying claim for a single State is probably irreconcilable with the effect contemplated by the interposition claimed by the resolution for the parties to the Constitution, namely, that of "maintaining within the respective limits of the States the authorities, rights, and liberties apper-taining to them." Nothing can be more clear than that these authorities, &c., &c., of the States—in other words, the authority and laws of the United States—must be the same in all; or this cannot continue to be the case if there be a right in each to annul or suspend within itself the operation of the laws and authority of the whole. There cannot be different laws in different States on subjects within the compact, without subverting its fundamental principles and rendering it as abortive in practice as it would be incongruous in theory. A concurrence and co-operation of the States in favour of each would have the effect of preserving the necessary uniformity in all, which the Constitution so carefully and so specifically provided for in cases where the rule might be in most danger of being violated. Thus the citizens of every State are to enjoy reciprocally the privileges of citizens in every other State. Direct taxes are to be apportioned on all according to a fixed rule. Judicial taxes are to be the same in all the States. The duties on imports are to be uniform. No preference is to be given to the ports of one State over those of another. Can it be believed, with these provisions of the Constitution illustrating its vital principles fully in view of the Legislature of Virginia, that its members could, in the resolution quoted, intend to countenance a right in a single State to distinguish itself from its co-States, by avoiding the burdens or restrictions borne by them, or indirectly giving the law to them?

Writings of Madison, Volume 4: 1829-1836, p.399

These startling consequences from the nullifying doctrine have driven its partisans to the extravagant presumption that no State would ever be so unreasonable, unjust, and impolitic, as to avail itself of its right in any case not so palpably just and fair as to ensure a concurrence of the others, or, at least, the requisite proportion of them.

Writings of Madison, Volume 4: 1829-1836, p.399

Omitting the obvious remark, that in such a case the law would never have been passed or immediately repealed, and the surprise that such a defence of the nullifying right should come from South Carolina, in the teeth and at the time of her own example, the presumption of such a forbearance in each of the States, or such a pliability in all among twenty or thirty independent sovereignties, must be regarded as a mockery by those who reflect for a moment on the human character, or consult the lessons of experience; not the experience only of other countries and times, but. that among ourselves; and not only under the former defective Confederation, but since the improved system took place of it. Examples of differences, persevering differences among the States on the constitutionality of Federal acts, will readily occur to every one; and which would, ere this, have defaced and demolished the Union, had the nullifying claim of South Carolina been indiscriminately exercisable. In some of the States the carriage tax would have been collected; in others, unpaid. In some, the tariff on imports would be collected; in others, openly resisted. In some, light-houses would be established; in others, denounced. In some States there might be war with a foreign power; in others, peace and commerce. Finally, the appellate authority of the Supreme Court of the United States would give effect to the Federal laws in some States, while in others they would be rendered nullities by the State judiciaries. In a word, the nullifying claims, if reduced to practice, instead of being the conservative principle of the Constitution, would necessarily, and, it may be said, obviously be a deadly poison.

Writings of Madison, Volume 4: 1829-1836, p.400

Thus, from the third resolution itself, whether regard be had to the employment of the term States in the plural number, or the argumentative use of it, or to the object, namely, the "maintaining the authority and rights of each," which must be the same in all as in each, it is manifest that the adequate interposition to which it relates must be, not a single, but a concurrent interposition.

Writings of Madison, Volume 4: 1829-1836, p.400

If we pass from the third to the seventh resolution, which, though it repeats and re-enforces the third, and which is always skipped over by the nullifying commentators, the fallacy of their claim will at once be seen. The resolution is in the following words: "That the good people of the Commonwealth having ever felt and continuing to feel the most sincere affection to their brethren of the other States, the truest anxiety for establishing and perpetuating the union of all and the most scrupulous fidelity to that Constitution which is the pledge of mutual friendship and the instrument of mutual happiness, the General Assembly doth solemnly appeal to the like dispositions in the other States, in confidence that they will concur with this Commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional, and that the necessary and proper measures will be taken by each for co-operating with this State in maintaining, unimpaired, the authorities, rights, and liberties reserved to the States respectively or to the people." Here it distinctly appears, as in the third resolution, that the course contemplated by the Legislature for "maintaining the authorities, rights, and liberties reserved to the States respectively," was not a solitary or separate interposition, but a co-operation in the means necessary and proper for the purpose.

Writings of Madison, Volume 4: 1829-1836, p.401

If a farther elucidation of the view of the Legislature could be needed, it happens to be found in its recorded proceedings. In the seventh resolution, as originally proposed, the term "unconstitutional" was followed by "null, void, &c." These added words being considered by some as giving pretext for some disorganizing misconstruction, were unanimously stricken out, or, rather, withdrawn by the mover of the resolutions.

Writings of Madison, Volume 4: 1829-1836, p.401

An attempt has been made, by ascribing to the words stricken out a nullifying signification, to fix on the reputed draughtsman of the resolution the character of a nullifier. Could this have been eftected, it would only have vindicated the Legislature the more effectually from the imputation of favouring the doctrine of South Carolina. The unanimous erasure of nullifying expressions was a protest by the House of Delegates in the most emphatic form against it.

Writings of Madison, Volume 4: 1829-1836, p.401

But let us turn to the report which explained and vindicated the resolutions, and observe the light in which it placed first the third and then the seventh.

Writings of Madison, Volume 4: 1829-1836, p.401

It must be recollected that this document proceeded from representatives chosen by the people some months after the resolutions had been before them, with a longer period for manifesting their sentiments before the report was adopted, and without any evidence of disapprobation in the constituent body. On the contrary, it is known to have been received by the Republican party, a decided majority of the people, with the most entire approbation. The report, therefore, must be regarded as the most authoritative evidence of the meaning attached by the State to the resolutions. This consideration makes it the more extraordinary, and, let it be added, the more inexcusable in those who, in their zeal to extract a particular meaning from a particular resolution, not only shut their eyes to another resolution, but to an authentic exposition of both.

Writings of Madison, Volume 4: 1829-1836, p.402

And what is the comment of the report on that particular resolution, namely, the third?

Writings of Madison, Volume 4: 1829-1836, p.402

In the first place, it conforms to the resolution in using the term which expresses the interposing authority of the States, in the plural number States, not in the singular number State. It is, indeed, impossible not to perceive that the entire current and complexion of the observations explaining and vindicating the resolutions imply necessarily, that by the interposition of the States for arresting the evil of usurpation was meant a concurring authority, not that of a single State; while the collective meaning of the term gives consistency and effect to the reasoning and the object.

Writings of Madison, Volume 4: 1829-1836, p.402

But besides this general evidence that the report, in the invariable use of the plural term States, withheld from a single State the right expressed in the resolution, a still more precise and decisive inference, to the same effect, is afforded by several passages in the document.

Writings of Madison, Volume 4: 1829-1836, p.402

Thus the report observes: "The States then being the parties to the constitutional compact, and in their highest sovereign capacity, it follows, of necessity, that there can be no tribunal above their authority to decide in the last resort whether the compact made by them be violated; and, consequently, that, as the parties to it, they must themselves decide in the last resort such questions as may be of sufficient magnitude to require their interposition."

Writings of Madison, Volume 4: 1829-1836, p.402

Now apart from the palpable insufficiency of an interposition by a single State to effect the declared object of the interposition, namely, to maintain authorities and rights which must be the same in all the States, it is not true that there would be no tribunal above the authority of a State as a single party; the aggregate authority of the parties being a tribunal above it to decide in the last resort.

Writings of Madison, Volume 4: 1829-1836, p.402

Again the language of the report is, "If the deliberate exercise of dangerous powers, palpably withheld by the Constitution, could not justify the parties to it in interposing even so far as to arrest the progress of the evil, and thereby preserve the Constitution itself, as well as to provide for the safety of the parties to it, there would be au end to all relief from usurped power." Apply here the interposing power of a single State, and it would not be true that there would be no relief from usurped power. A sure and adequate relief would exist in the interposition of the States, as the co-parties to the Constitution, with a power paramount to the Constitution itself.

Writings of Madison, Volume 4: 1829-1836, p.403

It has been said that the right of interposition asserted for the States by the proceedings of Virginia could not be meant a right for them in their collective character of parties to and creators of the Constitution, because that was a right by none denied. But as a simple truth or truism, its assertion might not be out of place when applied, as in the resolution, especially in an avowed recurrence to fundamental principles, as in duty called for by the occasion. What is a portion of the Declaration of Independence but a series of simple and undeniable truths or truisms? what but the same composed a great part of the Declarations of Rights prefixed to the State constitutions? It appears, however, from the report itself, which explains the resolutions, that the last resort claimed for the Supreme Court of the United States, in the case of the alien and sedition laws, was understood to require a recurrence to the ulterior resort in the authority from which that of the court was derived. The language of the report is, "But it is objected\* [by the advocates of the alien and sedition acts] that the judicial authority is to be regarded as the sole expositor of the Constitution in the last resort; and it may be asked for what reason the declaration by the General Assembly, supposing it to be theoretically true, could be required at the present day and in so solemn a manner." It was, as we have seen, in answering this objection, that the report observes," That however true it may be that the judicial department, in all questions submitted to it by the forms of the Constitution, is to decide in the last resort, this resort must necessarily be deemed not the last in relation to the rights of the parties to the constitutional compact, from which the judicial, as well as the other departments, hold their delegated trusts. On any other hypothesis, the delegation of judicial power would annul the authority delegating it, and the concurrence of this department with the others in usurped powers might subject forever, and beyond the possible reach of any rightful remedy, the very Constitution which all were instituted to preserve." Again, observes the report, "The truth declared in the resolution being established, the expediency of making the declaration at the present day may safely be left to the temperate consideration and candid judgment of the American public. It will be remembered that a frequent recurrence to fundamental principles is solemnly enjoined by most of the State constitutions, and particularly by our own, as a necessary safeguard against the danger of degeneracy, to which Republics are liable as well as other Governments, though in a less degree than others. And a fair comparison of the political doctrines, not unfrequent at the present day, with those which characterized the epoch of our Revolution, and which form the basis of our Republican constitutions, will best determine whether the declaratory recurrence here made to those principles ought to be viewed as unreasonable and improper, or as a vigilant discharge of an important duty. The authority of constitutions over governments, and of the sovereignty of the people over constitutions, are truths which are at all times necessary to be kept in mind; and at no time, perhaps, more necessary than at present."

Writings of Madison, Volume 4: 1829-1836, p.404

Who can avoid seeing the necessity of understanding by the "parties" to the constitutional compact the authority which made the compact, and from which all the departments held their delegated trusts? These trusts were certainly not delegated by a single party. By regarding the term parties in its plural, not individual meaning, the answer to the objection is clear and satisfactory. Take the term as meaning a party, and not the parties, and there is neither truth nor argument in the answer. But farther, on the hypothesis that the rights of the parties meant the rights of a party, it would not be true, as affirmed by the report, that "the delegation of judicial power would annul the authority delegating it, and that the concurrence of this department with others in usurped power might subvert forever and beyond the reach of any rightful remedy the very Constitution which all were instituted to preserve." However deficient a remedial right in a single State might be to preserve the Constitution against usurped power, an ultimate and adequate remedy would always exist in the rights of the parties to the Constitution, in whose bands the Constitution is at all times but clay in the hands of the potter, and who could apply a remedy by explaining, amending, or remaking it, as the one or the other mode might be the most proper remedy.

Writings of Madison, Volume 4: 1829-1836, p.405

Such being the comment of the report on the third resolution, it fully demonstrates the meaning attached to it by Virginia when passing it, and rescues it from the nullifying misconstruction into which the resolution has been distorted.

Writings of Madison, Volume 4: 1829-1836, p.405

Let it next be seen how far the comment of the report on the seventh resolution above inserted accords with that on the third; and that this may the more conveniently be scanned by every eye, the comment is subjoined at full length.

Writings of Madison, Volume 4: 1829-1836, p.405

"The fairness and regularity of the course of proceedings here pursued have not protected it against objections even from sources too respectable to be disregarded.

Writings of Madison, Volume 4: 1829-1836, p.405

"It has been said that it belongs to the judiciary of the United States, and not to the State legislatures, to declare the meaning of the Federal Constitution.

Writings of Madison, Volume 4: 1829-1836, p.405

"But a declaration that proceedings of the Federal Government are not warranted by the Constitution, is a novelty neither among the citizens nor among the legislatures of the States, nor are the citizens or the Legislature of Virginia singular in the example of it.

Writings of Madison, Volume 4: 1829-1836, p.405

"Nor can the declarations of either, whether affirming or denying the constitutionality of measures of the Federal Government, or whether made before or after judicial decisions thereon, be deemed, in any point of view, an assumption of the office of the judge. The declarations in such cases are expressions of opinions, unaccompanied with any other effect than what they may produce on opinion by exciting reflection. The expositions of the judiciary, on the other hand, are carried into immediate effect by force. The former may lead to a change in the legislative expressions of the general will, possibly to a change in the opinion of the judiciary; the latter enforces the general will, while that will and that opinion continue unchanged.

Writings of Madison, Volume 4: 1829-1836, p.406

"And if there be no impropriety in declaring the unconstitutionality of proceedings in the Federal Government, where can be the impropriety of communicating the declaration to other States, and inviting their concurrence in a like declaration? What is allowable for one must be allowable for all; and a free communication among the States, where the Constitution imposes no restraint, is as allowable among the State governments as among other public bodies or private citizens. This consideration derives a weight that cannot be denied to it, from the relation of the State legislatures to the Federal Legislature, as the immediate constituents of one of its branches.

Writings of Madison, Volume 4: 1829-1836, p.406

"The legislatures of the States have a right also to originate amendments to the Constitution, by a concurrence of two-thirds of the whole number, in applications to Congress for the purpose. When new States are to be formed by a junction of two or more States or parts of States, the legislatures of the States concerned are, as well as Congress, to concur in the measure. The States have a right also to enter into agreements or compacts, with the consent of Congress. In all such cases a communication among them results from the object which is common to them.

Writings of Madison, Volume 4: 1829-1836, p.406

"It is lastly to be seen whether the confidence expressed by the resolution, that the necessary and proper measures would be taken by the other States for co-operating with Virginia in maintaining the rights reserved to the States or to the people, be in any degree liable to the objections which have been raised against it.

Writings of Madison, Volume 4: 1829-1836, p.406

"If it be liable to objection, it must be because either the object or the means are objectionable.

Writings of Madison, Volume 4: 1829-1836, p.406

"The object being to maintain what the Constitution has ordered, is in itself a laudable object.

Writings of Madison, Volume 4: 1829-1836, p.407

"The means are expressed in the terms 'the necessary and proper measures.' A proper object was to be pursued by means both necessary and proper.

Writings of Madison, Volume 4: 1829-1836, p.407

"To find an objection, then, it must be shown that some meaning was annexed to these general terms which was not proper; and for this purpose either that the means used by the General Assembly were an example of improper means, or that there were no proper means to which the term could refer.

Writings of Madison, Volume 4: 1829-1836, p.407

"In the example given by the State, of declaring the alien and sedition acts to be unconstitutional, and of communicating the declaration to the other States, no trace of improper means has appeared. And if the other States had concurred in making a like declaration, supported, too, by the numerous applications flowing immediately from the people, it can scarcely be doubted that these simple means would have been as sufficient as they are unexceptionable.

Writings of Madison, Volume 4: 1829-1836, p.407

"It is no less certain that other means might have been employed which are strictly within the limits of the Constitution. The legislatures of the States might have made a direct representation to Congress, with a view to obtain a rescinding of the two offensive acts; or they might have represented to their respective senators in Congress their wish that two-thirds thereof would propose an explanatory amendment to the Constitution; or two-thirds of themselves, if such had been their option, might, by an application to Congress, have obtained a convention for the same object.

Writings of Madison, Volume 4: 1829-1836, p.407

"These several means, though not equally eligible in themselves, nor probably to the States, were all constitutionally open for consideration. And if the General Assembly, after declaring the two acts to be unconstitutional, the first and most obvious proceeding on the subject, did not undertake to point out to the other States a choice among the farther means that might become necessary and proper, the reserve will not be misconstrued by liberal minds into any culpable imputation.

Writings of Madison, Volume 4: 1829-1836, p.407

"These observations appear to form a satisfactory reply to every objection which is not founded on a misconception of the terms employed in the resolutions. There is one other, however, which may be of too much importance not to be added. It cannot be forgotten, that among the arguments addressed to those who apprehended danger to liberty from the establishment of the General Government over so great a country, the appeal was emphatically made to the intermediate existence of the State governments between the people and that Government, to the vigilance with which they would descry the first symptoms of usurpation, and to the promptitude with which they would sound the alarm to the public. This argument was probably not without its effect; and if it was a proper one then to recommend the establishment of the Constitution, it must be a proper one now to assist in its interpretation.

Writings of Madison, Volume 4: 1829-1836, p.408

"The only part of the two concluding resolutions that remains to be noticed, is the repetition in the first of that warm affection to the Union and its members, and of that scrupulous fidelity to the Constitution, which have been invariably felt by the people of this State. As the proceedings were introduced with these sentiments, they could not be more properly closed than in the same manner. Should there be any so far misled as to call in question the sincerity of these professions, whatever regret may be excited by the error, the General Assembly cannot descend into a discussion of it. Those who have listened to the suggestion can only be left to their own recollection of the part which this State has borne in the establishment of our national independence, in the establishment of our national Constitution, and in maintaining under it the authority and laws of the Union, without a single exception of internal resistance or commotion. By recurring to these facts they will be able to convince themselves that the representations of the people of Virginia must be above the necessity of opposing any other shield to attacks on their national patriotism than their own consciousness and the justice of an enlightened public, who will perceive in the resolutions themselves the strongest evidence of attachment both to the Constitution and to the Union, since it is only by maintaining the different governments and departments within their respective limits that the blessings of either can be perpetuated."

Writings of Madison, Volume 4: 1829-1836, p.409

Here is certainly not a shadow of countenance to the doctrine of nullification. Under every aspect, it enforces the arguments and authority against such an apocryphal version of the text.

Writings of Madison, Volume 4: 1829-1836, p.409

From this view of the subject those who will duly attend to the tenor of the proceedings of Virginia and to the circumstances of the period when they took place will concur in the fairness of disclaiming the inference from the undeniableness of a truth, that it could not be the truth meant to be asserted in the resolution. The employment of the truth asserted, and the reasons for it, are too striking to be denied or misunderstood. More than this, the remark is obvious, that those who resolve the nullifying claim into the natural right to resist intolerable oppression, are precluded from inferring that to be the right meant by the resolution, since that is as little denied as the paramountship of the authority creating a Constitution over an authority derived from it.

Writings of Madison, Volume 4: 1829-1836, p.409

The true question therefore is, whether there be a constitutional right in a single State to nullify a law of the United States. We have seen the absurdity of such a claim in its naked and suicidal form. Let us turn to it as modified by South Carolina, into a right in every State to resist within itself the execution of a Federal law deemed by it to be unconstitutional, and to demand a convention of the States to decide the question of constitutionality; the annulment of the law to continue in the mean time, and to be permanent unless three-fourths of the States concur in overruling the annulment.

Writings of Madison, Volume 4: 1829-1836, p.409

Thus, during the temporary nullification of the law, the results would be the same from [as?] those proceeding from an unqualified nullification, and the result of a convention might be that seven out of twenty-four States might make the temporary results permanent. It follows, that any State which could obtain the concurrence of six others might abrogate any law of the United States, constructively, whatever, and give to the Constitution any shape they please, in opposition to the construction and will of the other seventeen, each of the seventeen having an equal right and authority with each of the seven. Every feature in the Constitution might thus be successively changed; and after a scene of unexampled confusion and distraction, what had been unanimously agreed to as a whole, would not, as a whole, be agreed to by a single party. The amount of this modified right of nullification is, that a single State may arrest the operation of a law of the United States, and institute a process which is to terminate in the ascendency of a minority over a large majority in a republican system, the characteristic rule of which is, that the major will is the ruling will. And this newfangled theory is attempted to be lathered on Mr. Jefferson, the apostle of republicanism, and whose own words declare that "acquiescence in the decision of the majority is the vital principle of it." [See his Inaugural Address.]

Writings of Madison, Volume 4: 1829-1836, p.410

Well might Virginia declare, as her Legislature did by a resolution of 1833, that the resolutions of 1798-99 gave no support to the nullifying doctrine of South Carolina. And well may the friends of Mr. Jefferson disclaim any sanction to it or to any constitutional right of nullification from his opinions. His meaning is fortunately rescued from such imputations by the very document procured from his files and so triumphantly appealed to by the nullifying partisans of every description. In this document the remedial right of nullification is expressly called a natural right, and, consequently, not a right derived from the Constitution, but from abuses or usurpations, releasing the parties to it from their obligation.\*/\*\*

Writings of Madison, Volume 4: 1829-1836, p.411

It is said that in several instances the authority and laws of the United States have been successfully nullified by the particular States. This may have occurred possibly in urgent cases, and in confidence that it would not be at variance with the construction of the Federal Government; or in cases where, operating within the nullifying State alone, it might be connived at as a lesser evil than a resort to force; or in cases not falling within the Federal jurisdiction; or, finally, in cases deemed by the States subversive of their essential rights, and justified, therefore, by the natural right of self-preservation. Be all this as it may, examples of nullification, though passing off without any immediate disturbance of the public order, are to be deplored, as weakening the common Government, and as undermining the Union. One thing seems to be certain, that the States which have exposed themselves to the charge of nullification, have, with the exception of South Carolina, disclaimed it as a constitutional right, and have, moreover, protested against it as modified by the process of South Carolina.

Writings of Madison, Volume 4: 1829-1836, p.412

The conduct of Pennsylvania, and the opinions of Judges M'Kean and Tilghman, have been particularly dwelt on by the nullifiers. But the final acquiescence of the State in the authority of the Federal judiciary transfers their authority to the other scale, and it is believed that the opinions of the two judges have been superseded by those of their brethren, which have been since, and at the present time are, opposed to them.

Writings of Madison, Volume 4: 1829-1836, p.412

Attempts have been made to show that the resolutions of Virginia contemplated a forcible resistence to the alien and sedition laws; and as evidence of it, the laws relating to the armory, and a habeas corpus for the protection of members of her Legislature, have been brought into view. It happens, however, as has been ascertained by the recorded dates, that the first of these laws was enacted prior to the alien and sedition laws. As to the last, it appears that it was a general law, providing for other emergencies as well as Federal arrests, and its applicability never tested by any occurrence under the alien and sedition laws. The law did not necessarily preclude an acquiescence in the supervising decision of the Federal judiciary, should that not sustain the habeas corpus, which, it might be calculated, would be sustained. And all must agree, that cases might arise of such violations of the security and privileges of representatives of the people as would justify the States in a resort to the natural law of self-preservation. The extent of the privileges of the Federal and State representatives of the people against criminal charges by the two authorities, reciprocally involves delicate questions, which it may be better to leave for those who are to decide on them, than unnecessarily to discuss them in advance. The moderate views of Virginia on the critical occasion of the alien and sedition laws are illustrated by the terms of the seventh resolution, with an eye to which the third resolution ought always to be expounded, by the unanimous erasure of the terms "null, void," &c., from the seventh article as it stood; and by the condemnation and imprisonment of Callender under the law, without the slightest opposition on the part of the State. So far was the State from countenancing the nullifying doctrine, that the occasion was viewed as a proper one for exemplifying its devotion to public order, and acquiescence in laws which it deemed unconstitutional, while those laws were not constitutionally repealed. The language of the Governor, in a letter to a friend, will best attest the principles and feelings which dictated the course pursued on the occasion.\*

Writings of Madison, Volume 4: 1829-1836, p.413

It is sometimes asked in what mode the States could interpose in their collective character as parties to the Constitution against usurped power. It was not necessary for the object and reasoning of the resolutions and report, that the mode should be pointed out. It was sufficient to show that the authority to interpose existed, and was a resort beyond that of the Supreme Court of the United States, or any authority derived from the Constitution. The authority being plenary, the mode was of its own choice; and it is obvious that, if employed by the States as co-parties to and creators of the Constitution, it might either so explain the Constitution or so amend it as to provide a more satisfactory mode within the Constitution itself for guarding it against constructive or other violations.

Writings of Madison, Volume 4: 1829-1836, p.414

It remains, however, for the nullifying expositors to specify the right and mode of interposition which the resolution meant to assign to the States individually. They cannot say it was a natural right to resist intolerable oppression; for that was a right not less admitted by all than the collective right of the States as parties to the Constitution, the non-denial of which was urged as a proof that it could not be meant by the resolutions.

Writings of Madison, Volume 4: 1829-1836, p.414

They cannot say that the right meant was a constitutional right to resist the constitutional authority; for that is a contradiction in terms, as much as a legal right to resist a law.

Writings of Madison, Volume 4: 1829-1836, p.414

They can find no middle ground between a natural and a constitutional right, on which a right of nullifying interposition can be placed; and it is curious to observe the awkwardness of the attempt by the most ingenious advocates [Upshur and Berrien.]

Writings of Madison, Volume 4: 1829-1836, p.414

They will not rest the claim as modified by South Carolina, for that has scarce an advocate out of the State, and owes the remnant of its popularity there to the disguise under which it is now kept alive; some of the leaders of the party admitting its indefensibility in its naked shape.

Writings of Madison, Volume 4: 1829-1836, p.414

The result is, that the nullifiers, instead of proving that the resolution meant nullification, would prove that it was altogether without meaning.

Writings of Madison, Volume 4: 1829-1836, p.414

It appears from this review, that the right asserted and exercised by the Legislature, to declare an act of Congress unconstitutional, had been denied by the defenders of the alien and sedition acts as an interference with the judicial authority; and, consequently, that the reasonings employed by the Legislature were called for by the doctrines and inferences drawn from that authority, and were not an idle display of what no one denied.

Writings of Madison, Volume 4: 1829-1836, p.414

It appears still farther, that the efficacious interposition contemplated by the Legislature was a concurring and co-operating interposition of the States, not that of a single State.

Writings of Madison, Volume 4: 1829-1836, p.414

It appears that the Legislature expressly disclaimed the idea that a declaration of a State that a law of the United States was unconstitutional, had the effect of annulling the law.

Writings of Madison, Volume 4: 1829-1836, p.415

It appears that the object to be attained by the invited cooperation with Virginia was, as expressed in the third and seventh resolutions, to maintain within the several States their respective authorities, rights, and liberties, which could not be constitutionally different in different States, nor inconsistent with a sameness in the authority and laws of the United States in all and in each.

Writings of Madison, Volume 4: 1829-1836, p.415

It appears that the means contemplated by the Legislature for attaining the object, were measures recognised and designated by the Constitution itself.

Writings of Madison, Volume 4: 1829-1836, p.415

Lastly, it may be remarked that the concurring measures of the States, without any nullifying interposition whatever, did attain the contemplated object; a triumph over the obnoxious acts, and an apparent abandonment of them forever.

Writings of Madison, Volume 4: 1829-1836, p.415

It has been said or insinuated that the proceedings of Virginia in 1798-99 had not the influence ascribed to them in bringing about that result. Whether the influence was or was not such as has been claimed for them, is a question that does not affect the meaning and intention of the proceedings. But as a question of fact the decision may be safely left to the recollection of those who were contemporary with the crisis, and to the researches of those who were not, taking for their guides the reception given to the proceedings by the Republican party everywhere, and the pains taken by it in multiplying republications of them in newspapers and in other forms.

Writings of Madison, Volume 4: 1829-1836, p.415

What the effect might have been if Virginia had remained patient and silent, and still more if she had sided with South Carolina in favour of the alien and sedition acts, can be but a matter of conjecture.

Writings of Madison, Volume 4: 1829-1836, p.415

What would have been thought of her if she had recommended the nullifying project of South Carolina, may be estimated by the reception given to it under all the factitious gloss, and in the midst of the peculiar excitement of which advantage has been taken by the partisans of that anomalous conceit.

Writings of Madison, Volume 4: 1829-1836, p.415

It has been sufficiently shown, from the language of the report, as has been seen, that the right in the States to interpose declarations and protests against unconstitutional acts of Congress had been denied; and that the reasoning in the resolutions was called for by that denial. But the triumphant tone with which it is affirmed and reiterated that the resolutions must have been directed against what no one denied, unless they were meant to assert the right of a single State to arrest and annul the acts of the Federal Legislature, makes it proper to adduce a proof of the fact that the declaratory right was denied, which, if it does not silence the advocate of nullification, must render every candid ear indignant at the repetition of the untruth.

Writings of Madison, Volume 4: 1829-1836, p.416

The proof is found in the recorded votes of a large and respectable portion of the House of Delegates, at the time of passing the report.

Writings of Madison, Volume 4: 1829-1836, p.416

A motion [see the journal] offered at the closing scene affirms "that protests made by the Legislature of this or any other State against particular acts of Congress as unconstitutional, accompanied by invitations to other States to join in such protests, are improper and unauthorized assumptions of power, not permitted nor intended to be permitted to the State legislatures. And inasmuch as correspondent sentiments with the present have been expressed by those of our sister States who have acted on the resolutions [of 1798,] Resolved, therefore, that the present General Assembly, convinced of the impropriety of the resolutions of the last Assembly, deem it inexpedient farther to act on the said resolutions."

Writings of Madison, Volume 4: 1829-1836, p.416

On this resolution the votes, according to the yeas and nays, were fifty-seven of the former, ninety-eight of the latter.

Writings of Madison, Volume 4: 1829-1836, p.416

Here, then, within the House of Delegates itself, more than one-third of the whole number denied the right of the State Legislature to proceed by acts merely declaratory against the constitutionality of acts of Congress, and affirmed, moreover, that the States who had acted on the resolutions of Virginia entertained the same sentiments. It is remarkable that the minority, who denied the right of the legislatures even to protest, admitted the right of the States in the capacity of parties, without claiming it for a single State.

Writings of Madison, Volume 4: 1829-1836, p.417

With this testimony under the eye, it may surely be expected that it will never again be said that such a right had never been denied, nor the pretext again resorted to, that, without such a denial, the nullifying doctrine alone could satisfy the true meaning of the Legislature.\*

Writings of Madison, Volume 4: 1829-1836, p.417

It has been asked whether every right has not its remedy; and what other remedy exists, under the Government of the United States, against usurpations of power, but a right in the States individually to annul and resist them.

Writings of Madison, Volume 4: 1829-1836, p.417

The plain answer is, that the remedy is the same under the Government of the United States as under all other governments, established and organized on free principles. The first remedy is in the checks provided among the constituted authorities; that failing, the next is in the influence of the ballot-boxes and hustings; that again failing, the appeal lies to the power that made the Constitution, and can explain, amend, or remake it. Should this resort also fail, and the power usurped be sustained in its oppressive exercise on a minority by a majority, the final course to be pursued by the minority must be a subject of calculation, in which the degree of oppression, the means of resistence, the consequences of its failure, and the consequences of its success, must be the elements.

Writings of Madison, Volume 4: 1829-1836, p.417

Does not this view of the case equally belong to every one of the States, Virginia for example?

Writings of Madison, Volume 4: 1829-1836, p.417

Should the constituted authority of the State unite in usurping oppressive powers; should the constituent body fail to arrest the progress of the evil through the elective process, according to the forms of the Constitution; and should the authority which is above that of the Constitution, the majority of the people, inflexibly support the oppression inflicted on the minority, nothing would remain for the minority but to rally to its reserved rights, (for every citizen has his reserved rights, as exemplified in declarations prefixed to most of the State constitutions,) and to decide between acquiescence and resistence, according to the calculation above stated.

Writings of Madison, Volume 4: 1829-1836, p.418

Those who question the analogy in this respect between the two cases, however different they may be in some other respects, must say, as some of them, with a boldness truly astonishing, do say, that the Constitution of the United States, which, as such, and under that name, was presented to and accepted by those who ratified it; which has been so deemed and so called by those living under it for nearly half a century; and, as such, sworn to by every officer, State as well as Federal, is yet no Constitution, but a treaty or league, or, at most, a Confederacy among nations, as independent and sovereign in relation to each other as before the charter which calls itself a Constitution was formed.

Writings of Madison, Volume 4: 1829-1836, p.418

The same zealots must again say, as they do with a like boldness and incongruity, that the Government of the United States, which has been so deemed and so called from its birth to the present time; which is organized in the regular forms of representative governments, and, like them, operates directly on the individuals represented, and whose laws are declared to be the supreme law of the land, with a physical force in the Government for executing them, is yet no Government, but a mere agency, a power of attorney, revocable at the will of any of the parties granting it.

Writings of Madison, Volume 4: 1829-1836, p.418

Strange as it must appear, there are some who maintain these doctrines and bold this language; and, what is stranger still, denounce those as heretics and apostates who adhere to the language and tenets of their fathers; and this is done with an ex-ulting question, whether every right has not its remedy; and what remedy can be found against Federal usurpations other than that of a right in every State to nullify and resist the Federal acts at its pleasure?

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Yet it may be safely admitted that every right has its remedy, as it must be admitted that the remedy under the Constitution lies where it has been marked out by the Constitution; and that no appeal can be consistently made from that remedy by those who were and still profess to be parties to it, but the appeal to the parties themselves, having an authority above the Constitution, or to the law of nature and of nature's God.

Writings of Madison, Volume 4: 1829-1836, p.419

It is painful to be obliged to notice such a sophism as that by which this inference is assailed. Because an unconstitutional law is no law, it is alleged that it may be constitutionally disobeyed by all who think it unconstitutional. The fallacy is so obvious that it can impose on none but the most biased or heedless observers. It makes no distinction, where the distinction is obvious and essential, between the case of a law confessedly unconstitutional and a case turning on a doubt and a divided opinion as to the meaning of the Constitution; on a question, not whether the Constitution ought or ought not to be obeyed, but on the question, what is the Constitution? And can it be seriously and deliberately maintained, that every individual, or every subordinate authority, or every party to the compact, has a right to take for granted that its construction is the infallible one, and to act upon it against the construction of all drivers, having an equal right to expound the instrument, nay, against regular expositions of the constituted authorities, with the tacit sanction of the community? Such a doctrine must be seen at once to be subversive of all constitutions, all laws, and all compacts. The provision made by a Constitution for its own exposition, through its own authorities and forms, must prevail while the Constitution is left to itself by those who made it, or until cases arise which justify a resort to the ultra-constitutional interpositions.

Writings of Madison, Volume 4: 1829-1836, p.419

The main pillar of nullification is the assumption that sovereignty is a unit at once indivisible and unalienable; that the States, therefore, individually retain it entire as they originally held it; and, consequently, that no portion of it can belong to the United States.

Writings of Madison, Volume 4: 1829-1836, p.419

But is not the Constitution itself necessarily the offspring of a sovereign authority? What but the highest political authority, a sovereign authority, could make such a Constitution? a Constitution which makes a Government; a Government which makes laws; laws which operate like the laws of all other Governments, by a penal and physical force, on the individuals subject to the laws; and, finally, laws declared to be the supreme law of the land, anything in the Constitution or laws of the individual States notwithstanding.

Writings of Madison, Volume 4: 1829-1836, p.420

And where does the sovereignty which makes such a Constitution reside? It resides, not in a single State, but in the people of each of the several States, uniting with those of the others in the express and solemn compact which forms the Constitution. To the extent of that compact or Constitution, therefore, the people of the several States must be a sovereign as they are a united people.

Writings of Madison, Volume 4: 1829-1836, p.420

In like manner the constitutions of the States, made by the people as separated into States, were made by a sovereign authority, by a sovereignty residing in each of the States, to the extent of the objects embraced by their respective constitutions. And if the States be thus sovereign, though shorn of so many of the essential attributes of sovereignty, the United States, by virtue of the sovereign attributes with which they are endowed, may to that extent be sovereign, though destitute of the attributes of which the States are not shorn.

Writings of Madison, Volume 4: 1829-1836, p.420

Such is the political system of the United States, de jure and de facto; and however it may be obscured by the ingenuity and technicalities of controversial commentators, its true character will be sustained by an appeal to the law and the testimony of the fundamental charter.

Writings of Madison, Volume 4: 1829-1836, p.420

The more the political system of the United States is fairly examined, the more necessary it will be found to abandon the abstract and technical modes of expounding and designating its character; and to view it as laid down in the charter which constitutes it, as a system hitherto without a model, as neither a simple nor a consolidated Government, nor a Government altogether confederate, and, therefore, not to be explained so as to make it either, but to be explained and designated according to the actual division and distribution of political power on the face of the instrument.

Writings of Madison, Volume 4: 1829-1836, p.420

A just inference from a survey of this political system is, that it is a division and distribution of political power nowhere else to be found; a nondescript, to be tested and explained by itself alone; and that it happily illustrates the diversified modifications of which the representative principle of republicanism is susceptible, with a view to the conditions, opinions, and habits of particular communities.

Writings of Madison, Volume 4: 1829-1836, p.421

That a sovereignty should have even been denied to the States in their united character, may well excite wonder when it is recollected that the Constitution which now unites them was announced by the Convention which formed it as dividing sovereignty between the Union and the States;\* that it was presented under that view by contemporary expositions recommending it to the ratifying authorities;\* that it is proved to have been so understood by the language which has been applied to it constantly and notoriously; that this has been the doctrine and language, until a very late date, even by those who now take the lead in making a denial of it the basis of the novel notion of nullification.\* So familiar is sovereignty in the United States to the thoughts, views, and opinions even of its polemic adversaries, that Mr. Rowan, in his elaborate speech in support of the indivisibility of sovereignty, relapsed, before the conclusion of his argument, into the idea that sovereignty was partly in the Union, partly in the States.\* Other champions of the rights of the States, among them Mr. Jefferson, might be appealed to as bearing testimony to the sovereignty of the United States. If Burr had been convicted of acts defined to be treason, which it is allowed can be committed only against a sovereign authority, wire would then have pleaded the want of sovereignty in the United States? Quere: If there be no sovereignty in the United States, whether the crime denominated treason might not be committed without falling within the jurisdiction of the States, and, consequently, with impunity?

Writings of Madison, Volume 4: 1829-1836, p.421

What seems to be an obvious and indefensible proof that the people of the individual States, as composing the United States, must possess a sovereignty, at least in relation to foreign sovereigns, is, that on that supposition only, foreign governments would be willing or expected to maintain international relations with the United States. Let it be understood that the Government at Washington was not a National Government, representing a sovereign authority; and that the sovereignty resided absolutely and exclusively in the several States, as the only sovereigns and nations in our political system, and the diplomatic functionaries at the seat of the Federal Government would be obliged to close their communications with the Secretary of State, and with new commissions repair to Columbia, in South Carolina, and other seats of the State governments. They could no longer, as the representatives of a sovereign authority, hold intercourse with a functionary who was but the agent of a self-called government, which was itself but an agent representing no sovereign authority; nor of the States as separate sovereignties, nor a sovereignty in the United States which had no existence. For a like reason, the plenipotentiaries of the United States at foreign courts would be obliged to return home unless commissioned by the individual States. With respect to foreign nations, the confederacy of the States was held de facto to be a nation, or other nations would not have held national relations with it.

Writings of Madison, Volume 4: 1829-1836, p.422

There is one view of the subject which ought to have its influence on those who espouse doctrines which strike at the authoritative origin and efficacious operation of the Government of the United States. The Government of the United States, like all governments free in their principles, rests on compact; a compact, not between the government and the parties who formed and live under it, but among the parties themselves; and the strongest of governments are those in which the compacts were most fairly formed and most faithfully executed.

Writings of Madison, Volume 4: 1829-1836, p.422

Now all must agree that the compact in the case of the United States was duly formed, and by a competent authority. It was formed, in fact, by the people of the several States in their highest sovereign authority; an authority which could have made the compact a mere league, or a consolidation of all entirely into one community. Such was their authority if such had been their will. It was their will to prefer to either the constitutional Government now existing; and this being undeniably established by a competent and even the highest human authority, it follows that the obligation to give it all the effect to which any government could be entitled, whatever the mode of its formation, is equally undeniable. Had it been formed by the people of the United States as one society, the authority could not have been more competent than that which did form it, nor would a consolidation of the people of the States into one people be different in validity or operation, if made by the aggregate authority of the people of the States, than if made by the plenary sanction given concurrently, as it was in their highest sovereign capacity. The government, whatever it be, resulting from either of these processes, would rest on an authority equally competent, and be equally obligatory and operative on those over whom it was established. Nor would it be in any respect less responsible, theoretically and practically, to the constituent body, in the one hypothesis than in the other, or less subject in extreme cases to be overthrown. The faith pledged in the compact being the vital principle of all free government, that is the true text by which political right and wrong are to be decided, and the resort to physical force justified, whether applied to the enforcement or the subversion of political power.

Writings of Madison, Volume 4: 1829-1836, p.423

Whatever be the mode in which the essential authority established the Constitution, the structure of this, the power of this, the rules of exposition, the means of execution, must be the same; the tendency to consolidation or dissolution the same. The question whether "we the people" means the people in their aggregate capacity, acting by a numerical majority of the whole, or by a majority in each of all the States, the authority being equally valid and binding, the question is interesting but as an historical fact of merely speculative curiosity.

Writings of Madison, Volume 4: 1829-1836, p.423

Whether the centripetal or centrifugal tendency be greatest, is a problem which experience is to decide; but it depends not on the mode of the grant, but the extent and effect of the powers granted. The only distinctive circumstance is in the effect of a dissolution of the system on the resultum [?] of the parties, which, in the case of a system formed by the people, as that of the United States was, would replace the States in the character of separate communities, whereas a system founded by the people, as one community, would, on its dissolution, throw the people into a state of nature.\*

Writings of Madison, Volume 4: 1829-1836, p.424-p.425

In conclusion, those who deny the possibility of a political system, with a divided sovereignty like that of the United States, must choose between a government purely consolidated and an association of governments purely federal. All republics of the former character, ancient or modern, have been found inefficient for order and justice within, and for security without. They have been either a prey to internal convulsions or to foreign invasions. In like manner all confederacies, ancient or modern, have been either dissolved by the inadequacy of their cohesion, or, as in the modern examples, continue to be monuments of the frailty of such forms. Instructed by these monitory lessons, and by the failure of an experiment of their own, (an experiment which, while it proved the frailty of mere federalism, proved also the frailties of republicanism without the control of a federal organization,) the\* United States have adopted a modification of political power, which aims at such a distribution of it as might avoid as well the evils of consolidation as the defects of federation, and obtain the advantages of both. Thus far, throughout a period of nearly half a century, the new and compound system has been successful beyond any of the forms of government, ancient or modern, with which it may be compared, having as yet discovered no defects which do not admit remedies compatible with its vital principles and characteristic features. It becomes all, therefore, who are friends of a government based on free principles, to reflect, that by denying the possibility of a system partly federal and partly consolidated, and who would convert ours into one either wholly federal or wholly consolidated, in neither of which forms have individual rights, public order, and external safety been all duly maintained, they aim a deadly blow at the last hope of true liberty on the face of the earth. Its enlightened votaries must perceive the necessity of such a modification of power as will not only divide it between the whole and the parts, but provide for occurring questions as well between the whole and the parts as between the parts themselves. A political system which does not contain an effective provision for a peaceable decision of all controversies arising within itself, would be a government in name only. Such a provision is obviously essential; and it is equally obvious that it cannot be either peaceable or effective by making every part an authoritative empire. The final appeal in such cases must be to the authority of the whole, not to that of the parts separately and independently. This was the view taken of the subject while the Constitution was under the consideration of the people.\* It was this view of it which dictated the clause declaring that the Constitution and laws of the United States should be the supreme law of the land, anything in the constitution or laws of any of the States to the contrary notwithstanding.\* It was the same view which specially prohibited certain powers and acts to the States, among them any laws violating the obligation of contracts, and which dictated the appellate provision in the judicial act passed by the first Congress under the Constitution.\* And it may be confidently foretold, that notwithstanding the clouds which a patriotic jealousy or other causes have at times thrown over the subject, it is the view which will be permanently taken of it, with a surprise hereafter that any other should ever have been contended for.

1836

To William C. Rives.

JANY 26, 1836.

Writings of Madison, Volume 4: 1829-1836, p.426

DEAR SIR,—I return with thanks the papers you kindly favored me with an opportunity of perusing. They are not without interest, though superseded by the mass of information now before the public. I am sorry to find from this that so much uncertainty still clouds the issue of the controversy with France. Should it fail of an amicable adjustment by the parties themselves, it is quite possible that Great Britain may see in some of the consequences of a war between them, injuries overbalancing the incidental advantages accruing to herself, and successfully interpose her friendly offices. The spectacle in that case would be as marvellous as the state of things which led to it.

To Caleb Cushing.

MONTPELLIER, Feby 9, 1836.

Writings of Madison, Volume 4: 1829-1836, p.426

DEAR SIR,—I have received your letter of the 3d instant, in closing a copy of your speech on the right of petition, &c., which certainly contains very able and interesting views of the subject. I do not wonder at your difficulty in understanding the import of the passage cited from my speech in the first Congress under the present Constitution, being myself at a loss for its precise meaning, obscured as it is by the vagueness of some of its language and the omission, which my memory cannot supply, of the "critical review" of the subject referred to, which, if not omitted, would probably have removed the obscurity.

Writings of Madison, Volume 4: 1829-1836, p.426

Whilst I am fully aware that in the commendations bestowed on the career of my political life, you have done me far more than justice, I cannot be insensible to the kind partiality from which it proceeded; with my recognition of which I pray you to accept assurances of my cordial respects and good wishes.

To Committee of Cincinnati.

FEBRUARY 20, 1836.

Writings of Madison, Volume 4: 1829-1836, p.427

I have received, fellow-citizens, your letter inviting me to a public dinner at Cincinnati on the 4th of March, to celebrate the expiration, on the preceding day, of the charter of the United States Bank; and requesting from me, if unable to attend, an appropriate sentiment to be given in my name by the company.

Writings of Madison, Volume 4: 1829-1836, p.427

Retaining, as I do, my conviction, heretofore officially and otherwise expressed, that in expounding the Constitution in the case of the Bank, the decision of the nation had been sufficiently manifested to overrule individual opinions, and to sanction the power exercised in establishing such an institution, I cannot fail to be excused for declining to participate in a protest against it, as destitute of constitutional authority.

Writings of Madison, Volume 4: 1829-1836, p.427

For the favourable and friendly sentiments expressed in your letter, I tender you my acknowledgments, with assurances of my great respect and good wishes.

To Joseph Wood.

FEBY 27, 1836.

Writings of Madison, Volume 4: 1829-1836, p.427

I have received, sir, your letter of the 16th instant, requesting such information as I might be able to give pertaining to a biography of your father-in-law, the late Chief Justice Ellsworth.

Writings of Madison, Volume 4: 1829-1836, p.427

My acquaintance with him was limited to the periods of our cotemporary services in public life, and to the occasional intercourse incident to it. As we happened to be thrown but little into the familiar situations which develop the features of personal and social character, I can say nothing particular as to either—certainly nothing that would be unfavorable. Of his public character I may say, that I always regarded his talents as of a high order, and that they were generally so regarded. As a speaker his reasoning was clear and close, and delivered in a style and tone which rendered it emphatic and impressive. In the Convention which framed the Constitution of the U. States he bore an interesting part, and signed the instrument in its final shape, with the cordiality verified by the support he gave to its ratification. Whilst we were cotemporaries in the early sessions of Congress, he in the Senate and I in the House of Representatives, it was well understood that he was an able and operative member. It may be taken for certain, I believe, that the bill organizing the Judicial Department originated in his draft, and that it was not materially changed in its passage into a law. The journals of the session may be properly consulted on this as on other subjects in which he participated. Of his legal and judicial capacities, the proper test must be in the record and reports of the proceedings of the Supreme Court, whilst he presided in it. With these I have never had occasion to make myself particularly acquainted.

Writings of Madison, Volume 4: 1829-1836, p.428

No epistolary correspondence having ever passed between us, my files of course contain nothing of that sort, nor is there among my papers a single manuscript from him, of any sort.

Writings of Madison, Volume 4: 1829-1836, p.428

I am very sensible, sir, that these brief remarks must be considered rather as a proof of my respect for the object of your request than as a satisfactory compliance with it. Such as they are I tender them, with a confidence that your resort to other sources of aid to your undertaking will be of more avail to you.

To —— ———.

MARCH, 1836.

Writings of Madison, Volume 4: 1829-1836, p.428

DEAR SIR,—The letter of Mr. Leigh to the General Assembly presents some interesting views of its important subject, and furnishes an excuse for reflections not inapposite to the present juncture.

Writings of Madison, Volume 4: 1829-1836, p.428

The precise obligation imposed on a representative by the instructions of his constituents still divides the opinions of distinguished statesmen. This is the case in Great Britain, where such topics have been most discussed. It is also now the case, more or less, here, and was so at the first Congress under the present Constitution, as appears from the register of debates, imperfectly as they were reported.

Writings of Madison, Volume 4: 1829-1836, p.429

It being agreed by all, that whether an instruction be obeyed or disobeyed, the act of the representative is equally valid and operative, the question is a moral one between the representative and his constituents. If satisfied that the instruction expresses the will of Iris constituents, it must be with the representative to decide whether he will conform to an instruction opposed to his judgment, or will incur their displeasure by disobeying it; with them to decide in what mode they will manifest their displeasure. In a case necessarily appealing to the conscience of the representative, its paramount dictates must, of course, be his guide.

Writings of Madison, Volume 4: 1829-1836, p.429

It is well known that the equality of the States in the Federal Senate was a compromise between the larger and the smaller States, the former claiming a proportional representation in both branches of the Legislature, as due to their superior population; the latter an equality in both, as a safeguard to the reserved sovereignty of the States, an object which obtained the concurrence of members from the larger States. But it is equally true, though but little adverted to as an instance of miscalculating speculation, that, as soon as the smaller States had secured more than a proportional share in the proposed Government, they became favourable to augmentations of its powers, and that, under the administration of the Government, they have generally, in contests between it and the State governments, leaned to the former. Whether the direct effect of instructions which would make the Senators dependent on the pleasure of their constituents, or the indirect effect inferred from such a tenure by Mr. Leigh, would be most favourable to the General Government or the State governments, is a question which, not being tested by practice, is left to individual opinions. My anticipations, I confess, do not accord with that in the letter.

Writings of Madison, Volume 4: 1829-1836, p.429

Nothing is more certain than that the tenure of the Senate was meant as an obstacle to the instability, which not only history, but the experience of our country, had shown to be the besetting infirmity of popular governments. Innovations, therefore, impairing the stability afforded by that tenure, without some compensating remodification of the powers of the Government, must affect the balance contemplated by the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.430

My prolonged life has made me a witness of the alternate popularity and unpopularity of each of the great branches of the Federal Government. I have witnessed, also, the vicissitudes, in the apparent tendencies in the Federal and State governments to encroach each on the authorities of the other, without being able to infer with certainty what would be the final operation of the causes as heretofore existing; while it is far more difficult to calculate the mingled and checkered influences on the future from an expanding territorial domain; from the multiplication of the parties to the Union; from the great and growing power of not a few of them; from the absence of external danger; from combinations of States in some quarters and collisions in others, and from questions incident to a refusal of unsuccessful parties to abide by the issue of controversies judi-cially decided. To these uncertainties may be added the effects of a dense population, and the multiplication and the varying relations of the classes composing it. I am far, however, from desponding of the great political experiment in the hands of the American people. Much has already been gained in its favour by the continued prosperity accompanying it through a period of so many years. Much may be expected from the progress and diffusion of political science in dissipating errors, opposed to the sound principles which harmonize different interests; from the geographical, commercial, and social ligaments, strengthened as they are by mechanical improvements, giving so much advantage to time over space; and, above all, by the obvious and inevitable consequences of the wreck of an ark, bearing, as we have flattered ourselves, the happiness of our country and the hope of the world. Nor is it unworthy of consideration, that the four great religious sects, running through all the States, will oppose an event placing parts of each under separate governments.

Writings of Madison, Volume 4: 1829-1836, p.431

It cannot be denied that there are, in the aspect our country presents, phenomena of an ill omen; but it would seem that they proceed from a coincidence of causes, some transitory, others fortuitous, rarely if ever likely to recur; that, of the causes more durable, some can be greatly mitigated, if not removed, by the legislative authority; and such as may require and be worthy the "intersit"\* of a higher power can be provided for whenever, if ever, the public mind may be calm and cool enough for that resort.

To C. Fenimore Williston.

MARCH 19, 1836.

Writings of Madison, Volume 4: 1829-1836, p.431

I have received, sir, your letter of the 9th, and am sorry that I cannot give you the information it requests; nor can I refer you to the source from which it may be most conveniently and successfully sought. I do not possess a copy of the printed correspondence between Mr. Jeremy Bentham and myself on the subject of his proposed "Codification for the U. States," nor even the original transcript of my part of it, for which I am at a loss to account. His letter to me covers 21 folio pages, closely written. That the correspondence "with others relating to the subject of American Codification" was printed in England in a Tract entitled "——————" appears from Mr. Bentham's Address in eight letters "to the citizens of the several U. States," in which it is mentioned, also, that the tract was forwarded to the Governors of the States, and that Mr. J. Q. Adams had taken charge of the whole. The archives of the States seem, therefore, the resort first presenting itself.

To W. C. Rives.

MONTPELLIER, April 19,\* 1836.

Writings of Madison, Volume 4: 1829-1836, p.432

DEAR SIR,—I have received the copy of your speech on the 28th of March. It is the only one I have read on the subject. It contains strong points, strongly sustained. I cannot but think, however, that the preservation of the original journals of the Legislature is undervalued; printed copies of transitory proceedings being generally neglected by the possessors—the more so, the greater the number of them circulated—and when not lost, always so dispersed as to be often inaccessible; while an original record known to exist in a central repository can always be consulted for public or private purposes; an advantage improvable by adding other repositories, selected as safeguards against casualties, and for a more convenient resort.

Writings of Madison, Volume 4: 1829-1836, p.432

In the late republication of the journals of the House of Delegates, much difficulty and delay was experienced in collecting printed copies, and I believe that the journals of one session were never obtained. The case was far worse with the journals of the Senate, of which republication was not attempted.

Writings of Madison, Volume 4: 1829-1836, p.432

The increasing pressure of my infirmities obliges me to dictate this acknowledgment of your kind attention to another pen, instead of employing my own, in the clumsy state of my fingers.

Writings of Madison, Volume 4: 1829-1836, p.432

Mrs. Madison joins me in respectful salutations to yourself and Mrs. Rives, who we understand is now with you, and in assurances of our cordial regards and best wishes for you both.

To B. W. Leigh.

MONTPELLIER, May 1, 1836.

Writings of Madison, Volume 4: 1829-1836, p.432

DEAR SIR,—I have received a copy of your speech on the 4th and 5th of April, and on the supposition that I may be indebted for it to your politeness, I tender you my acknowledgments accordingly.

Writings of Madison, Volume 4: 1829-1836, p.433

The increasing pressure of my infirmities has of late rendered my attention to the public proceedings very superficial. To the expunging question I have paid very little. The views taken in your speech or some, at least, of its branches appear "sans replique." It is clear, I think, that a preservation of the original journals derives, from their legal authenticity and constant accessibility at a known spot for public or private purposes, a peculiar value; the liability of printed copies to dispersion, if not entire loss, being inconvenient for research, if to be found at all. The late republication of the Legislative journals of Virginia furnishes examples of both. Those of one session were left a blank, and it was not without much difficulty and delay that the imperfect set was finally obtained.

Writings of Madison, Volume 4: 1829-1836, p.433

I pray you, sir, to accept, with the assurance of my esteem, my best wishes.

To C. Fenimore Williston.

MAY 13, 1836.

Writings of Madison, Volume 4: 1829-1836, p.433

I have received, sir, your letter of the 6th. I know of no propositions to codify the laws of the United States, or of any particular State, on the plan of Mr. Bentham, other than those made by Mr. B. himself. Most of the States have doubtless revised their laws, with a view to their general improvement, and adaptation of them to the change of Government by the Declaration of Independence. Such were the objects of Virginia in her revised code, prepared immediately after that event. The work has been long out of print and perhaps may not easily be found. The particular task executed by Mr. Livingston on the subject of penal laws is probably not unknown to you. In my very feeble condition, in the 86th year of my age, and with serious inroads on my health, I must be pardoned for referring you to other sources for answers to your enquiries. At Washington there are individuals from every State who can readily answer such.

To C. J. Ingersoll.

MONTPELLIER, May 14, 1836.

Writings of Madison, Volume 4: 1829-1836, p.434

SIR,—Mr. Madison being at present too much indisposed to use his own pen, desires me to acknowledge the receipt of your letter of the 9th instant, and to thank you for your friendly solicitude on the subject of his health. I am sorry to say that the change in it since you left Montpelier has not been favorable. You need not be assured of the pleasure he always feels in the society of his friends, especially the most intelligent and enlightened of them, when his condition permits him to enjoy it.

Writings of Madison, Volume 4: 1829-1836, p.434

No favorable moment, he thinks, ought to be omitted to press on G. Britain a settlement of the great questions of free goods and free sailors in the neutral vessels, blockades, contraband of war, &c. He recollects that a letter to you some years ago sketched the grounds on which the principle, "free ships free goods," might even then claim, as de jure, to be a law of nations; and in the present state of the world, with the prospect of an American navy which will equal hers in a few years, she can no longer hope to continue mistress of the seas. The Trident, if there be one, must pass to this hemisphere, where it may be hoped it will be less abused than it has been on the other. The effects of a due reform of belligerent claims on the ocean will change essentially the relations between them and neutrals, and make the latter, not the former, the gainers in time of war. On the subject of Blockades, a communication of the British Government brought by Mr. Merry came fully up to our demands. It resulted from our protest against a spurious blockade of the Islands of Martinique and Guadalupe, by Admiral Duckworth. The case merits a resort for an explanation of it to the records and files in the Department of State. Mrs. Madison, with her niece and son, beg to be united in the expression of all the good wishes felt at Montpelier for yourself and Miss Ingersoll.

Writings of Madison, Volume 4: 1829-1836, p.434

J. C. PAYNE.

To John Robertson.

Writings of Madison, Volume 4: 1829-1836, p.435

J. Madison, with his best respects to Mr. Robertson, thanks him for the copy of his speech delivered in the House of Representatives on the 5th and 6th of April.

Writings of Madison, Volume 4: 1829-1836, p.435

In his present condition, the combined effect of his very ad-vanced age, and of indisposition much increased within a short period, he has been able to make himself but slightly acquainted with some of the subjects embraced in the speech. He may safely say that it is characterized by much ability in the views taken of many of them; and the aspect presented by some is deeply interesting to the career of our political system. On the distribution of the proceeds of the public lands the speech appears to be entirely successful in shewing that the bill in its present form encounters no insuperable difficulties, and that the fund is rightfully owned by the people of the Union unless it be without an owner.

MONTPELLIER, May 23d, 1836.

To George Tucker.

JUNE 27, 1836.

Writings of Madison, Volume 4: 1829-1836, p.435

MY DEAR SIR,—I have received your letter of June 17th, with the paper enclosed in it.

Writings of Madison, Volume 4: 1829-1836, p.435

Apart from the value put on such a mark of respect from you in a dedication of your "Life of Mr. Jefferson" to me, I could only be governed in accepting it by my confidence in your capacity to do justice to a character so interesting to his country and to the world; and, I may be permitted to add, with whose principles of liberty and political career mine have been so extensively congenial.

Writings of Madison, Volume 4: 1829-1836, p.435

It could not escape me that a feeling of personal friendship has mingled itself greatly with the credit you allow to my public services. I am, at the same time, justified by my consciousness in saying, that an ardent zeal was always felt to make up for deficiences in them by a sincere and steadfast co-operation in promoting such a reconstruction of our political system as would provide for the permanent liberty and happiness of the United States; and that of the many good fruits it has produced which have well rewarded the efforts and anxieties that led to it, no one has been a more rejoicing witness than myself.

Writings of Madison, Volume 4: 1829-1836, p.436

With cordial salutations on the near approach to the end of your undertaking, &c.

Advice to My Country.

Miscellaneous Writings.

Advice to My Country.

Writings of Madison, Volume 4: 1829-1836, p.439

As this advice, if it ever see the light, will not do so till I am no more, it may be considered as issuing from the tomb, where truth alone can be respected, and the happiness of man alone consulted. It will be entitled, therefore, to whatever weight can be derived from good intentions, and from the experience of one who has served his Country in various stations through a period of forty years; who espoused in his youth, and adhered through his life, to the cause of its liberty; and who has borne a part in most of the great transactions which will constitute epochs of its destiny.

Writings of Madison, Volume 4: 1829-1836, p.439

The advice nearest to my heart and deepest in my convictions is, THAT THE UNION OF THE STATES BE CHERISHED AND PERPETUATED. LET THE OPEN ENEMY TO IT BE REGARDED AS A PANDORA WITH HER BOX OPENED, AND THE DISGUISED ONE AS THE SERPENT CREEPING WITH HIS DEADLY WILES INTO PARADISE.

Appendix II

Instructions to Dr. Franklin and Mr. Jay

Concerning the Free Navigation of the Mississippi, &c.

Writings of Madison, Volume 4: 1829-1836, p.441

On the 4th of October, 1780, Congress unanimously resolved that Mr. Jay should adhere to his former instructions respecting the right to the free navigation of the Mississippi river; and to the boundaries of the United States as already fixed by Congress. On the 6th of October Mr. Madison, Mr. Sullivan, and Mr. Duane were appointed a committee "to draft a letter to the Ministers of the United States at the Courts of Versailles and Madrid to enforce the instructions given to Mr. Jay on the 4th instant, and to explain the reasons and principles on which the same are founded, that they may respectively be enabled to satisfy those Courts of the justice and equity of the intentions of Congress." On the 17th of October the committee reported a draft, written by Mr. MADISON, which was agreed to as follows:

Writings of Madison, Volume 4: 1829-1836, p.441

SIR,—Congress having, in their instructions of the 4th instant, directed you to adhere strictly to their former instructions relating to the boundaries of the United States, to insist on the navigation of the Mississippi for the citizens of the United States in common with the subjects of his Catholic Majesty, as, also, on a free port or ports below the northern limit of West Florida, and accessible to merchant ships for the use of the former, and being sensible of the influence which these claims on the part of the United States may have on your negotiations with the Court of Madrid, have thought it expedient to explain the reasons and principles on which the same are founded, that you may be enabled to satisfy that Court of the equity and justice of their intentions.

Writings of Madison, Volume 4: 1829-1836, p.441

With respect to the first of these articles, by which the river Mississippi is fixed as the boundary between the Spanish settlements and the United States, it is unnecessary to take notice of any pretensions founded on a priority of discovery, of occupancy, or on conquest. It is sufficient that by the definitive treaty of Paris, of 1763, article seventh, all the territory now claimed by the United States was expressly and irrevocably ceded to the King of Great Britain; and that the United States are, in consequence of the revolution in their Government, entitled to the benefits of that cession.

Writings of Madison, Volume 4: 1829-1836, p.441

The first of these positions is proved by the treaty itself. To prove the last, it must be observed, that it is a fundamental principle in all lawful Governments, and particularly in the constitution of the British empire, that all the rights of sovereignty are intended for the benefit of those from whom they are derived, and over whom they are exercised. It is known, also, to have been held for an inviolable principle by the United States while they remained a part of the British empire, that the sovereignty of the King of England, with all the rights and powers included in it, did not extend to them in virtue of his being acknowledged and obeyed as King by the people of England, or of any other part of the empire, but in virtue of his being acknowledged and obeyed as King of [by?] the people of America themselves; and that this principle was the basis, first of their opposition to, and finally of their abolition of, his authority over them. From these principles it results, that all the territory lying within the limits of the States, as fixed by the sovereign himself, was held by him for their particular benefits, and must, equally with his other rights and claims in quality of their sovereign, be considered as having devolved on them, in consequence of their resumption of the sovereignty to themselves.

Writings of Madison, Volume 4: 1829-1836, p.442

In support of this position it may be further observed, that all the territorial rights of the King of Great Britain within the limits of the United States accrued to him from the enterprises, the risks, the sacrifices, the expense in blood and treasure, of the present inhabitants and their progenitors. If in latter times expenses and exertions have been borne by any other part of the empire, in their immediate defence, it need only be recollected that the ultimate object of them was the general security and advantage of the empire; that a proportional share was borne by the States themselves; and that if this had not been the case, the benefits resulting from an exclusive enjoyment of their trade [would] have been an abundant compensation. Equity and justice, therefore, perfectly coincide in the present instance with political and constitutional principles.

Writings of Madison, Volume 4: 1829-1836, p.442

No objection can be pretended against what is here said, except that the King of Great Britain was, at the time of the rupture with his Catholic Majesty, possessed of certain parts of the territory in question, and, consequently, that his Catholic Majesty had, and still has, a right to regard them as lawful objects of conquest. In answer to this objection, it is to be considered: 1. That these possessions are few in number and confined to small spots. 2. That a right founded on conquest being only coextensive with the objects of conquest, cannot comprehend the circumjacent territory. 3. That if a right to the said territory depended on the conquests of the British posts within it, the United States have already a more extensive claim to it than Spain can acquire, having, by the success of their arms, obtained possession of all the important posts and settlements on the Illinois and Wabash, rescued the inhabitants from British domination, and established civil Government in its proper form over them. They have, moreover, established a post on a strong and commanding situation near the mouth of the Ohio; whereas, Spain has a claim by conquest to no post above the northern bounds of West Florida, except that of the Natchez, nor are there any other British posts below the mouth of the Ohio for their arms to be employed against. 4. That whatever extent ought to be ascribed to the right of conquest, it must be admitted to have limitations which, in the present case, exclude the pretensions of his Catholic Majesty. If the occupation by the King of Great Britain of posts within the limits of the United States, as defined by charters derived from the said King when constitutionally authorized to grant them, makes them lawful objects of conquest to any other power than the United States, it follows that every other part of the United States that now is or may hereafter fall into the hands of the enemy is equally an object of conquest. Not only New York, Long Island, and the other islands in its vicinity, but almost the entire States of South Carolina and Georgia, might, by the interposition of a foreign Power at war with their enemy, be forever severed from the American Confederacy, and subjected to a foreign yoke. But is such a doctrine consonant to the rights of nations or the sentiments of humanity? Does it breathe that spirit of concord and amity which is the aim of the proposed alliance with Spain? Would it be admitted by Spain herself, if it affected her own dominions? Were, for example, a British armament by a sudden enterprise to get possession of a sea-port, a trading town, or maritime province in Spain, and another Power at war with Britain should, before it could be reconquered by Spain, wrest it from the hands of Britain, would Spain herself consider it as an extinguishment of her just pretensions? or would any impartial nation consider it in that light? As to the proclamation of the King of Great Britain of 1763, forbidding his Governors in North America to grant lands westward of the sources of the rivers falling into the Atlantic ocean, it can by no rule of construction militate against the present claims of the United States. That proclamation, as is clear both from the title and tenor of it, was intended merely to prevent disputes with the Indians, and an irregular appropriation of vacant land to individuals; and by no means either to renounce any parts of the cessions made in the treaty of Paris, or to affect the boundaries established by ancient charters. On the contrary, it is expressly declared that the lands and territory prohibited to be granted were within the sovereignty and dominion of that crown, notwithstanding the reservation of them to the use of the Indians.

Writings of Madison, Volume 4: 1829-1836, p.443

The right of the United States to western territory as far as the Mississippi having been shown, there are sufficient reasons for them to insist on that right, as well as for Spain not to wish a relinquishment of it.

Writings of Madison, Volume 4: 1829-1836, p.443

In the first place, the river Mississippi will be a more natural, more distinguishable, and more precise boundary than any other that can be drawn eastward of it; and, consequently, will be less liable to become a source of those disputes which too often proceed from uncertain boundaries between nations.

Writings of Madison, Volume 4: 1829-1836, p.443

Secondly, it ought not to be concealed, that although the vacant territory adjacent to the Mississippi should be relinquished by the United States to Spain, yet the fertility of its soil and its convenient situation for trade might be productive of intrusions by the citizens of the former, which their great distance would render it difficult to restrain, and which might lead to an interruption of that harmony which it is so much the interest and wish of both should be perpetual.

Writings of Madison, Volume 4: 1829-1836, p.444

Thirdly, as this territory lies within the charter limits of particular States, and is considered by them as no less their property than any other territory within their limits, Congress could not relinquish it without exciting discussions between themselves and those States, concerning their respective rights and powers, which might greatly embarrass the public councils of the United States, and give advantage to the common enemy.

Writings of Madison, Volume 4: 1829-1836, p.444

Fourthly, the territory in question contains a number of inhabitants, who are at present under the protection of the United States, and have sworn allegiance to them. These could not by voluntary transfer be subjected to a foreign jurisdiction, without manifest violation of the common rights of mankind, and of the genius and principles of the American governments.

Writings of Madison, Volume 4: 1829-1836, p.444

Fifthly, in case the obstinacy and pride of Great Britain should for any length of time continue an obstacle to peace, a cession of this territory, rendered of so much value to the United States by its particular situation, would deprive them of one of the material funds on which they rely for pursuing the war against her. On the part of Spain, this territorial fund is not needed for, and, perhaps, could not be applied to, the purposes of the war, and from its situation is otherwise of much less value to her than to the United States.

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Congress have the greater hopes that the pretensions of his Catholic Majesty on this object will not be so far urged as to prove an insuperable obstacle to an alliance with the United States, because they conceive such pretensions to be incompatible with the treaties subsisting between France and them, which are to be the basis and substance of it. By article eleventh of the treaty of alliance, eventual and defensive, the possessions of the United States are guarantied to them by his most Christian Majesty. By article twelfth of the same treaty, intended to fix more precisely the sense and application of the preceding article, it is declared, that this guaranty shall have its full force and effect the moment a rupture shall take place between France and England. All the possessions, therefore, belonging to the United States at the time of that rupture, which being prior to the rupture between Spain and England, must be prior to all claims of conquest by the former, are guarantied to them by his most Christian Majesty.

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Now, that in the possessions thus guarantied was meant, by the contracting parties, to be included all the territory within the limits assigned to the United States by the treaty of Paris, may be inferred from the fifth article of the treaty above mentioned, which declares, that if the United States should think fit to attempt the reduction of the British power remaining in the northern parts of America, or the Islands of Bermudas, &c., those countries shall, in ease of success, be confederated with, or dependent upon, the United States. For, if it had been understood by the parties that the western territory in question known to be of so great importance to the United States, and a reduction of it so likely to be attempted by them, was not included in the general guaranty, can it be supposed that no notice would have been taken of it, when the parties extended their views, not only to Canada, but to the remote and unimportant Island of Bermudas? It is true, that these acts between France and the United States are in no respects obligatory on his Catholic Majesty, unless he shall think fit to accede to them. Yet, as they show the sense of his most Christian Majesty on this subject, with whom his Catholic Majesty is intimately allied; as it is in pursuance of an express reservation to his Catholic Majesty in a secret act subjoined to the treaties aforesaid of a power to accede to those treaties, that the present overtures are made on the part of the United States; and as it is particularly stated in that act, that any conditions which his Catholic Majesty shall think fit to add are to be analogous to the principal aim of the alliance, and conformable to the rules of equality, reciprocity, and friendship, Congress entertain too high an opinion of the equity, moderation, and wisdom of his Catholic Majesty not to suppose; that when joined to these considerations, they will prevail against any mistaken views of interest that may be suggested to him.

Writings of Madison, Volume 4: 1829-1836, p.445

The next object of the instructions is the free navigation of the Mississippi for the citizens of the United States, in common with the subjects of his Catholic Majesty.

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On this subject, the same inference may be made from article seventh of the treaty of Paris, which stipulates this right in the amplest manner to the King of Great Britain; and the devolution of it to the United States, as was applied to the territorial claims of the latter. Nor can Congress hesitate to believe, even if no such right could be inferred from that treaty, that the generosity of his Catholic Majesty would not suffer the inhabitants of these States to be put into a worse condition, in this respect, by the alliance with him in the character of a sovereign people, than they were in when subjects of a power who was always ready to turn their force against his Majesty; especially as one of the great objects of the proposed alliance is to give greater effect to the common exertions for disarming that power of the faculty of disturbing others. Besides, as the United States have an indisputable right to the possession of the cast bank of the Mississippi for a very great distance, and the navigation of that river will essentially tend to the prosperity and advantage of the citizens of the United States that may reside on the Mississippi or the waters running into it, it is conceived that the circumstances of Spain's being in possession of the banks on both sides near its mouth, cannot be deemed a natural or equitable bar to the free use of the river. Such a principle would authorize a nation disposed to take advantage of circumstances to contravene the clear indications of nature and Providence, and the general good of mankind.

Writings of Madison, Volume 4: 1829-1836, p.445

The usage of nations accordingly seems, in such cases, to have given to those holding the mouth or lower parts of a river no right against those above them, except the right of imposing a moderate toll, and that on the equitable supposition, that such toll is due for the expense and trouble the former may have been put to. "An innocent passage (says Vattel) is due to all nations with whom a State is at peace; and this duty comprehends troops equally with individuals." If a right to a passage by land through other countries may be claimed for troops, which are employed in the destruction of mankind, how much more may a passage by water be claimed for commerce, which is beneficial to all nations?

Writings of Madison, Volume 4: 1829-1836, p.446

Here, again, it ought not to be concealed that the inconveniences which must be felt by the inhabitants on the waters running westwardly, under an exclusion from the free use of the Mississippi, would be a constant and increasing source of disquietude on their part, of more vigorous precautions on the part of Spain, and of an irritation on both parts, which it is equally the interest and duty of both to guard against.

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But notwithstanding the equitable claim of the United States to the free navigation of the Mississippi, and its great importance to them, Congress have so strong a disposition to conform to the desires of his Catholic Majesty, that they have agreed that such equitable regulations may be entered into as may be a requisite security against contraband; provided, the point of right be not relinquished, and a free port or ports below the thirty first degree of north latitude, and accessible to merchant ships, be stipulated to them.

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The reason why a port or ports, as thus described, was required, must be obvious. Without such a stipulation the free use of the Mississippi would, in fact, amount to no more than a free intercourse with New Orleans and other ports of Louisiana. From the rapid current of this river, it is well known that it must be navigated by vessels of a peculiar construction, and which will be unfit to go to sea. Unless, therefore, some place be assigned to the United States where the produce carried down the river, and the merchandise arriving from abroad, may be deposited till they can be respectively taken away by the proper vessels, there can be no such thing as a foreign trade.

Writings of Madison, Volume 4: 1829-1836, p.446-p.447

There is a remaining consideration respecting the navigation of the Mississippi which deeply concerns the maritime Powers in general but more particularly their most Christian and Catholic Majesties. The country watered by the Ohio, with its large branches, having their sources near the lakes on one side and those running northwestward and falling into it on the other side, will appear from a single glance on a map to be of vast extent. The circumstance of its being so finely watered, added to the singular fertility of its soil, and other advantages presented by a new country, will occasion a rapidity of population not easy to be conceived. The spirit of emigration has already shown itself in a very strong degree, notwithstanding the many impediments which discourage it. The principal of these impediments is the war with Britain, which cannot spare a force sufficient to protect the emigrants against the incursions of the savages. In a very few years after peace shall take place, this country will certainly be overspread with inhabitants. In like manner as in all new settlements, agriculture, not manufactures, will be their employment. They will raise wheat, corn, beef, pork, tobacco, hemp, flax, and in the Southern parts, perhaps, rice and indigo, in great quantities. On the other hand, their consumption of foreign manufactures will be in proportion, if they can be exchanged for the produce of their soil. There are but two channels through which such commerce can be carried on; the first is down the river Mississippi; the other is up the rivers having their sources near the lakes, thence by short portages to the lakes, or the rivers falling into them, and thence through the lakes and down the St. Lawrence. The first of these channels is manifestly the most natural, and by for the most advantageous. Should it, however, be obstructed, the second will be found far from impracticable. If no obstructions should be thrown in its course down the Mississippi, the exports from this immense tract of country will not only supply an abundance of all necessaries for the West India Islands, but serve for a valuable basis of general trade, of which the rising spirit of commerce in France and Spain will no doubt particularly avail itself. The imports will be proportionally extensive; and from the climate, as well as from other causes, will consist of the manufactures of the same countries. On the other hand, should obstructions in the Mississippi force this trade into a contrary direction through Canada, France, and Spain, the other maritime Powers will not only lose the immediate benefit of it themselves, but they will also suffer by the advantage it will give to Great Britain. So fair a prospect could not escape the commercial sagacity of this nation. She would embrace it with avidity. She would cherish it with the most studious care. And should she succeed in fixing it in that channel, the loss of her exclusive possession of the trade of the United States might prove a much less decisive blow to her maritime pre-eminence and tyranny than has been calculated.

Writings of Madison, Volume 4: 1829-1836, p.447

The last clause of the instructions respecting the navigation of the waters running out of Georgia through West Florida, not being included in the ultimatum, nor claimed on a footing of right, requires nothing to be added to what it speaks itself.

Writings of Madison, Volume 4: 1829-1836, p.447

The utility of the privileges asked to the State of Georgia, and, consequently, to the Union, is apparent from the geographical representation of the country. The motives for Spain to grant it must be found in her equity, generosity, and disposition to cultivate our friendship and intercourse.

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These observations, you will readily discern, are not communicated in order to be urged at all events, and as they here stand in support of the claims to which they relate. They are intended for your private information and use, and are to be urged so far and in such forms only as will best suit the temper and sentiments of the Court at which you reside, and best fulfil the objects of them.

Address of Congress to the States.

Writings of Madison, Volume 4: 1829-1836, p.448

On the 18th of April, 1783, Congress passed resolutions recommending, as necessary for restoring the public credit, and for paying the principal and interest of the public debt, that Congress should be invested with the power to lay certain specific duties; that the States themselves should levy a revenue to furnish their respective quotas of a yearly aggregate of one million five hundred thousand dollars for paying the interest of the public debt; and that they should make liberal cessions to the Union of their territorial claims. A committee, consisting of Mr. Madison, Mr. Ellsworth, and Mr. Hamilton, was appointed to prepare an address to the States, to accompany the resolutions. On the 26th of April, the committee reported a draft (written by Mr. MADISON) of the address, which was agreed to, as follows:

Address to the States, by the United States in Congress assembled.

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The prospect which has for some time existed, and which is now happily realized, of a successful termination of the war, together with the critical ex-igencies of public affairs, have made it the duty of Congress to review and provide for the debts which the war has left upon the United States, and to look forward to the means of obviating dangers which may interrupt the harmony and tranquillity of the Confederacy. The result of their mature and solemn deliberations on these great objects is contained in their several recommendations of the 18th instant herewith transmitted. Although these recommendations speak themselves the principles on which they are founded, as well as the ends which they propose, it will not be improper to enter into a few explanations and remarks, in order to place in a stronger view the necessity of complying with them.

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The first measure recommended is, effectual provision for the debts of the United States. The amount of these debts, as far as they can now be ascertained, is 42,000,375 dollars, as will appear by the schedule No. 1. To discharge the principal of this aggregate debt at once, or in any short period, is evidently not within the compass of our resources; and even if it could be accomplished, the ease of the community would require that the debt itself should be left to a course of gradual extinguishment, and certain funds be provided for paying, in the mean time, the annual interest. The amount of the annual interest, as will appear by the paper last referred to, is computed to be 2,415,956 dollars. Funds, therefore, which will certainly and punctually produce this annual sum, at least, must be provided.

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In devising these funds, Congress did not overlook the mode of supplying the common treasury, provided by the Articles of Confederation; but after the most respectful consideration of that mode, they were constrained to regard it as inadequate and inapplicable to the form into which the public debt must be thrown. The delays and uncertainties incident to a revenue to be established and collected, from time to time, by thirteen independent authorities, is, at first view, irreconcilable with the punctuality essential in the discharge of the interest of a national debt. Our own experience, after making every allowance for transient impediments, has been a sufficient illustration of this truth. Some departure, therefore, in the recommendations of Congress, from the Federal Constitution, was unavoidable; but it will be found to be as small as could be reconciled with the object in view, and to be supported besides by solid considerations of interest and sound policy.

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The fund which first presented itself on this, as it did on a former occasion, was a tax on imports. The reasons which recommended this branch of revenue have heretofore been stated in an act, of which a copy, No. 2, is now forwarded, and need not be here repeated. It will suffice to recapitulate, that taxes on consumption are always least burthensome, because they are least felt, and are borne, too, by those who are both willing and able to pay them; that, of all taxes on consumption, those on foreign commerce are most compatible with the genius and policy of free States; that from the relative positions of some of the more commercial States, it will be impossible to bring this essential resource into use without a concerted uniformity; that this uniformity cannot be concerted through any channel so properly as through Congress, nor for any purpose so aptly as for paying the debts of a revolution, from which an unbounded freedom has accrued to commerce.

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In renewing this proposition to the States, we have not been unmindful of the objections which heretofore frustrated the unanimous adoption of it. We have limited the duration of the revenue to the term of 25 years; and we have left to the States themselves the appointment of the officers who are to collect it. If the strict maxims of national credit alone were to be consulted, the revenue ought manifestly to be co-existent with the object of it, and the collection placed in every respect under that authority which is to dispense the former, and is responsible for the latter. These relaxations will, we trust, be regarded, on one hand, as the effect of a disposition in Congress to attend at all times to the sentiments of those whom they serve, and, on the other hand, as a proof of their anxious desire that provision may be made in some way or other for an honorable and just fulfilment of the engagements which they have formed.

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To render this fund as productive as possible, and at the same time to narrow the room for collusions and frauds, it has been judged an improvement of the plan to recommend a liberal duty on such articles as are most susceptible of a tax according to their quantity, and are of most equal and general consumption; leaving all other articles, as heretofore proposed, to be taxed according to their value.

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The amount of this fund is computed to be 915,956 dollars. The estimates on which the computation is made are detailed in paper No. 3. Accuracy in the first essay on so complex and fluctuating a subject is not to be expected. It is presumed to be as near the truth as the defect of proper materials would admit.

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The residue of the computed interest is 1,500,000 dollars, and is referred to the States to be provided for by such funds as they may judge most convenient. Here again the strict maxims of public credit gave way to the desire of Congress to conform to the sentiments of their constituents. It ought not to be omitted, however, with respect to this portion of the revenue. that the mode in which it is to be supplied varies so little from that pointed out in the Articles of Confederation, and the variations are so conducive to the great object proposed, that a ready and unqualified compliance on the part of the States may be more justly expected. In fixing the quotas of this sum, Congress, as may be well imagined, were guided by very imperfect lights, and some inequalities may consequently have ensued. These, however, can be but temporary, and, as far as they may exist at all, will be redressed by a retrospective adjustment, as soon as a constitutional rule can be applied.

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The necessity of making the two foregoing provisions one indivisible and irrevocable act, is apparent. Without the first quality, partial provision only might be made where complete provision is essential; nay, as some States might prefer and adopt one of the funds only, and the other States the other fund only, it might happen that no provision at all would be made; without the second, a single State out of the thirteen might at any time involve the nation in bankruptcy, the mere practicability of which would be a fatal bar to the establishment of national credit. Instead of enlarging on these topics, two observations are submitted to the justice and wisdom of the Legislatures. First: The present creditors, or rather the domestic part of them, having either made their loans for a period which has expired, or having become creditors in the first instance involuntarily, are entitled, on the clear principles of justice and good faith, to demand the principal of their credits, instead of accepting the annual interest. It is necessary, therefore, as the principal cannot be paid to them on demand, that the interest should be so effectually and satisfactorily secured as to enable them, if they incline, to transfer their stock at its full value. Secondly, if the funds be so firmly constituted as to inspire a thorough and universal confidence, may it not be hoped that the capital of the domestic debt, which bears the high interest of six per cent., may be cancelled by other loans obtained at a more moderate interest? The saving by such an operation would be a clear one, and might be a considerable one. As a proof of the necessity of substantial funds for the support of our credit abroad, we refer to paper No. 4.

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Thus much for the interest of the national debt; for the discharge of the principal within the term limited, we rely on the natural increase of the revenue from commerce, on requisitions to be made, from time to time, for that purpose, as circumstances may dictate, and on the prospect of vacant territory. If these resources should prove inadequate, it will be necessary, at the expiration of 25 years, to continue the funds now recommended, or to establish such others as may then be found more convenient.

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With a view to the resource last mentioned, as well as to obviate disagreeable controversies and confusions, Congress have included in their present recommendations a renewal of those of the 6th day of September, and of the 10th day of October, 1780. In both those respects, a liberal and final accommodation of all interfering claims of vacant territory is an object which cannot be pressed with too much solicitude.

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The last object recommended is, a constitutional change of the rule by which a partition of the common burthens is to be made. The expediency, and even necessity of such a change, has been sufficiently enforced by the local injustice and discontents which have proceeded from valuations of the soil in every State where the experiment has been made. But how infinitely must these evils be increased, on a comparison of such valuation among the States themselves! On whatever side indeed this rule be surveyed, the execution of it mast be attended with the most serious difficulties. If the valuations be referred to the authorities of the several States, a general satisfaction is not to be hoped for; if they be executed by officers of the United States traversing the country for that purpose, besides the inequalities against which this mode would be no security, the expense would be both enormous and obnoxious; if the mode taken in the act of the 17th day of February last, which was deemed on the whole least objectionable, be adhered to, still the insufficiency of the data to the purpose to which they are to be applied must greatly impair, if not utterly destroy, all confidence in the accuracy of the result; not to mention that, as far as the result can be at all a just one, it will be indebted for the advantage to the principle on which the rule proposed to be substituted is founded. This rule, although not free from objections, is liable to fewer than any other that could be devised. The only material difficulty which at-tended it in the deliberations of Congress, was to fix the proper difference between the labour and industry of free inhabitants and of all other inhabitants. The ratio ultimately agreed on was the effect of mutual concessions; and if it should be supposed not to correspond precisely with the fact, no doubt ought to be entertained that an equal spirit of accommodation among the several Legislatures will prevail against little inequalities which may be calculated on one side or on the other. But notwithstanding the confidence of Congress as to the success of this proposition, it is their duty to recollect that the event may possibly disappoint them, and to request that measures may still be pursued for obtaining and transmitting the information called for in the act of the 17th of February last, which in such event will be essential.

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The plan thus communicated and explained by Congress must now receive its fate from their constituents. All the objects comprised in it are conceived to be of great importance to the happiness of this confederated Republic—are necessary to render the fruits of the Revolution a full reward for the blood, the toils, the cares, and the calamities which have purchased it. But the object of which the necessity will be peculiarly felt, and which it is peculiarly the duty of Congress to inculcate, is the provision recommended for the national debt. Although this debt is greater than could have been wished, it is still less, on the whole, than could have been expected; and when referred to the cause in which it has been incurred, and compared with the burdens which wars of ambition and of vain glory have entailed on other nations, ought to be borne not only with cheerfulness but with pride. But the magnitude of the debt makes no part of the question. It is sufficient that the debt has been fairly contracted, and that justice and good faith demand that it should be fully discharged. Congress had no option but between different modes of discharging it. The same option is the only one that can exist with the States. The mode which has, after long and elaborate discussion, been preferred, is, we are persuaded, the least objectionable of any that would have been equal to the purpose. Under this persuasion, we call upon the justice and plighted faith of the several States to give it its proper effect, to reflect on the consequences of rejecting it, and to remember that Congress will not be answerable for them.

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If other motives than that of justice could be requisite on this occasion, no nation could ever feel stronger; for to whom are the debts to be paid?

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To AN ALLY, in the first place, who to the exertion of his arms in support of our cause has added the succours of his treasure; who to his important loans has added liberal donations, and whose loans themselves carry the impression of his magnanimity and friendship. For more exact information on this point we refer to paper No. 5.

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To individuals in a foreign country, in the next place, who were the first to give so precious a token of their confidence in our justice, and of their friendship for our cause, and who are members of a republic which was second in espousing our rank among nations. For the claims and expectations of this class of creditors we refer to paper No. 6.

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Another class of creditors is that illustrious and patriotic band of fellow-citizens, whose blood and whose bravery have defended the liberties of their country; who have patiently borne, among other distresses, the privation of their stipends, whilst the distresses of their country disabled it from bestowing them; and who, even now, ask for no more than such a portion of their dues as will enable them to retire from the field of victory and glory into the bosom of peace and private citizenship, and for such effectual security for the residue of their claims as their country is now unquestionably able to provide. For a full view of their sentiments and wishes on this subject, we transmit the paper No. 7; and as a fresh and lively instance of their superiority to every species of seduction from the paths of virtue and honor, we add the paper No. 8.

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The remaining class of creditors is composed partly of such of our fellow-citizens as originally lent to the public the use of their funds, or have since manifested most confidence in their country, by receiving transfers from the lenders; and partly of those whose property has been either advanced or assumed for the public service. To discriminate the merits of these several descriptions of creditors, would be a task equally unnecessary and invidious. If the voice of humanity plead more loudly in favour of some than of others, the voice of policy, no less than of justice, pleads in favour of all. A wise nation will never permit those who relieve the wants of their country, or who rely most on its faith, its firmness, and its resources, when either of them is distrusted, to suffer by the event.

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Let it be remembered, finally, that it has ever been the pride and boast of America, that the rights for which she contended were the rights of human nature. By the blessing of the Author of these rights on the means exerted for their defence, they have prevailed against all opposition, and form the basis of thirteen independent States. No instance has heretofore occurred, nor can any instance be expected hereafter to occur, in which the unadulterated forms of republican Government can pretend to so fair an opportunity of justifying themselves by their fruits. In this view the citizens of the United States are responsible for the greatest trust ever confided to a political society. If justice, good faith, honor, gratitude, and all the other qualities which ennoble the character of a nation, and fulfil the ends of government, be the fruits of our establishments, the cause of liberty will acquire a dignity and lustre which it has never yet enjoyed; and an example will be set which cannot but have the most favourable influence on the rights of mankind. If, on the other side, our governments should be unfortunately blotted with the reverse of these cardinal and essential virtues, the great cause which we have engaged to vindicate will be dishonored and betrayed; the last and fairest experiment in favour of the rights of human nature will be turned against them; and their patrons and friends exposed to be insulted and silenced by the votaries of tyranny and usurpation.

Writings of Madison, Volume 4: 1829-1836, p.453

By order of the United States in Congress assembled.

Essays, Etc.,

1. Population and Emigration.

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Both in the vegetable and animal kingdoms every species derives from nature a reproductive faculty beyond the demand for merely keeping up its stock; the seed of a single plant is sufficient to multiply it one hundred or a thousand fold. The animal offspring is never limited to the number or its parents.\*

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This ordinance of Nature is calculated, in both instances, for a double purpose. In both it insures the life of the species, which, if the generative principle had not a multiplying energy, would be reduced in number by every premature destruction of individuals, and by degrees would be extinguished altogether. In vegetable species the surplus answers, moreover, the essential purpose of sustaining the herbivorous tribes of animals, as in the animal the surplus serves the like purpose of sustenance to the carnivorous tribes. A crop of wheat may be reproduced by one-tenth of itself. The remaining nine-tenths can be spared for the animals which feed on it. A flock of sheep may be continued by a certain proportion of its annual increase. The residue is the bounty of Nature to the animals which prey on that species.

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Man, who preys both on the vegetable and animal species, is himself a prey to neither. He too possesses the reproductive principle far beyond the degree requisite for the bare continuance of his species. What becomes of the surplus of human life to which this principle is competent?

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It is either, 1st, destroyed by infanticide, as among the Chinese and Lacede-monians; or, 2d, it is stifled or starved, as among other nations whose population is [not?] commensurate to its food; or, 3d, it is consumed by wars and endemic diseases; or, 4th, it overflows, by emigration, to places where a surplus of food is attainable. What may be the greatest ratio of increase of which the human species is susceptible, is a problem difficult to be solved, as well because precise experiments have never been made, as because the result would vary with the circumstances distinguishing different situations. It has been computed that under the most favorable circumstances possible, a given number would double itself in ten years. What has actually happened in this country is a proof that Nature would require for the purpose a less period than twenty years. We shall be safe in averaging the surplus at five per cent.\*

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According to this computation, Great Britain and Ireland, which contain about ten millions of people, are capable of producing annually for emigration no less than five hundred thousand; France, whose population amounts to twenty-five millions, no less than one million two hundred and fifty thousand; and all Europe, stating its numbers at one hundred and fifty millions, no less than seven and a half millions.

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It is not meant that such a surplus could, under any revolution of circumstances, suddenly take place; yet no reason occurs why an annual supply of human as well as other animal life, to any amount not exceeding the multiplying faculty, would not be produced in one country by a regular and commensurate demand of another. Nor is it meant that if such a redundancy of population were to happen in any particular country, an influx of it beyond a certain degree ought to be desired by any other, though within that degree it ought to be invited by a country greatly deficient in its population. The calculation may serve, nevertheless, by placing an important principle in a striking view, to prepare the way for the following positions and remarks:

Writings of Madison, Volume 4: 1829-1836, p.455

First. Every country whose population is full may annually spare a portion of its inhabitants, like a hive of bees its swarm, without any diminution of its number; nay, a certain portion must necessarily be either spared, or destroyed, or kept out of existence.\*

Writings of Madison, Volume 4: 1829-1836, p.455

Secondly. It follows, moreover, from this multiplying faculty of human nature, that in a nation sparing or losing more than its proper surplus, the level must soon be restored by the internal resources of life.

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Thirdly. Emigrations may even augment the population of the country permitting them. The commercial nations of Europe, parting with emigrants to America, are examples. The articles of consumption demanded from the former have created employment for an additional number of manufacturers. The produce remitted from the latter, in the form of raw materials, has had the same effect; whilst the imports and exports of every kind have multiplied European merchants and mariners. Where the settlers have doubled every twenty or twenty-five years, as in the United States, the increase of products and consumption in the new country, and consequently of employment and people in the old, has had a corresponding rapidity.

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Of the people of the United States, nearly three millions are of British descent.\* The British population has, notwithstanding, increased within the period of our establishment. It was the opinion of the famous Sir Josiah Child, that every man in the British colonies found employment, and, of course, subsistence for four persons at home. According to this estimate, as more than half a million of the adult males in the United States equally contribute employment at this time to British subjects, there must at this time be more than two millions of British subjects subsisting on the fruits of British emigrations. This result, however, seems to be beyond the real proportion. Let us attempt a less vague calculation.

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The value of British imports into the United States, including British freight, may be stated at about fifteen millions of dollars. Deduct two millions for foreign articles coming through British hands, there remain thirteen millions. About half our exports, valued at ten millions of dollars, are remitted to that nation. From the nature of the articles, the freight cannot be less than three millions of dollars; of which about one-fifth,\* being the share of the United States, there is to be added to the former remainder two million four hundred thousand. The profit accruing from the articles as materials or auxiliaries for manufactures, is probably at least fifty per cent., or five millions of dollars.\* The three sums make twenty million four hundred thousand dollars—call them, in round numbers, twenty millions. The expense of supporting a labouring family in Great Britain as computed by Sir John Sinclair, on six families containing thirty-four persons, averages £4 12s. 10 1/2d. sterling, or about twenty dollars a head. As his families were of the poorer class, and the subsistence a bare competency, let twenty-five per cent. be added, melting the expense about twenty-five dollars a head. Dividing twenty millions by this sum, we have eight hundred thousand for the number of British persons whose subsistence may be traced to emigration for its source; or, allowing eight shillings sterling a week for the support of a working man, we have two hundred sixteen thousand three hundred forty-five of that class, for the number derived from the same source.

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This lesson of fact, which merits the notice of every commercial nation, may be enforced by a more general view of the subject.

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The present imports of the United States, adding to the first cost, &c., one-half the freight as the reasonable share of foreign nations, may be stated at twenty-five millions of dollars. Deducting five millions on account of East India articles, there remain in favour of Europe twenty millions of dollars. The foreign labour incorporated with such part of our exports as are subjects or ingredients for manufactures, together with half the export freight, is probably not of less value than fifteen millions of dollars. The two sums together make thirty-five millions of dollars, capable of supporting two hundred thirty-three thousand three hundred thirty-three families of six persons each, or three hundred seventy-eight thousand six hundred and five men, living on eight shillings sterling a week.

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The share of this benefit which each nation is to enjoy will be determined by many circumstances. One that must have a certain and material influence, will be the taste excited here for their respective products and fabrics. This influence has been felt in all its force by the commerce of Great Britain, as the advantage originated in the emigrations from that country to this. Among the means of retaining it will not be numbered a restraint on emigrations. Other nations, who have to acquire their share in our commerce, are still more interested in aiding their other efforts by permitting and even promoting emigrations to this country, as fast as it may be disposed to welcome them. The space left by every ten or twenty thousand emigrants will be speedily filled by a surplus of life that would otherwise be lost. The twenty thousand in their new country, calling for the manufactures and productions required by their habits, will employ and sustain ten thousand persons in their former country, as a clear addition to its stock. In twenty or twenty-five years, the number so employed and added will be twenty thousand. And in the mean time example and information will be diffusing the same taste among other inhabitants here, and proportionally extending employment and population there.

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Fourthly. Freedom of emigration is due to the general interests of humanity. The course of emigrations being always from places where living is more difficult to places where it is less difficult, the happiness of the emigrant is promoted by the change; and as a more numerous progeny is another effect of the same cause, bureau life is at once made a greater blessing, and more individuals are created to partake of it.

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The annual expense of supporting the poor in England amounts to more than one million and a half sterling.\* The number of persons subsisting themselves not more than six months in the year is computed at one million two hundred sixty-eight thousand, and the number of beggars at forty-eight thousand. In France it has been computed that seven millions of men, women, and children live, one with another, on twenty-five livres, which is less than five dollars a year. Every benevolent reader will make his own reflections.

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Fifthly. It may not be superfluous to add, that freedom of emigration is favorable to murals. A great proportion of the vices which distinguish crowded from thin settlements, are known to have their rise in the facility of illicit intercourse between the sexes on one hand, and the difficulty of maintaining a family on the other. Provide an outlet for the surplus of population, and marriages will be increased in proportion. Every four or five emigrants will be the fruit of a legitimate union which would not otherwise have taken place.

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Sixthly. The remarks which have been made, though in many respects little applicable to the internal situation of the United States, may be of use as far as they tend to prevent mistaken and narrow ideas on an important subject. Our country being populated in different degrees in different parts of it, removals from the more compact to the more sparse or vacant districts are continually going forward. The object of these removals is evidently to exchange a less easy for a more easy subsistence. The effect of them must therefore be to quicken the aggregate population of our country. Considering the progress made in some situations towards their natural complement of inhabitants, and the fertility of others which have made little or no progress, the probable difference in their respective rates of increase is not less than as three in the former to five in the latter. Instead of lamenting, then, a loss of three human beings to Connecticut, Rhode Island, or New Jersey, the Philanthropist will rejoice that five will be gained to New York, Vermont, or Kentucky, and the patriot will be not less pleased that two will be added to the citizens of the United States.

PHILADELPHIA, NOV. 19, 1791.

2. Consolidation.

Writings of Madison, Volume 4: 1829-1836, p.458

Much has been said, and not without reason, against the consolidation of the States into one government. Omitting lesser objections, two consequences would probably flow from such a change in our political system, which justify the cautions used against it. First, it would be impossible to avoid the dilemma of either relinquishing the present energy and responsibility of a single Executive Magistrate, for some plural substitute, which, by dividing so great a trust, might lessen the danger of it; or, suffering so great an accumulation of powers in the hands of that officer, as might by degrees transform him into a monarch. The incompetency of one Legislature to regulate all the various objects belonging to the local governments, would evidently force a transfer of many of them to the Executive department; whilst the increasing splendour and number of its prerogatives, supplied by this source, might prove excitements to ambition too powerful for a sober execution of the elective plan, and consequently strengthen the pretexts for an hereditary designation of the magistrate. Second. Were the State governments abolished, the same space of country that would produce an undue growth of the executive power, would prevent that control on the Legislative body which is essential to a faithful discharge of its trust; neither the voice nor the sense of ten or twenty millions of people, spread through so many latitudes as are comprehended within the United States, could ever be combined or called into effect, if deprived of those local organs, through which both can now be conveyed. In such a state of things, the impossibility of acting together might be succeeded by the ineffi-cacy of partial expressions of the public mind, and this at length, by a universal silence and insensibility, leaving the whole government to that self directed course which, it must be owned, is the natural propensity of every government.

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But if a consolidation of the States into one government be an event so justly to be avoided, it is not less to be desired, on the other hand, that a consolidation should prevail in their interests and affections; and this, too, as it fortunately happens, for the very reasons, among others, which lie against a governmental consolidation. For, in the first place, in proportion as uniformity is found to prevail in the interests and sentiments of the several States, will be the practicability of accommodating Legislative regulations to them, and thereby of withholding new and dangerous prerogatives from the Executive. Again, the greater the mutual confidence and affection of all parts of the Union, the more likely they will be to concur amicably, or to differ with moderation, in the elective designation of the Chief Magistrate, and by such examples to guard and adorn the vital principle of our republican Constitution. Lastly, the less the supposed difference of interests, and the greater the concord and confidence throughout the great body of the people, the more readily must they sympathize with each other; the more seasonably can they interpose a common manifestation of their sentiments; the more certainly will they take the alarm at usurpation or oppression; and the more effectually will they consolidate their defence of the public liberty.

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Here, then, is a proper object presented, both to those who are most jealously attached to the separate authority reserved to the States, and to those who may be more inclined to contemplate the people of America in the light of one nation. Let the former continue to watch against every encroachment which might lead to a gradual consolidation of the States into one government. Let the latter employ their utmost zeal, by eradicating local prejudices and mistaken rivalships, to consolidate the affairs of the States into one harmonious interest; and let it be the patriotic study of all to maintain the various authorities established by our complicated system, each in its respective constitutional sphere, and to erect over the whole one paramount empire of reason, benevolence and brotherly affection.

Writings of Madison, Volume 4: 1829-1836, p.459

PHILADELPHIA, Dec. 3.

3. Public Opinion.

Writings of Madison, Volume 4: 1829-1836, p.460

Public opinion sets bounds to every government, and is the real sovereign in every free one.

Writings of Madison, Volume 4: 1829-1836, p.460

As there are cases where the public opinion must be obeyed by the government; so there are cases where, not being fixed, it may be influenced by the government. This distinction, if kept in view, would prevent or decide many debates on the respect due from the government to the sentiments of the people.

Writings of Madison, Volume 4: 1829-1836, p.460

In proportion as government is influenced by opinion, it must be so by whatever influences opinion. This decides the question concerning a Constitutional Declaration of Rights, which requires an influence on government, by becoming a part of the public opinion.

Writings of Madison, Volume 4: 1829-1836, p.460

The larger a country the less easy for its real opinion to be ascertained, and the less difficult to be counterfeited; when ascertained or presumed, the more respectable it is in the eyes of individuals. This is favorable to the authority of government. For the same reason, the more extensive a country the more insignificant is each individual in his own eyes. This may be unfavorable to liberty.

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Whatever facilitates a general intercourse of sentiments, as good roads, domestic commerce, a free press, and particularly a circulation of newspapers through the entire body of the people, and Representatives going from, and returning among, every part of them, is equivalent to a contraction of territorial limits, and is favorable to liberty, where these may be too extensive.

4. Money.

Writings of Madison, Volume 4: 1829-1836, p.460

[Observations written posterior to the Circular Address of Congress in Sept., 1779, and prior to their act of March, 1780.]

Writings of Madison, Volume 4: 1829-1836, p.460

It has been taken for an axiom in all our reasonings on the subject of finance, that supposing the quantity and demand of things vendible in a country to remain the same, their price will vary according to the variation in the quantity of the circulating medium; in other words, that the value of money will be regulated by its quantity. I shall submit to the judgment of the public some considerations which determine mine to reject the proposition as founded in error. Should they be deemed not absolutely conclusive, they seem at least to shew that it is liable to too many exceptions and restrictions to be taken for granted as a fundamental truth. If the circulating medium be of universal value, as specie, a local increase or decrease of its quantity will not, whilst a communication subsists with other countries, produce a correspondent rise or fall in its value. The reason is obvious. When a redundancy of universal money prevails in any one country, the holders of it know their interest too well to waste it in extravagant prices, when it would be worth so much more to them else where. When a deficiency happens, those who hold commodities, rather than part with them at an undervalue in one country, would carry them to another. The variation of prices in these cases cannot, therefore, exceed the expense and insurance of transportation.

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Suppose a country, totally unconnected with Europe or with any other country, to possess specie in the same proportion to circulating property that Europe does, prices there would correspond with those in Europe. Suppose that so much specie were thrown into circulation as to make the quantity exceed the proportion of Europe tenfold, without any change in commodities, or in the demand for them; as soon as such an augmentation had produced its effect, prices would rise tenfold, or, which is the same thing, money would be depreciated tenfold. In this state of things, suppose again that a free and ready communication were opened between this country and Europe, and that the inhabitants of the former were made sensible of the value of their money in the latter, would not its value among themselves immediately cease to be regulated by its quantity, and assimilate itself to the foreign value?

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Mr. Hume, in his discourse on the balance of trade, supposes "that if four-fifths of all the money in Britain were annihilated in one night, and the nation reduced to the same condition in this particular as in the reigns of the Harrys and Edwards, that the price of all labour and commodities would sink in proportion, and everything be sold as cheap as in those ages. That, again, if all the money in Britain were multiplied fivefold in one night, a contrary effect would follow." This very ingenious writer seems not to have considered that in the reigns of the Harrys and Edwards the state of prices in the circumjacent nations corresponded with that of Britain; whereas, in both of his suppositions it would be no less than four-fifths different. Imagine that such a difference really existed, and remark the consequence. Trade is at present carried on between Britain and the rest of Europe, at a profit of 15 or 20 per cent. Were that profit raised to 400 per cent., would not their home market, in case of such a fall of prices, be so exhausted by exportation, and in case of such a rise of prices, be so overstocked with foreign commodities, as immediately to restore the general equilibrium? Now, to borrow the language of the same author, "the same causes which would redress the inequality, were it to happen, must forever prevent it, without some violent external operation."

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The situation of a country connected by commercial intercourse with other countries, may be compared to a single town or province whose intercourse with other towns and provinces results from political connexion. Will it be pretended that if the national currency were to be accumulated in a single town or province, so as to exceed its due proportion five or tenfold, a correspondent depreciation would ensue, and everything be sold five or ten times as dear as in a neighboring town or province?

Writings of Madison, Volume 4: 1829-1836, p.462

If the circulating medium be a municipal one, as paper currency, still its value does not depend on its quantity. It depends on the credit of the State issuing it, and on the time of its redemption; and is no otherwise affected by the quantity than as the quantity may be supposed to endanger or postpone the redemption.

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That it depends in part on the credit of the issuer, no one will deny. If the credit of the issuer, therefore, be perfectly unsuspected, the time of redemption alone will regulate its value. To support what is here advanced, it is sufficient to appeal to the nature of paper money. It consists of bills or notes of obligation payable in specie to the bearer, either on demand or at a future day. Of the first kind is the paper currency of Britain, and hence its equivalence to specie. Of the latter kind is the paper currency of the United States, and hence its inferiority to specie. But if its being redeemable, not on demand, but at a future day, be the cause of its inferiority, the distance of that day, and not its quantity, ought to be the measure of that inferiority. It has been shewn that the value of specie does not fluctuate according to local fluctuations in its quantity. Great Britain, in which there is such an immensity of circulating paper, shews that the value of paper depends as little on its quantity as that of specie, when the paper represents specie payable on demand. Let us suppose that the circulating notes of Great Britain, instead of being payable on demand, were to be redeemed at a future day, at the end of one year for example, and that no interest was due on them. If the same assurance prevailed that at the end of the year they would be equivalent to specie, as now prevails that they are every moment equivalent, would any other effect result from such a change, except that the notes would suffer a depreciation equal to one year's interest? They would in that ease represent, not the nominal sum expressed on the face of them, but the sum remaining after a deduction of one year's interest. But if, when they represent the full nominal sum of specie, their circulation contributes no more to depreciate them than the circulation of the specie itself would do, does it not follow, that if they represented a sum of specie less than the nominal inscription, their circulation ought to depreciate them no more than so much specie, if substituted, would depreciate itself? We may extend the time from one to five, or to twenty years; but we shall find no other rule of depreciation than the loss of the intermediate interest. What has been here supposed with respect to Great Britain has actually taken place in the United States. Being engaged in a necessary war without specie to defray the expense, or to support paper emissions for that purpose redeemable on demand, and being, at the same time, unable to borrow, no resource was left but to emit bills of credit to be redeemed in future. The inferiority of these bills to specie was, therefore, incident to the very nature of them. If they had been exchangeable on demand for specie, they would have been equivalent to it; as they were not exchangeable on demand, they were inferior to it. The degree of their inferiority must consequently be estimated by the time of their becoming exchangeable for specie—that is, the time of their redemption. To make it still more palpable that the value of our currency does not depend on its quantity, let us put the case that Congress had, during the first year of the war, emitted five millions of dollars to be redeemed at the end of ten years; that, during the second year of the war, they had emitted ten millions more, but with due security that the whole fifteen millions should be redeemed in five years; that, during the two succeeding years, they had augmented the emissions to one hundred millions, but from the discovery of some extraordinary sources of wealth, had been able to engage for the redemption of the whole sum in one year: it is asked whether the depreciation under these circumstances would have increased as the quantity of money increased, or whether, on the contrary, the money would not have risen in value at every accession to its quantity?

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It has, indeed, happened that a progressive depreciation of our currency has accompanied its growing quantity; and to this is probably owing in a great measure the prevalence of the doctrine here opposed. When the fact, however, is explained, it will be found to coincide perfectly with what has been said. Every one must have taken notice that, in the emissions of Congress, no precise time has been stipulated for their redemption, nor any specific pro. vision made for that purpose. A general promise entitling the bearer to so many dollars or metal as the paper bills express, has been the only basis of their credit. Every one, therefore, has been left to his own conjectures as to the time the redemption would be fulfilled; and as every addition made to the quantity in circulation would naturally be supposed to remove to a proportionally greater distance the redemption of the whole mass, it could not happen otherwise than that every additional emission would be followed by a further depreciation.

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In like manner has the effect of a distrust of public credit, the other source of depreciation, been erroneously imputed to the quantity of money. The circumstances under which our early emissions were made could not but strongly concur with the futurity of their redemption to debase their value. The situation of the United States resembled that of an individual engaged in an expensive undertaking carried on, for want of cash, with bonds and notes secured on an estate to which his rifle was disputed, and who had, besides, a combination of enemies employing every artifice to disparage that security. A train of sinister events during the early stages of the war likewise contributed to increase the distrust of the public ability to fulfil their engagements. Before the depreciation arising from this cause was removed by the success of our arms, and our alliance with France, it had drawn so large a quantity into circulation, that the quantity itself soon after begat a distrust of the public disposition to fulfil their engagements, as well as new doubts, in timid minds, concerning the issue of the contest. From that period, this cause of depreciation has been incessantly operating. It has first conduced to swell the amount of necessary emissions, and from that very amount has derived new force and efficacy to itself. Thus, a further discredit of our money has necessarily followed the augmentation of its quantity; but every one must perceive that it has not been the effect of the quantity considered in itself, but considered as an omen of public bankruptcy.\* Whether the money of a country, then, be gold and silver, or paper currency, it appears that its value is not regulated by its quantity. If it be the former, its value depends on the general proportion of gold and silver to circulating property throughout all countries having free intercommunication. If the latter, it depends on the credit of the State issuing it, and the time at which it is to become equal to gold and silver.

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Every circumstance which has been found to accelerate the depreciation of our currency naturally resolves itself into these general principles. The spirit of monopoly hath affected it in no other way than by creating an artificial scarcity of commodities wanted for public use, the consequence of which has been an increase of their price, and of the necessary emissions. Now it is this increase of emissions which has been shown to lengthen the supposed period of their redemption, and to foster suspicions of public credit. Monopolies destroy the natural relation between money and commodities; but it is by raising the value of the latter, not by debasing that of the former. Had our money been gold or silver, the same prevalence of monopoly would have had the same effect on prices and expenditures, but these would not have had the same effect on the value of money.

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The depreciation of our money has been charged on misconduct in the purchasing departments; but this misconduct must have operated in the same manner as the spirit of monopoly. By unnecessarily raising the price of articles required for public use, it has swelled the amount of necessary emissions, on which has depended the general opinion concerning the time and the probability of their redemption.

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The same remark may be applied to the deficiency of imported commodities. The deficiency of these commodities bus raised the price of them; the rise of their price hits increased the emissions for purchasing them, and with the increase of emissions, have increased suspicions concerning their redemption.

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Those who consider the quantity of money as the criterion of its value, compute the intrinsic depreciation of our currency by dividing the whole mass by the supposed necessary medium of circulation. Thus supposing the medium necessary for the United States to be 30,000,000 dollars, and the circulating emissions to be 200,000,000, the intrinsic difference between paper and specie will be nearly as 7 for 1. If its value depends on the time of its redemption, as hath been above maintained, the real difference will be found to be considerably less. Suppose the period necessary for its redemption to be 18 years, as seems to be understood by Congress, 100 dollars of paper 18 years hence will be equal in value to 100 dollars of specie; for at the end of that term 100 dollars of specie may be demanded for them. They must, consequently, at this time, be equal to as much specie as, with compound interest, will amount in that number of years to 100 dollars. If the interest of money be rated at 5 per cent. this present sum of specie will be about 41 1/2 dollars. Admit, however, the use of money to be worth 6 per cent., about 35 dollars will then amount in 18 years to 100; 35 dollars of specie, therefore, is at this time equal to 100 of paper; that is; the man who would exchange his specie for paper at this discount, and lock it in his desk for 18 years, would get 6 per cent. for his money. The proportion of 100 to 35 is less than 3 to 1. The intrinsic depreciation of our money, therefore, according to this rule of computation, is less than 3 to 1, instead of 7 to 1, according to the rule espoused in the circular address, or of 30 or 40 to 1 according to its currency in the market.

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I shall conclude with observing that, if the preceding principles and reasoning be just, the plan on which our domestic loans have been obtained must have operated in a manner directly contrary to what was intended. A loan office certificate differs in nothing from a common bill of credit, except in its higher denomination, and in the interest allowed on it; and the interest is allowed merely as a compensation to the lender for exchanging a number of small bills, which, being easily transferable, are most convenient, for a single one so large as not to be transferable in ordinary transactions. As the certificates, however, do circulate in many of the more considerable transactions, it may justly be questioned, even on the supposition that the value of money depended on its quantity, whether the advantage to the public from the exchange would justify the terms of it. But dismissing this consideration, I ask whether such loans do in any shape lessen the public debt, and thereby render the discharge of it less suspected or less remote? Do they give any new assurance that a paper dollar will be one day equal to a silver dollar, or do they shorten the distance of that day? Far from it. The certificates constitute a part of the public debt no less than the bills of credit exchanged for them, and have au equal claim to redemption within the general period; nay, are to be paid off long before the expiration of that period with bills of credit, which will thus return into the general mass, to be redeemed along with it. Were these bills, therefore, not to be taken out of circulation at all, by means of the certificates, not only the expense of offices for exchanging, re-exchanging, and annually paying the interest would be avoided, but the whole sum of interest would be saved, which must make a formidable addition to the public emissions, protract the period of their redemption, and proportionally increase their depreciation. No expedient could, perhaps, have been devised more preposterous and unlucky. In order to relieve public credit, sinking under the weight of an enormous debt, we invent new expenditures. In order to raise the value of our money, which depends on the time of its redemption, we have recourse to a measure which removes its redemption to a more distant day. Instead of paying off the capital to the public creditors, we give them an enormous interest to change the name of the bit of paper which expresses the sum due to them; and think it a piece of dexterity in finance, by emitting loan office certificates, to elude the necessity of emitting bills of credit.

5. Government.

Writings of Madison, Volume 4: 1829-1836, p.467

In Monarchies there is a twofold danger: 1st. That the eyes of a good prince cannot see all that he ought to know. 2nd. That the hands of a bad one will not be tied by the fear of combinations against him. Both these evils increase with the extent of domain; and prove, contrary to the received opinion, that monarchy is even more unfit for a great State than for a small one, notwithstanding the greater tendency in the former to that species of government. Aristocracies, on the other hand, are generally seen in small States; where a concentration of the public will is required by external danger, and that degree of concentration is found sufficient. The many, in such cases, cannot govern on account of emergencies which require the promptitude and precautions of a few, whilst the few themselves resist the usurpations of a single tyrant. In Thessaly, a country intersected by mountainous barriers into a number of small canyons, the governments, according to Thucydides, were in most cases oligarchial. Switzerland furnishes similar examples. The smaller the State the less intolerable is this form of governments, its rigors being tempered by the facility and the fear of combinations among the people

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A Republic involves the idea of popular rights. A representative Republic chooses the wisdom of which hereditary aristocracy has the chance; whilst it excludes the oppression of that form. And a confederated Republic attains the force of a monarchy, whilst it equally avoids the ignorance of a good prince and the oppression of a bad one. To secure all the advantages of such a system, every good citizen will be at once a sentinel over the rights of the people, over the authorities of the confederal government, and over both the rights and the authorities of the intermediate governments.

Writings of Madison, Volume 4: 1829-1836, p.467

DECEMBER 31.

6. Charters.

Writings of Madison, Volume 4: 1829-1836, p.467

In Europe charters of liberty have been granted by power. America has set the example, and France has followed it, of charters of power granted by liberty. This revolution in the practice of the world may, with an honest praise, be pronounced the most triumphant epoch of its history, and the most consoling presage of its happiness. We look back already, with astonishment, at the daring outrages committed by despotism on the reason and the rights of man; we look forward with joy to the period when it shall be despoiled of all its usurpations, and bound forever in the chains with which it had loaded its miserable victims.

Writings of Madison, Volume 4: 1829-1836, p.467

In proportion to the value of this revolution; in proportion to the importance of instruments, every word of which decides a question between power and liberty; in proportion to the solemnity of acts proclaiming the will, and authenticated by the seal of the people, the only earthly source of authority, ought to be the vigilance with which they are guarded by every citizen in private life, and the circumspection with which they are executed by every citizen in public trust.

Writings of Madison, Volume 4: 1829-1836, p.468

As compacts, charters of government are superior in obligation to all others, because they give effect to all others. As trusts, none can be more sacred, because they are bound on the conscience by the religious sanctions of an oath. As metes and bounds of government, they transcend all other landmarks, because every public usurpation is an encroachment on the private right, not of one, but of all.

Writings of Madison, Volume 4: 1829-1836, p.468

The citizens of the United States have peculiar motives to support the energy of their constitutional charters.

Writings of Madison, Volume 4: 1829-1836, p.468

Having originated the experiment, their merit will be estimated by its success.

Writings of Madison, Volume 4: 1829-1836, p.468

The complicated form of their political system, arising from the partition of government between the States and the Union and from the separations and subdivisions of the several departments in each, requires a more than common reverence for the authority which is to preserve order through the whole.

Writings of Madison, Volume 4: 1829-1836, p.468

Being republicans, they must be anxious to establish the efficacy of popular charters in defending liberty against power, and power against licentiousness, and in keeping every portion of power within its proper limits; by this means discomfiting the partisans of anti-republican contrivances for the purpose.

Writings of Madison, Volume 4: 1829-1836, p.468

All power has been traced up to opinion. The stability of all Governments and security of all rights may be traced to the same source. The most arbitrary government is controlled where the public opinion is fixed. The despot of Constantinople dares not lay a new tax because every slave thinks he ought not. The most systematic governments are turned by the slightest impulse from their regular path, when the public opinion no longer holds them in it. We see at this moment the Executive Magistrate of Great Britain exercising, under the authority of the representatives of the people, a legislative power over the West India commerce.

Writings of Madison, Volume 4: 1829-1836, p.468

How devoutly is it to be wished, then, that the public opinion of the United States should be enlightened; that it should attach itself to their governments as delineated in the great charters, derived not from the usurped power of kings, but from the legitimate authority of the people; and that it should guarantee, with a holy zeal, these political scriptures from every attempt to add to or diminish from them. Liberty and order will never be perfectly safe until a trespass on the constitutional provisions for either shall be felt with the same keenness that resents an invasion of the dearest rights, until every citizen shall be an ARGUS to espy and an ÆGEON to avenge the unhallowed deed.

Writings of Madison, Volume 4: 1829-1836, p.468

JANUARY 18.

7. Parties.

Writings of Madison, Volume 4: 1829-1836, p.469

In every political society parties are unavoidable. A difference of interests, real or supposed, is the most natural and fruitful source of them. The great object should be to combat the evil: 1. By establishing a political equality among all. 2. By withholding unnecessary opportunities from a few to increase the inequality of property by an immoderate, and especially an unmer-ited, accumulation of riches. 3. By the silent operation of laws which, without violating the rights of property, reduce extreme wealth towards a state of mediocrity, and raise extreme indigence towards a state of comfort. 4. By abstaining from measures which operate differently on different interests, and particularly such as favor one interest at the expense of another. 5. By making one party a check on the other, so far as the existence of parties cannot be prevented nor their views accommodated. If this is not the language of reason, it is that of republicanism.

Writings of Madison, Volume 4: 1829-1836, p.469

In all political societies different interests and parties arise out of the nature of things, and the great art of politicians lies in making them checks and balances to each other. Let us, then, increase these natural distinctions, by favoring an inequality of property; and let us add to them artificial distinctions, by establishing kings, and nobles, and plebeians. We shall then have the more checks to oppose to each other; we shall then have the more scales and the more weights to perfect and maintain the equilibrium. This is as little the voice of reason as it is that of republicanism.

Writings of Madison, Volume 4: 1829-1836, p.469

From the expediency, in politics, of making natural parties mutual cheeks on each other, to infer the propriety of creating artificial parties in order to form them into mutual cheeks, is not less absurd than it would be in ethics to say that new vices ought to be promoted, where they would counteract each other, because this use may be made of existing vices.

8. British Government.

Writings of Madison, Volume 4: 1829-1836, p.469

The boasted equilibrium of this Government (so far as it is a reality) is maintained less by the distribution of its powers than by the force of public opinion. If the nation were in favor of absolute monarchy, the public liberty would soon be surrendered by their representatives. If a republican form of government were preferred, how could the monarch resist the national will? Were the public opinion neutral only, and the public voice silent, ambition in the House of Commons could wrest from him his prerogatives, or the avarice of its members might sell to him its privileges.

Writings of Madison, Volume 4: 1829-1836, p.469

The provision required for the civil list at every accession of a king, shows at once his dependence on the representative branch and its dependence on the public opinion. Were this establishment to be made from year to year, instead of being made for life, (a change within the legislative power,) the monarchy, unless maintained by corruption, would dwindle into a name. In the present temper of the nation, however, they would obstruct such a change by taking side with their king against their representatives.

Writings of Madison, Volume 4: 1829-1836, p.470

Those who ascribe the preservation of the British Government to the form in which its powers are distributed and balanced, forget the revolutions which it has undergone. Compare its primitive with its present form.

Writings of Madison, Volume 4: 1829-1836, p.470

A king at the head of 7 or 800 barons, sitting together in their own right, or, (admitting another hypothesis,) some in their own right, others as representatives of a few lesser barons, but still sitting together as a single House, and the judges holding their offices during the pleasure of the King; such was the British Government at one period.

Writings of Madison, Volume 4: 1829-1836, p.470

At present, a King, as seen at the head of a Legislature, consisting of two Houses, each jealous of the other, one sitting in their own right, the other representing the people; and the judges forming a distinct and independent department.

Writings of Madison, Volume 4: 1829-1836, p.470

In the first case, the judiciary is annexed to the executive, and the Legislature not even formed into separate branches. In the second, the legislative, executive, and judiciary are distinct; and the legislative subdivided in rival branches.

Writings of Madison, Volume 4: 1829-1836, p.470

What a contrast in these forms? If the latter be self-balanced, the former could have no balance at all. Yet the former subsisted as well as the latter, and lasted longer than the latter, dating it from 1688, has been tried.

Writings of Madison, Volume 4: 1829-1836, p.470

The former was supported by the opinion and circumstances of the times, like many of the intermediate variations through which the Government has passed, and as will be supported the future forms through which it probably remains to be conducted by the progress of reason and change of circumstances.

Writings of Madison, Volume 4: 1829-1836, p.470

JANUARY 28.

9. Universal Peace.

Writings of Madison, Volume 4: 1829-1836, p.470

Among the various reforms which have been offered to the world, the projects for universal peace have done the greatest honor to the hearts, though they seem to have done very little to the heads, of their authors.

Writings of Madison, Volume 4: 1829-1836, p.470

Rousseau, the most distinguished of these philanthropists, has recommended a confederation of sovereigns, under a council of deputies, for the double purpose of arbitrating external controversies among nations, and of guarantying their respective governments against internal revolutions. He was aware neither of the impossibility of executing his pacific plan among governments which feel so many allurements to war, nor, what is more extraordinary, of the tendency of his plan to perpetuate arbitrary power wherever it existed; and, by extinguishing the hope of one day seeing an end of oppression, to cut off the only source of consolation remaining to the oppressed.

Writings of Madison, Volume 4: 1829-1836, p.471

A universal and perpetual peace, it is to be feared, is in the catalogue of events which will never exist but in the imaginations of visionary philosophers, or in the breasts of benevolent enthusiasts. It is still, however, true, that war contains so much folly, as well as wickedness, that much is to be hoped from the progress of reason; and if anything is to be hoped, everything ought to be tried.

Writings of Madison, Volume 4: 1829-1836, p.471

Wars may be divided into two classes: one flowing from the mere will of the government; the other according with the will of the society itself.

Writings of Madison, Volume 4: 1829-1836, p.471

Those of the first class can no otherwise be prevented than by such a reformation of the government as may identify its will with the will of the society. The project of Rousseau was, consequently, as preposterous as it was impotent. Instead of beginning with an external application, and even precluding internal remedies, he ought to have commenced with, and chiefly relied on, the latter prescription.

Writings of Madison, Volume 4: 1829-1836, p.471

He should have said, whilst war is to depend on those whose ambition, whose revenge, whose avidity, or whose caprice may contradict the sentiment of the community, and yet be controlled by it; whilst war is to be declared by those who are to spend the public money, not by those who are to pay it; by those who are to direct the public forces, not by those who are to support them; by those whose power is to be raised, not by those whose chains may be riveted, the disease must continue to be hereditary, like the government of which it is the offspring. As the first step towards a cure, the government itself must be regenerated. Its will must be made subordinate to, or rather the same with, the will of the community.

Writings of Madison, Volume 4: 1829-1836, p.471

Had Rousseau lived to see the Constitutions of the United States and of France, his judgment might have escaped the censure to which his project has exposed it.

Writings of Madison, Volume 4: 1829-1836, p.471

The other class of wars, corresponding with the public will, are less susceptible of remedy.

Writings of Madison, Volume 4: 1829-1836, p.471

There are antidotes, nevertheless, which may not be without their efficacy. As wars of the first class were to be prevented by subjecting the will of the government to the will of the society, those of the second can only be controlled by subjecting the will of the society to the reason of the society; by establishing permanent and constitutional maxims of conduct, which may prevail over occasional impressions, and inconsiderate pursuits.

Writings of Madison, Volume 4: 1829-1836, p.471

Here our republican philosopher might have proposed as a model to lawgivers, that war should not only be declared by the authority of the people, whose toils and treasures are to support its burdens, instead of the government which is to reap its fruits; but that each generation should be made to bear the burden of its own wars, instead of carrying them on at the expense of other generations. And to give the fullest energy to his plan, he might have added, that each generation should not only bear its own burdens, but that the taxes composing them should include a due proportion of such as by their direct operation keep the people awake, along with those which, being wrapped up in other payments, may leave them asleep, to misapplications of their money.

Writings of Madison, Volume 4: 1829-1836, p.472

To the objection, if started, that where the benefits of war descend to succeeding generations, the burdens ought also to descend, he might have answered, that the exceptions could not be easily made; that, if attempted, they must be made by one only of the parties interested; that in the alternative of sacrificing exceptions to general rules, or of converting exceptions into general rules, the former is the lesser evil; that the expense of necessary wars will never exceed the resources of an entire generation; that, in fine, the objection vanishes before the fact, that in every nation which has drawn on posterity for the support of its wars, the accumulated interest of its perpetual debts has soon become more than a sufficient principal for all its exigencies.

Writings of Madison, Volume 4: 1829-1836, p.472

Were a nation to impose such restraints on itself, avarice would be sure to calculate the expenses of ambition; in the equipoise of these passions, reason would be free to decide for the public good, and an ample reward would accrue to the State—first, from the avoidance of all its wars of folly; secondly, from the vigor of its unwanted resources for wars of necessity and defence. Were all nations to follow the example, the reward would be doubled to each, and the temple of Janus might be shut, never to be opened more.

Writings of Madison, Volume 4: 1829-1836, p.472

Had Rousseau lived to see the rapid progress of reason and reformation, which the present day exhibits, the philanthropy which dictated his project would find a rich enjoyment in the scene before him; and after tracing the past frequency of wars to a will in the government independent of the will of the people, to the practice by each generation of taxing the principal of its

debts on future generations, and to the facility with which each generation is seduced into assumptions of the interest, by the deceptive species of taxes which pay it, he would contemplate in a reform of every government subjecting its will to that of the people, in a subjection of each generation to the payment of its own debts, and in a substitution of a more palpable, in place of an imperceptible mode of paying them, the only hope of UNIVERSAL AND PERPETUAL PEACE.

PHILADELPHIA, January 31st, 1792.

10. Government of the United States.

Writings of Madison, Volume 4: 1829-1836, p.472

Power being found by universal experience liable to abuses, a distribution of it into separate departments has become a first principle of free governments. By this contrivance, the portion entrusted to the same hands being less, there is less room to abuse what is granted; and the different hands being interested, each in maintaining its own, there is less opportunity to usurp what is not granted. Hence the merited praise of governments modeled on a partition of their powers into legislative, executive, and judiciary, and a repartition of the legislative into different houses.

Writings of Madison, Volume 4: 1829-1836, p.473

The political system of the United States claims still higher praise. The power delegated by the people is first divided between the General Government and the State governments, each of which is then subdivided into legislative, executive, and judiciary departments. And as in a single government these departments are to be kept separate and safe by a defensive armour for each, so, it is to be hoped, do the two governments possess each the means of preventing or correcting unconstitutional encroachments of the other. Should this improvement in the theory of free government not be marred in the execution, it may prove the best legacy ever left by lawgivers to their country, and the best lesson ever given to the world by its benefactors. If a security against power lies in the division of it into parts mutually controlling each other, the security must increase with the increase of the parts into which the whole can be conveniently formed.

Writings of Madison, Volume 4: 1829-1836, p.473

It must not be denied that the task of forming and maintaining a division of power between different governments is greater than among different departments of the same government, because it may be more easy (though sufficiently difficult) to separate by proper definitions the legislative, executive, and judiciary powers, which are more distinct in their nature, than to discriminate, by precise enumerations, one class of legislative powers from another class, one class of executive from another class, and one class of judiciary from another class, where, the powers being of a more kindred nature, their boundaries are more obscure and run more into each other.

Writings of Madison, Volume 4: 1829-1836, p.473

If the task be difficult, however, it must by no means be abandoned. Those who would pronounce it impossible, offer no alternative to their country but schism or consolidation; both of them bad, but the latter the worst, since it is the high road to monarchy, than which nothing worse, in the eye of Republicans, could result from the anarchy implied in the former.

Writings of Madison, Volume 4: 1829-1836, p.473

Those who love their country, its repose, and its republicanism, will therefore study to avoid the alternative by elucidating and guarding the limits which define the two governments, by inculcating moderation in the exercise of the powers of both, and particularly a mutual abstinence from such as might nurse present jealousies or engender greater.

Writings of Madison, Volume 4: 1829-1836, p.473

In bestowing the eulogies due to the partitions and internal checks of power, it ought not the less to be remembered, that they are neither the sole nor the chief palladium of constitutional liberty. The people, who are the authors of this blessing, must also be its guardians. Their eyes must be ever ready to mark, their voice to pronounce, and their arm to repel or repair, aggressions on the authority of their constitutions, the highest authority next to their own, because the immediate work of their own, and the most sacred part of their property, as recognising and recording the title to every other.

Writings of Madison, Volume 4: 1829-1836, p.473

FEBRUARY 4th.

11. Spirit of Governments.

Writings of Madison, Volume 4: 1829-1836, p.474

No government is perhaps reducible to a sole principle of operation. Where the theory approaches nearest to this character, different and often heterogeneous principles mingle their influence in the administration. It is useful, nevertheless, to analyze the several kinds of government, and to characterize them by the spirit which predominates in each.

Writings of Madison, Volume 4: 1829-1836, p.474

Montesquieu has resolved the great operative principles of government into fear, honor, and virtue, applying the first to pure despotisms, the second to regular monarchies, and the third to republics. The portion of truth blended with the ingenuity of this system sufficiently justifies the admiration bestowed on its author. Its accuracy, however, can never be defended against the criticisms which it has encountered. Montesquieu was in politics not a Newton or a Locke, who established immortal systems—the one in matter, the other in mind. He was in his particular science what Bacon was in universal science. He lifted the yell from the venerable errors which enslaved opinion, and pointed the way to those luminous truths of which he had but a glimpse himself.

Writings of Madison, Volume 4: 1829-1836, p.474

May not governments be properly divided, according to their predominant spirit and principles, into three species, of which the following are examples:

First. A government operating by a permanent military force, which at once maintains the government and is maintained by it; which is at once the cause of burdens on the people, and of submission in the people to their burdens. Such have been the governments under which human nature has groaned through every age. Such are the governments which still oppress it in almost every country of Europe, the quarter of the globe which calls itself the pattern of civilization and the pride of humanity.

Secondly. A government operating by corrupt influence, substituting the motive of private interest in place of public duty, converting its pecuniary dispensations into bounties to favorites or bribes to opponents, accommodating its measures to the avidity of a part of the nation instead of the benefit of the whole; in a word, enlisting an army of interested partisans, whose tongues, whose pens, whose intrigues, and whose active combinations, by supplying the terror of the sword, may support a real domination of the few, under an apparent liberty of the many. Such a government, wherever to be found, is an impostor. It is happy for the New World that it is not on the west side of the Atlantic. It will be both happy and honorable for the United States if they never descend to mimic the costly pageantry of its form, nor betray themselves into the venal spirit of its administration.

Thirdly. A government deriving its energy from the will of the society, and operating, by the reason of its measures, on the understanding and interest of the society. Such is the government for which philosophy has been searching and humanity been fighting from the most remote ages. Such are the republican governments which it is the glory of America to have invented, and her unrivalled happiness to possess. May her glory be completed by every improvement on the theory which experience may teach, and her happiness be perpetuated by a system of administration corresponding with the purity of the theory.

FEBRUARY 18th, 1792.

12. Republican Distribution of Citizens.

Writings of Madison, Volume 4: 1829-1836, p.475

A perfect theory on this subject would be useful, not because it could be reduced to practice by any plan of legislation, or ought to be attempted by violence on the will or property of individuals; but because it would be a monition against empirical experiments by power, and a model to which the free choice of occupations by the people might gradually approximate the order of society.

Writings of Madison, Volume 4: 1829-1836, p.475

The best distribution is that which would most favor health, virtue, intelligence, and competency in the greatest number of citizens. It is needless to add to these objects liberty and safety. The first is presupposed by them. The last must result from them.

Writings of Madison, Volume 4: 1829-1836, p.475

The life of the husbandman is pre-eminently suited to the comfort and happiness of the individual. Health, the first of blessings, is an appertenance of his property and his employment. Virtue, the health of the soul, is another part of his patrimony, and no less favored by his situation. Intelligence may be cultivated in this as well as in any other walk of life. If the mind be less susceptible of polish in retirement than in a crowd, it is more capable of profound and comprehensive efforts. Is it more ignorant of some things? It has a compensation in its ignorance of others. Competency is more universally the lot of those who dwell in the country where liberty is at the same time their lot. The extremes, both of want and of waste, have other abodes. 'Tis not the country that peoples either the Bridewells or the Bedlams. These mansions of wretchedness are tenanted from the distresses and vices of overgrown cities.

Writings of Madison, Volume 4: 1829-1836, p.475

The condition to which the blessings of life are most denied is that of the sailor. His health is continually assailed and his span shortened by the stormy element to which he belongs. His virtue, at no time aided, is occasionally exposed to every scene that can poison it. His mind, like his body, is imprisoned within the bark that transports him. Though traversing and circumnavigating the globe, he sees nothing but the same vague objects of nature; the same monotonous occurrences in ports and docks; and at home in his vessel what new ideas can shoot from the unvaried use of the ropes and the rudder, or from the society of comrades as ignorant as himself? In the supply of his wants he often feels a scarcity, seldom more than a bare sustenance; and if his ultimate prospects do not embitter the present moment, it is because he never looks beyond it. How unfortunate, that in the intercourse by which nations are enlightened and refined, and their means of safety extended, the immediate agents should be distinguished by the hardest condition of humanity.

Writings of Madison, Volume 4: 1829-1836, p.476

The great interval between the two extremes is, with a few exceptions, filled by those who work the materials furnished by the earth in its natural and cultivated state.

Writings of Madison, Volume 4: 1829-1836, p.476

It is fortunate, in general, and particularly for this country, that so much of the ordinary and most essential consumption takes place in fabrics which can be prepared in every family, and which constitute, indeed, the natural ally of agriculture. The former is the work within doors, as the latter is without; and each being done by hands or at times that can be spared from the other, the most is made of everything.

Writings of Madison, Volume 4: 1829-1836, p.476

The class of citizens who provide at once their own food and their own raiment, may be viewed as the most truly independent and happy. They are more; they are the best basis of public liberty and the strongest bulwark of public safety. It follows, that the greater the proportion of this class to the whole society, the more free, the more independent, and the more happy must be the society itself.

Writings of Madison, Volume 4: 1829-1836, p.476

In appreciating the regular branches of manufacturing and mechanical industry, their tendency must be compared with the principles laid down, and their merit graduated accordingly. Whatever is least favorable to vigor of body, to the faculties of the mind, or to the virtues or to the utilities of life, instead of being forced or fostered by public authority, ought to be seen with regret, as long as occupations more friendly to human happiness lie vacant.

Writings of Madison, Volume 4: 1829-1836, p.476

The several professions of more elevated pretensions, the merchant, the lawyer, the physician, the philosopher, the divine, form a certain proportion of every civilized society, and readily adjust their numbers to its demands and its circumstances.

Writings of Madison, Volume 4: 1829-1836, p.476

MARCH 3.

13. Fashion.

Writings of Madison, Volume 4: 1829-1836, p.476

An humble address has been lately presented to the Prince of Wales by the BUCKLE MANUFACTURES of Birmingham, Wassal, Wolverhampton, and their environs, stating that the BUCKLE TRADE gives employment to more than TWENTY THOUSAND persons, numbers of whom, in consequence of the prevailing fashion of SHOESTRINGS and SLIPPERS, are at present without employ, almost destitute of bread, and exposed to the horrors of want at the most in-element season; that to the manufacturers of BUCKLES and BUTTONS Birmingham owes its important figure on the map of England; that it is to no purpose to address FASHION herself, she being void of feeling and deaf to argument, but fortunately accustomed to listen to his voice, and to obey his commands; and, finally, IMPLORING his Royal Highness to consider the deplorable condition of their trade, which is in danger of being ruined by the mutability of fashion, and to give that direction to the public taste which will insure the lasting gratitude of the petitioners.

Writings of Madison, Volume 4: 1829-1836, p.477

Several important reflections are suggested by this address.

Writings of Madison, Volume 4: 1829-1836, p.477

I. The most precarious of all occupations which give bread to the industrious are those depending on mere fashion, which generally changes so suddenly, and often so considerably, as to throw whole bodies of people out of employment.

Writings of Madison, Volume 4: 1829-1836, p.477

II. Of all occupations those are the least desirable in a free State which produce the most servile dependence of one class of citizens on another class. This dependence must increase as the mutuality of wants is diminished. Where the wants on one side are the absolute necessaries, and on the other are neither absolute necessaries, nor result from the habitual economy of life, but are the mere caprices of fancy, the evil is in its extreme; or if not—

Writings of Madison, Volume 4: 1829-1836, p.477

III. The extremity of the evil must be in the case before us, where the absolute necessaries depend on the caprices of fancy, and the caprice of a single fancy directs the fashion of the community. Here the dependence sinks to the lowest point of servility. We see a proof of it in the spirit of the address. Twenty thousand persons are to get or go without their bread, as a wanton youth may fancy to wear his shoes with or without straps, or to fasten his straps with strings or with buckles. Can any despotism be more cruel than a situation in which the existence of thousands depends on one will, and that will on the most slight and fickle of all motives, a mere whim of the imagination?

Writings of Madison, Volume 4: 1829-1836, p.477

IV. What a contrast is here to the independent situation and manly sentiments of American citizens, who live on their own soil, or whose labour is necessary to its cultivation, or who are occupied in supplying wants which, being founded in solid utility, in comfortable accommodation, or in settled habits, produce a reciprocity of dependence, at once insuring subsistence, and inspiring a dignified sense of social rights!

Writings of Madison, Volume 4: 1829-1836, p.477

V. The condition of those who receive employment and bread from the precarious source of fashion and superfluity, is a lesson to nations as well as to individuals. In proportion as a nation consists of that description of citizens, and depends on external commerce, it is dependent on the consumption and caprice of other nations. If the laws of propriety did not forbid, the manufacturers of Birmingham, Wassal, and Wolverhampton had as real an interest in supplicating the arbiters of fashion in America as the patron they have addressed. The dependence in the case of nations is even greater than among individuals of the same nation; for, besides the mutability of fashion, which is the same in both, the mutability of policy is another source of danger in the former.

Writings of Madison, Volume 4: 1829-1836, p.477

MARCH 20th.

14. Property.

Writings of Madison, Volume 4: 1829-1836, p.478

This term, in its particular application, means "that dominion which one man claims and exercises over the external things of the world, in exclusion of every other individual."

Writings of Madison, Volume 4: 1829-1836, p.478

In its larger and juster meaning, it embraces everything to which a man may attach a value and have a right, and which leaves to every one else the like advantage.

Writings of Madison, Volume 4: 1829-1836, p.478

In the former sense, a man's land, or merchandise, or money, is called his property.

Writings of Madison, Volume 4: 1829-1836, p.478

In the latter sense, a man has a property in his opinions and the free communication of them.

Writings of Madison, Volume 4: 1829-1836, p.478

He has a property of peculiar value in his religious opinions, and in the profession and practice dictated by them.

Writings of Madison, Volume 4: 1829-1836, p.478

He has a property very dear to him in the safety and liberty of his person.

Writings of Madison, Volume 4: 1829-1836, p.478

He has an equal property in the free use of his faculties, and free choice of the objects on which to employ them.

Writings of Madison, Volume 4: 1829-1836, p.478

In a word, as a man is said to have a right to his property, he may be equally said to have a property in his rights.

Writings of Madison, Volume 4: 1829-1836, p.478

Where an excess of power prevails, property of no sort is duly respected. No man is safe in his opinions, his person, his faculties, or his possessions.

Writings of Madison, Volume 4: 1829-1836, p.478

Where there is an excess of liberty, the effect is the same, though from an opposite cause.

Writings of Madison, Volume 4: 1829-1836, p.478

Government is instituted to protect property of every sort; as well that which lies in the various rights of individuals, as that which the term particularly expresses. This being the end of government, that alone is a just government which impartially secures to every man whatever is his own.

Writings of Madison, Volume 4: 1829-1836, p.478

According to this standard of merit, the praise of affording a just security to property should be sparingly bestowed on a government which, however scrupulously guarding the possessions of individuals, does not protect them in the enjoyment and communication of their opinions, in which they have an equal, and, in the estimation of some, a more valuable property.

Writings of Madison, Volume 4: 1829-1836, p.478

More sparingly should this praise be allowed to a government where a man's religious rights are violated by penalties, or fettered by tests, or taxed by a hierarchy.

Writings of Madison, Volume 4: 1829-1836, p.479

Conscience is the most sacred of all property; other property depending in part on positive law, the exercise of that being a natural and unalienable right. To guard a man's house as his castle, to pay public and enforce private debts with the most exact faith, can give no title to invade a man's conscience, which is more sacred than his castle, or to withhold from it that debt of protection for which the public faith is pledged by the very nature and original conditions of the social pact.

Writings of Madison, Volume 4: 1829-1836, p.479

That is not a just government, nor is property secure under it, where the property which a man has in his personal safety and personal liberty is violated by arbitrary seizures of one class of citizens for the service of the rest. A magistrate issuing his warrants to a press-gang would be in his proper functions in Turkey or Indostan, under appellations proverbial of the most complete despotism.

Writings of Madison, Volume 4: 1829-1836, p.479

That is not a just government, nor is property secure under it, where arbitrary restrictions, exemptions, and monopolies deny to part of its citizens that free use of their faculties and free choice of their occupations which not only constitute their property in the general sense of the word, but are the means of acquiring property strictly so called.

Writings of Madison, Volume 4: 1829-1836, p.479

What must be the spirit of legislation where a manufacturer of linen cloth is forbidden to bury his own child in a linen shroud, in order to favour his neighbour who manufactures woolen cloth; where the manufacturer and weaver of woolen cloth are again forbidden the economical use of buttons of that material, in favor of the manufacturer of buttons of other materials!

Writings of Madison, Volume 4: 1829-1836, p.479

A just security to property is not afforded by that government, under which unequal taxes oppress one species of property and reward another species; where arbitrary taxes invade the domestic sanctuaries of the rich, and excessive taxes grind the faces of the poor; where the keenness and competitions of want are deemed an insufficient spur to labor, and taxes are again applied by an unfeeling policy, as another spur, in violation of that sacred property which Heaven, in decreeing man to earn his bread by the sweat of his brow, kindly reserved to him in the small repose that could be spared from the supply of his necessities.

Writings of Madison, Volume 4: 1829-1836, p.479

If there be a government, then, which prides itself in maintaining the inviolability of property; which provides that none shall be taken directly, even for public use, without indemnification to the owner, and yet directly violates the property which individuals have in their opinions, their religion, their passions, and their faculties—nay, more, which indirectly violates their property in their actual possessions, in the labor that acquires their daily subsistence, and in the hallowed remnant of time which ought to relieve their fatigues and soothe their cares—the inference will have been anticipated that such a government is not a pattern for the United States.

Writings of Madison, Volume 4: 1829-1836, p.479

If the United States mean to obtain or deserve the full praise due to wise and just governments, they will equally respect the rights of property and the property in rights; they will rival the government that most sacredly guards the former, and by repelling its example in violating the latter, will make themselves a pattern to that and all other governments.

Writings of Madison, Volume 4: 1829-1836, p.479

MARCH 27th.

15. The Union—Who Are Its Real Friends?

Writings of Madison, Volume 4: 1829-1836, p.480

Not those who charge others with not being its friends, whilst their own conduct is wantonly multiplying its enemies.

Writings of Madison, Volume 4: 1829-1836, p.480

Not those who favor measures which, by pampering the spirit of speculation within and without the Government, disgust the best friends of the Union.

Writings of Madison, Volume 4: 1829-1836, p.480

Not those who promote unnecessary accumulations of the debt of the Union, instead of the best means of discharging it as fast as possible, thereby increasing the causes of corruption in the Government, and the pretext for new taxes under its authority; the former undermining the confidence, the latter alienating the affection, of the people.

Writings of Madison, Volume 4: 1829-1836, p.480

Not those who study, by arbitrary interpretations and insidious precedents, to pervert the limited Government of the Union into a government of unlimited discretion, contrary to the will and subversive of the authority of the people.

Writings of Madison, Volume 4: 1829-1836, p.480

Not those who avow or betray principles of monarchy and aristocracy, in opposition to the republican principles of the Union and the republican spirit of the people, or who espouse a system of measures more accommodated to the depraved examples of those hereditary forms than to the true genius of our own.

Writings of Madison, Volume 4: 1829-1836, p.480

Not those, in a word, who would force on the people the melancholy duty of choosing between the loss of the Union and the loss of what the Union was meant to secure.

The real FRIENDS of the Union are those who are friends to the authority of the people, the sole foundation on which the Union rests; Who are friends to liberty, the great end for which the Union was formed; Who are friends to the limited and republican system of government, the means provided by that authority for the attainment of that end;

Writings of Madison, Volume 4: 1829-1836, p.480

Who are enemies to every public measure that might smooth the way to hereditary government, for resisting the tyrannies of which the Union was first planned, and for more effectually excluding which it was put into its present form;

Writings of Madison, Volume 4: 1829-1836, p.480

Who, considering a public debt as injurious to the interests of the people and baneful to the virtue of the Government, are enemies to every contrivance for unnecessarily increasing its amount, or protracting its duration, or extending its influence.

Writings of Madison, Volume 4: 1829-1836, p.480

In a word, those are the real friends of the Union who are friends to that republican policy throughout, which is the only cement for the Union of a republican people, in opposition to a spirit of usurpation and monarchy, which is the menstruum most capable of dissolving it.

Writings of Madison, Volume 4: 1829-1836, p.480

MARCH 31st.

16. A Candid State of Parties.

Writings of Madison, Volume 4: 1829-1836, p.481

As it is the business of the contemplative statesman to trace the history of parties in a free country, so it is the duty of the citizen at all times to understand the actual state of them. Whenever this duty is omitted, an opportunity is given to designing men, by the use of artificial or nominal distinctions, to oppose and balance against each other those who never differed as to the end to be pursued, and may no longer differ as to the means of attaining it. The most interesting state of parties in the United States may be referred to three periods. Those who espoused the cause of independence and those who adhered to the British claims, formed the parties of the first period; if, indeed, the disaffected class were considerable enough to deserve the name of a party. This state of things was superseded by the treaty of peace in 1783. From 1783 to 1787 there were parties in abundance, but being rather local than general, they are not within the present review.

Writings of Madison, Volume 4: 1829-1836, p.481

The Federal Constitution, proposed in the latter year, gave birth to a second and most interesting division of the people. Every one remembers it, because every one was involved in it.

Writings of Madison, Volume 4: 1829-1836, p.481

Among those who embraced the Constitution, the great body were unquestionably friends to republican liberty; though there were, no doubt, some who were openly or secretly attached to monarchy and aristocracy, and hoped to make the Constitution a cradle for these hereditary establishments.

Writings of Madison, Volume 4: 1829-1836, p.481

Among those who opposed the Constitution, the great body were certainly well affected to the Union and to good government, though there might be a few who had a leaning unfavorably to both. This state of parties was terminated by the regular and effectual establishment of the Federal Government in 1788, out of the administration of which, however, has arisen a third division, which, being natural to most political societies, is likely to be of some duration in ours.

Writings of Madison, Volume 4: 1829-1836, p.481

One of the divisions consists of those who, from particular interest, from natural temper, or from the habits of life, are more partial to the opulent than the other classes of society; and having debauched themselves into a persuasion that mankind are incapable of governing themselves, it follows with them, of course, that government can be carried on only by the pageantry of rank, the influence of money and emoluments, and the tenor of military force. Men of those sentiments must naturally wish to point the measures of Government less to the interest of the many than of a few, and less to the reason of the many than to their weaknesses; hoping, perhaps, in proportion to the ardor of their zeal, that by giving such a turn to the administration, the Government itself may by degrees be narrowed into fewer hands, and approximated to an hereditary form. The other division consists of those who, believing in the doctrine that mankind are capable of governing themselves and hating hereditary power as an insult to the reason and an outrage to the rights of man, are naturally offended at every public measure that does not appeal to the understanding and to the general interest of the community, or that is not strictly conformable to the principles and conducive to the preservation of republican government.

Writings of Madison, Volume 4: 1829-1836, p.482

This being the real state of parties among us, an experienced and dispassionate observer will be at no loss to decide on the probable conduct of each.

Writings of Madison, Volume 4: 1829-1836, p.482

The anti-republican party, as it may be called, being the weaker in point of numbers, will be induced by the most obvious motives to strengthen themselves with the men of influence, particularly of moneyed, which is the most active and insinuating influence. It will be equally their true policy to weaken their opponents by reviving exploded parties, and taking advantage of all prejudices, local, political, and occupational, that may prevent or disturb a general coalition of sentiments.

Writings of Madison, Volume 4: 1829-1836, p.482

The Republican party, as it may be termed, conscious that the mass of the people in every part of the Union, in every State, and of every occupation, must at bottom be with them, both in interest and sentiment, will naturally find their account in burying all antecedent questions, in banishing every other distinction than that between enemies and friends to republican government, and in promoting a general harmony among the latter, wherever residing or however employed.

Writings of Madison, Volume 4: 1829-1836, p.482

Whether the republican or the rival party will ultimately establish its ascendence, is a problem which may be contemplated now, but which time alone can solve. On one hand, experience shows that in politics, as in war, stratagem is often an overmatch for numbers; and, among more happy characteristics of our political situation, it is now well understood that there are peculiarities, some temporary, others more durable, which may favour that side in the contest.

Writings of Madison, Volume 4: 1829-1836, p.482

On the republican side, again, the superiority of numbers is so great, their sentiments are so decided, and the practice of making a common cause, where there is a common sentiment and common interest, in spite of circumstantial and artificial distinctions, is so well understood, that no temperate observer of human affairs will be surprised if the issue in the present instance should be reversed, and the Government be administered in the spirit and form approved by the great body of the people.

Writings of Madison, Volume 4: 1829-1836, p.482

PHILADELPHIA, September 22.

17. Who Are the Best Keepers of the People's Liberties?

Republican.—The people themselves. The sacred trust can be nowhere so safe as in the hands most interested in preserving it.

Anti-Republican.—The people are stupid, suspicious, licentious. They cannot safely trust themselves. When they have established government they should think of nothing but obedience, leaving the care of their liberties to their wiser rulers.

Republican.—Although all men are born free, and all nations might be so, yet, too true it is that slavery has been the general lot of the human race. Ignorant, they have been cheated; asleep, they have been surprised; divided, the yoke has been forced upon them. But what is the lesson? that because the people may betray themselves they ought to give themselves up, blindfold, to those who have an interest in betraying them? Rather conclude that the people ought to be enlightened to be awakened; to be united, that after establishing a government they should watch over it as well as obey it.

Anti-Republican.—You look at the surface only, where errors float, instead of fathoming the depths where truth lies hid. It is not the government that is disposed to fly off from the people; but the people that are ever ready to fly off from the government. Rather say, then, enlighten the government, warn it to be vigilant, enrich it with influence, arm it with force, and to the people never pronounce but two words, submission and confidence.

Republican.—The centrifugal tendency, then, is in the people, not in the government, and the secret art lies in restraining the tendency by augmenting the attractive principle of the government with all the weight that can be added to it. What a perversion of the natural order of things, to make power the primary and central object of the social system, and liberty but its satellite!

Anti-Republican.—The science of the stars can never instruct you in the mysteries of government. Wonderful as it may seem, the more you increase the attractive force of power, the more you enlarge the sphere of liberty; the more you make government independent and hostile towards the people, the better security you provide for their rights and interests. Hence the wisdom of the theory, which, after limiting the share of the people to a third of the government, and lessening the influence of that share by the mode and term of delegating it, establishes two grand hereditary orders, with feelings, habits, interests, and prerogatives, all inveterately hostile to the rights and interests of the people, yet, by a mysterious operation, all combining to fortify the people in both.

Republican.—Mysterious indeed! But mysteries belong to religion, not to government; to the ways of the Almighty, not to the works of man. And in religion itself there is nothing mysterious to its author; the mystery lies in the dimness of the human sight. So in the institutions of man let there be no mystery, unless for those inferior beings endowed with a ray, perhaps, of the twilight vouchsafed to the first order of terrestrial creation.

Anti-Republican.—You are destitute, I perceive, of every quality of a good citizen, or, rather, of a good subject. You have neither the light of faith nor the spirit of obedience. I denounce you to the government as an accomplice of atheism and anarchy.

Republican.—And I forbear to denounce you to the people, though a blasphemer of their rights and an idolater of tyranny. Liberty disdains to persecute.

Writings of Madison, Volume 4: 1829-1836, p.484

DECEMBER 20.

Political Observations.

Writings of Madison, Volume 4: 1829-1836, p.485

A variety of publications, in pamphlets and other forms, have appeared in different parts of the Union since the session of Congress which ended in June, 1794; endeavoring, by discolored representations of our public affairs, and particularly of certain occurrences of that session, to turn the tide of public opinion into a party channel. The immediate object of the writers was either avowedly or evidently to operate on the approaching elections of Federal Representatives. As that crisis will have entirely elapsed before the following observations will appear, they will, at least, be free from a charge of the same views; and will, consequently, have the stronger claim to that deliberate attention and reflection to which they are submitted.

Writings of Madison, Volume 4: 1829-1836, p.485

The publications alluded to have passed slightly over the transactions of the First and Second Congress; and so far, their example will here be followed.

Writings of Madison, Volume 4: 1829-1836, p.485

Whether, indeed, the funding system was modelled either on the principles of substantial justice or on the demands of public faith? Whether it did not contain ingredients friendly to the duration of the public debt, and implying that it was regarded as a public good? Whether the assumption of the State debts was not enforced by overcharged representations; and whether, if the burdens had been equalized only, instead of being assumed in the gross, the States could have discharged their respective proportions, by their local resources, sooner and more conveniently than the General Government will be able to discharge the whole debts by general resources? Whether the excise system be congenial with the spirit and conducive to the happiness of our country, or can even justify itself as a productive source of revenue? Whether again the Bank was not established without authority from the Constitution? Whether it did not throw unnecessary and unreasonable advantages into the hands of men, previously enriched beyond reason or necessity?\* And whether it can be allowed the praise of a salutary operation until its effects shall have been more accurately traced, and its hidden transactions shall be fully unveiled to the public eye? These and others are questions which, though of great importance, it is not intended here to examine. Most of them have been finally decided by the competent authority; and the rest have, no doubt, already impressed themselves on the public attention.

Writings of Madison, Volume 4: 1829-1836, p.486

Passing on then to the session of Congress preceding the last, we are met, in the first place, by the most serious charges against the Southern members of Congress in general, and particularly against the Representatives of Virginia. They are charged with having supported a policy which would inevitably have involved the United States in the war of Europe, have reduced us from the rank of a free people to that of French colonies, and, possibly, have landed us in disunion, anarchy, and misery; and the policy from which these tremendous calamities was to flow, is referred to certain commercial resolutions moved by a member from Virginia in the House of Representatives.

Writings of Madison, Volume 4: 1829-1836, p.486

To place in its true light the fallacy which infers such consequences from such a cause, it will be proper to review the circumstances which preceded and attended the resolution.

Writings of Madison, Volume 4: 1829-1836, p.486

It is well known that at the peace between the United States and Great Britain, it became a question with the latter, whether she should endeavor to regain the lost commerce of America by liberal and reciprocal arrangements; or trust to a relapse of it into its former channels, without the price of such arrangements on her part. Whilst she was fearful that our commerce would be conducted into new and rival channels, she leaned to the first side of the alternative, and a bill was actually carried in the House of Commons, by the present Prime Minister\* corresponding with that sentiment. She soon, however, began to discover (or to hope) that the weakness of our Federal Government, and the want of concurrence among the State governments, would secure her against the danger at first apprehended. From that moment all ideas of conciliation and concession vanished. She determined to enjoy at once the full benefit of the freedom allowed by our regulations, and of the monopolies established by her own.

Writings of Madison, Volume 4: 1829-1836, p.487

In this state of things, the pride as well as the interest of America were everywhere aroused. The mercantile world, in particular, was all on fire; complaints flew from one end of the continent to the other; projects of retaliation and redress engrossed the public attention. At one time the States endeavored, by separate efforts, to counteract the unequal laws of Great Britain. At another, correspondencies were opened for uniting their efforts. An attempt was also made to vest in the former Congress a limited power for a limited time, in order to give effect to the general will.

Writings of Madison, Volume 4: 1829-1836, p.487

All these experiments, instead of answering the purpose in view, served only to confirm Great Britain in her first belief that her restrictive plans were in no danger of retaliation.

Writings of Madison, Volume 4: 1829-1836, p.487

It was at length determined by the Legislature of Virginia to go to work in a new way. It was proposed, and most of the States agreed, to send commissioners to digest some change in our general system that might prove an effectual remedy. The Commissioners met; but finding their powers too circumscribed for the great object, which expanded itself before them, they proposed a Convention, on a more enlarged plan, for a general revision of the Federal Government.

Writings of Madison, Volume 4: 1829-1836, p.487

From this Convention proceeded the present Federal Constitution, which gives to the general will the means of providing in the several necessary cases for the general welfare; and particularly in the case of regulating our commerce in such manner as may be required by the regulations of other countries.

Writings of Madison, Volume 4: 1829-1836, p.487

It was natural to expect that one of the first objects of deliberation under the new Constitution would be that which had been first and most contemplated in forming it. Accordingly it was, at the first session, proposed that something should be done analogous to the wishes of the several States, and expressive of the efficiency of the new Government. A discrimination between nations in treaty and those not in treaty, the mode most generally embraced by the States, was agreed to in several forms, and adhered to in repeated votes by a very great majority of the House of Representatives. The Senate, however, did not concur with the House of Representatives, and our commercial arrangements were made up without any provision on the subject.

Writings of Madison, Volume 4: 1829-1836, p.487

From that date to the session of Congress ending in June, 1794, the interval passed without any effective appeal to the interest of Great Britain. A silent reliance was placed on her voluntary justice or her enlightened interest.

Writings of Madison, Volume 4: 1829-1836, p.487

This long and patient reliance being ascribed (as was foretold) to other causes than a generous forbearance on the part of the United States, had, at the commencement of the Third Congress, left us, with respect to a reciprocity of commercial regulations between the two countries, precisely where the commencement of the First Congress had found us. This was not all; the western posts, which entailed an expensive Indian war on us, continued to be withheld, although all pretext for it had been removed on our part. Depredations as derogatory to our rights as grievous to our interests, had been licensed by the British Government against our lawful commerce on the high seas. And it was believed, on the most probable grounds, that the measure by which the Algerine pirates were let loose on the Atlantic had not taken place without the participation of the same unfriendly counsels. In a word, to say nothing of the American victims to savages and barbarians, it was estimated that our annual damages from Great Britain were not less than three or four millions of dollars.

Writings of Madison, Volume 4: 1829-1836, p.488

This distressing situation spoke the more loudly to the patriotism of the Representatives of the people, as the nature and manner of the communications from the President seemed to make a formal and affecting appeal on the subject to their co-operation. The necessity of some effort was palpable. The only room for different opinions seemed to lie in the different modes of redress proposed. On one side nothing was proposed beyond the eventual measures of defence, in which all concurred, except the building of six frigates, for the purpose of enforcing our rights against Algiers. The other side, considering this measure as pointed at one only of our evils, and as inadequate even to that, thought it best to seek for some safe but powerful remedy, that might be applied to the root of them; and with this view the commercial propositions were introduced.

Writings of Madison, Volume 4: 1829-1836, p.488

They were at first opposed, on the ground that Great Britain was amicably disposed towards the United States, and that we ought to await the event of the depending negotiation. To this it was replied, that more than four years of appeal to that disposition had been tried in vain by the new Government; that the negotiation had been abortive and was no longer depending; that the late letters\* from Mr. Pinckney, the Minister at London, had not only cut off all remaining hope from that source, but had expressly pointed commercial regulations as the most eligible redress to be pursued.

Writings of Madison, Volume 4: 1829-1836, p.488

Another ground of opposition was, that the United States were more dependent on the trade of Great Britain than Great Britain was on the trade of the United States. This will appear scarcely credible to those who understand the commerce between the two countries, who recollect that it supplies us chiefly with superfluities; whilst in return it employs the industry of one part Of her people, sends to another part the very bread which keeps them from starving, and remits, moreover, an annual balance in specie of ten or twelve millions of dollars.\* It is true, nevertheless, as the debate shews, that this was the language, however strange, of some who combated the propositions.

Writings of Madison, Volume 4: 1829-1836, p.489

Nay, what is still more extraordinary, it was maintained that the United States had, on the whole, little or no reason to complain of the footing of their commerce with Great Britain; although such complaints had prevailed in every State, among every class of citizens, ever since the year 1783; and although the Federal Constitution had originated in those complaints, and had been established with the known view of redressing them.

Writings of Madison, Volume 4: 1829-1836, p.489

As such objections could have little effect in convincing the judgment of the House of Representatives, and still less that of the public at large, a new mode of assailing the propositions has been substituted. The American people love peace; and the cry of war might alarm when no hope remained of convincing them. The cry of war has accordingly been echoed through the continent with a loudness proportioned to the emptiness of the pretext; and to this cry has been added another still more absurd, that the propositions would, in the end, enslave the United States to their allies and plunge them into anarchy and misery.

Writings of Madison, Volume 4: 1829-1836, p.489

It is truly mortifying to be obliged to tax the patience of the reader with an examination of such gross absurdities; but it may be of use to expose where there may be no necessity to refute them.

Writings of Madison, Volume 4: 1829-1836, p.489

What were the commercial propositions? They discriminated between nations in treaty and nations not in treaty, by an additional duty on the manufactures and trade of the latter; and they reciprocated the navigation laws of all nations who excluded the vessels of the United States from a common right of being used in the trade between the United States and such nations.

Writings of Madison, Volume 4: 1829-1836, p.489

Is them anything here that could afford a cause or a pretext for war to Great Britain or any other nation? If we hold at present the rank of a free people; if we are no longer Colonies of Great Britain; if we have not already relapsed into some dependence on that nation, we have the self-evident right to regulate our trade according to our own will and our own interest, not according to her will or her interest. This right can be denied to no independent nation. It has not been and will not be denied to ourselves, by any opponent of the propositions.

Writings of Madison, Volume 4: 1829-1836, p.490

If the propositions could give no right to Great Britain to make war, would they have given any color to her for such an outrage on us? No American citizen will affirm it. No British subject, who is a man of candor, will pretend it; because, he must know that the commercial regulations of Great Britain herself have discriminated among foreign nations whenever it was thought convenient. They have discriminated against particular nations by name; they have discriminated with respect to particular articles by name, by the nations producing them, and by the places exporting them. And as to the navigation articles proposed, they were not only common to the other countries along with Great Britain, but reciprocal between Great Britain and the United States; nay, it is notorious that they fell short of an immediate and exact reciprocity of her own navigation laws.

Writings of Madison, Volume 4: 1829-1836, p.490

Would any nation be so barefaced as to quarrel with another for doing true same thing which she herself has done, for doing less than she herself has done, towards that particular nation? It is impossible that Great Britain would ever expose herself by so absurd as well as arrogant a proceeding. If she really meant to quarrel with this country, common prudence and common decency would prescribe some other less odious pretext for her hostility.

Writings of Madison, Volume 4: 1829-1836, p.490

It is the more astonishing that such a charge against the propositions should have been hazarded when the opinion and the proceedings of America on the subject of our commercial policy is reviewed.

Writings of Madison, Volume 4: 1829-1836, p.490

Whilst the power over trade remained with the several States there were few of them that did not exercise it, on the principle, if not in the mode, of the commercial propositions. The Eastern States, generally, passed laws either discriminating between some foreign nations and others, or levelled against Great Britain by name. Maryland and Virginia did the same; so did two, if not the three, of the more Southern States. Was it ever, during that period, pretended at home or abroad, that a cause or pretext for the quarrel was given to Great Britain or any other nation? or were our rights better understood at that time than at this, or more likely then than now to command the respect due to them?

Writings of Madison, Volume 4: 1829-1836, p.490

Let it not be said Great Britain was then at peace; she is now at war. If she would not wantonly attempt to control the exercise of our sovereign rights when she had no other enemy on her hands, will she be mad enough to make the attempt when her hands are fully employed with the war already on them? Would not those who say now postpone the measures until Great Britain shall be at peace be more ready and have more reason to say, in time of peace, postpone them until she shall be at war; there will then be no danger of her throwing new enemies into the scale against her?

Writings of Madison, Volume 4: 1829-1836, p.490

Nor let it be said that the combined Powers would aid and stimulate Great Britain to wage an unjust war on the United States. They also are too fully occupied with their present enemy to wish for another on their hands; not to add, that two of those Powers, being in treaty with the United States, are favored by the propositions; and that all of them are well known to entertain an habitual jealousy of the monopolizing character and maritime ascendency of that nation.

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One thing ought to be regarded as certain and conclusive on this head: whilst the war against France remains unsuccessful the United States are in no danger from any of the Powers engaged in it. In the event of a complete overthrow of that Republic, it is impossible to say what might follow. But if the hostile views of the combination should be turned towards this continent, it would clearly not be to vindicate the commercial interests of Great Britain against the commercial rights of the United States. The object would be, to root out Liberty from the face of the earth. No pretext would be wanted, or a better would be contrived than anything to be found in the commercial propositions.

Writings of Madison, Volume 4: 1829-1836, p.491

On whatever other side we view the clamor against these propositions as inevitably productive of war, it presents neither evidence to justify it nor argument to colour it.

Writings of Madison, Volume 4: 1829-1836, p.491

The allegation necessarily supposes either that the friends of the plan could discover no probability, where its opponents could see a certainty, or that the former were less averse to war than the latter.

Writings of Madison, Volume 4: 1829-1836, p.491

The first supposition will not be discussed. A few observations on the other may throw new lights on the whole subject.

Writings of Madison, Volume 4: 1829-1836, p.491

The members, in general, who espoused these propositions have been constantly in that part of the Congress who have professed with most zeal, and pursued with most scruple, the characteristics of republican government. They have adhered to these characteristics in defining the meaning of the Constitution, in adjusting the ceremonial of public proceedings, and in marking out the course of the Administration. They have manifested, particularly, a deep conviction of the danger to liberty and the Constitution, from a gradual assumption or extension of discretionary powers in the executive department; from successive augmentations of a standing army; and from the perpetuity and progression of public debts and taxes. They have been sometimes reprehended in debate for an excess of caution and jealousy on these points. And the newspapers of a certain stamp, by distorting and discolouring this part of their conduct, have painted it in all the deformity which the most industrious calumny could devise.

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Those best acquainted with the individuals who more particularly supported the propositions will be foremost to testify, that such are the principles which not only govern them in public life, but which are invariably maintained by them in every other situation. And it cannot be believed nor suspected, that with such principles they could view war as less an evil than it appeared to their opponents.

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Of all the enemies to public liberty war is, perhaps, the most to be dreaded, because it comprises and develops the germ of every other. War is the parent of armies; from these proceed debts and taxes; and armies, and debts, and taxes are the known instruments for bringing the many under the domination of the few. In war, too, the discretionary power of the Executive is extended; its influence in dealing out offices, honors, and emoluments is multiplied; and all the means of seducing the minds, are added to those of subduing the force, of the people. The same malignant aspect in republicanism may be traced in the inequality of fortunes, and the opportunities of fraud, growing out of a state of war, and in the degeneracy of manners and of morals, engendered by both. No nation could preserve its freedom in the midst of continual warfare.

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Those truths are well established. They are read in every page which records the progression from a less arbitrary to a more arbitrary government, or the transition from a popular government to an aristocracy or a monarchy.

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It must be evident, then, that in the same degree as the friends of the propositions were jealous of armies, and debts, and prerogative, as dangerous to a republican Constitution, they must have been averse to war, as favourable to armies and debts, and prerogative.

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The fact accordingly appears to be, that they were particularly averse to war. They not only considered the propositions as having no tendency to war, but preferred them, as the most likely means of obtaining our objects without war. They thought, and thought truly, that Great Britain was more vulnerable in her commerce than in her fleets and armies; that she valued our necessaries for her markets, and our markets for her superfluities, more than she feared our frigates or our militia; and that she would, consequently, be more ready to make proper concessions under the influence of the former, than of the latter motive.

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Great Britain is a commercial nation. Her power, as well as her wealth, is derived from commerce. The American commerce is the most valuable branch she enjoys. It is the more valuable, not only as being of vital importance to her in some respects, but of growing importance beyond estimate in its general character. She will not easily pat with such a resource. She will not rashly hazard it. She would be particularly aware of forcing a perpetuity of regulations, which not merely diminish her share, but may favour the rivalship of other nations. If anything, therefore, in the power of the United States could overcome her pride, her avidity, and her repugnancy to this country, it was justly concluded to be, not the fear of our arms, which, though invincible in defence, are little formidable in a war of offence, but the fear of suffering in the most fruitful branch other trade, and of seeing it distributed among her rivals.

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If any doubt on this subject could exist, it would vanish on a recollection of the conduct of the British ministry at the close of the war in 1783. It is a fact which has been already touched, and is as notorious as it is instructive, that during the apprehension of finding her commerce with the United States abridged or endangered by the consequences of the Revolution, Great Britain was ready to purchase it, even at the expense of her West Indies monopoly. It was not until after she began to perceive the weakness of the Federal Government, the discord in the counteracting plans of the State governments, and the interest she would be able to establish here, that she ventured on that system to which she has since inflexibly adhered. Had the present Federal Government, on its first establishment, done what it ought to have done, what it was instituted and expected to do, and what was actually proposed and intended it should do; had it revived and confirmed the belief in Great Britain that our trade and navigation would not be free to her without an equal and reciprocal freedom to us in her trade and navigation, we have her own authority for saying that she would long since have met us on proper ground; because the same motives which produced the bill brought into the British Parliament by Mr. Pitt, in order to prevent the evil apprehended, would have produced the same concession at least, in order to obtain a recall of the evil, after it had taken place.

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The aversion to war in the friends of the propositions may be traced through the whole proceedings and debates of the session. After the depredations in the West Indies which seemed to fill up the measure of British aggressions, they adhered to their original policy of pursuing redress, rather by commercial than by hostile operations, and with this view unanimously concurred in the bill for suspending importations from British ports; a bill that was carried through the House by a vote of fifty-eight against thirty-four. The friends of the propositions appeared, indeed, never to have admitted that Great Britain could seriously mean to force a war with the United States, unless in the event of prostrating the French Republic, and they did not believe that such an event was to be apprehended.

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Confiding in this opinion, to which time has given its full sanction, they could not accede to those extraordinary measures, which nothing short of the most obvious and imperious necessity could plead for. They were as ready as any to fortify our harbours, and fill our magazines and arsenals; these were safe and requisite provisions for our permanent defence. They were ready and anxious for arming and preparing our militia; that was the true republican bulwark of our security. They joined also in the addition of a regiment of artillery to the military establishment, in order to complete the defensive arrangement on our eastern frontier. These facts are on record, and are the proper answer to those shameless calumnies which have asserted that the friends of the commercial propositions were enemies to every proposition for the national security.

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But it was their opponents, not they, who continually maintained that on a failure of negotiation it would be more eligible to seek redress by war than by commercial regulations; who talked of raising armies that might threaten the neighbouring possessions of foreign powers; who contended for delegating to the Executive the prerogatives of deciding whether the country was at war or not, and of levying, organizing, and calling into the field a regular army of ten, fifteen, nay of TWENTY-FIVE THOUSAND men.

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It is of some importance that this part of the history of the session, which has found no place in the late reviews of it, should be well understood. They who are curious to learn the particulars must examine the debates and the votes. A full narrative would exceed the limits which are here prescribed. It must suffice to remark, that the efforts were varied and repeated until the last moment of the session, even after the departure of a number of members forbade new propositions, much more a renewal of rejected ones; and that the powers proposed to be surrendered to the Executive were those which the Constitution has most jealously appropriated to the Legislature.

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The reader shall judge on this subject for himself.

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The Constitution expressly and exclusively vests in the Legislature the power of declaring a state of war: it was proposed that the Executive might, in the recess of the Legislature, declare the United States to be in a state of war.

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The Constitution expressly and exclusively vests in the Legislature the power of raising armies: it was proposed that, in the recess of the Legislature, the Executive might, at its pleasure, raise or not raise an army often, fifteen, or twenty-five thousand men.

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The Constitution expressly and exclusively vests in the Legislature the power of creating offices: it was proposed that the Executive, in the recess of the Legislature, might create offices as well as appoint officers for an army of ten, fifteen, or twenty-five thousand men.

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A delegation of such powers would have struck, not only at the fabric of our Constitution, but at the foundation of all well organized and well checked governments.

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The separation of the power of declaring war from that of conducting it, is wisely contrived to exclude the danger of its being declared for the sake of its being conducted.

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The separation of the power of raising armies from the power of commanding them, is intended to prevent the raising of armies for the sake of commanding them.

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The separation of the power of creating offices from that of filling them, is an essential guard against the temptation to create offices for the sake of gratifying favourites or multiplying dependents.

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Where would be the difference between the blending of these incompatible powers, by surrendering the legislative part of them into the hands of the Executive, and by assuming the executive part of them into the hands of the Legislature? In either case the principle would be equally destroyed, and the consequences equally dangerous.

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An attempt to answer these observations by appealing to the virtues of the present Chief Magistrate, and to the confidence justly placed in them, will be little calculated either for his genuine patriotism or for the sound judgment of the American public.

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The people of the United States would not merit the praise universally allowed to their intelligence if they did not distinguish between the respect due to the man and the functions belonging to the office. In expressing the former, there is no limit or guide, but the feelings of their grateful hearts. In deciding the latter, they will consult the Constitution; they will consider human nature, and, looking beyond the character of the existing Magistrate, fix their eyes on the precedent which must descend to his successors.

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Will it be more than truth to say, that this great and venerable name is too often assumed for what cannot recommend itself, and for what there is neither proof nor probability that its sanction can be claimed? Do arguments fail? Is the public mind to be encountered? There are not a few ever ready to invoke the name of Washington; to garnish their heretical doctrines with his virtues, and season their unpalatable measures with his popularity. Those who take this liberty will not, however, be mistaken; his truest friends will be the last to sport with his influence—above all, for electioneering purposes. And it is but a fair suspicion, that they who draw most largely on that fund are hastening fastest to bankruptcy in their own.

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As vain would be the attempt to explain away such alarming attacks on the Constitution, by pleading the difficulty, in some cases, of drawing a line between the different departments of power, or by recurring to the little precedents which may have crept in at urgent or unguarded moments.

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It cannot be denied, that there may, in certain cases, be a difficulty in distinguishing the exact boundary between legislative and executive powers; but the real friend of the Constitution and of liberty, by his endeavors to lessen or avoid the difficulty, will easily be known from him who labors to increase the obscurity, in order to remove the constitutional landmarks without notice.

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Nor will it be denied that precedents may be found where the line of separation between these powers has not been sufficiently regarded; where an improper latitude of discretion, particularly, has been given, or allowed, to the executive departments. But what does this prove? That the line ought to be considered as imaginary; that constitutional organizations of power ought to lose their effect? No. It proves with how much deliberation precedents ought to be established, and with how much caution arguments from them should be admitted. It may furnish another criterion, also, between the real and ostensible friend of constitutional liberty. The first will be as vigilant in resisting, as the last will be in promoting, the growth of inconsiderate or insidious precedents into established encroachments.

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The next charge to be examined is, the tendency of the propositions to degrade the United States into French colonies.

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As it is difficult to argue against suppositions made and multiplied at will, so it is happily impossible to impose on the good sense of this country by arguments which rest on suppositions only. In the present question it is first supposed that the exercise of the self-evident and sovereign right of regulating trade after the example of all independent nations, and that of the example of Great Britain towards the United States, would inevitably involve the United States in a war with Great Britain. It is then supposed that the other combined Powers, though some of them be favored by the regulations proposed, and all of them be jealous of the maritime predominance of Great Britain, would support the wrongs of Great Britain against the rights of the United States. It is, lastly, supposed that our allies, (the French,) in the event of success in establishing their own liberties, which they owe to our example, would be willing, as well as able, to rob us of ours, which they assisted us in obtaining; and that so malignant is their disposition on this head, that we should not be Spared, even if embarked in a war against her own enemy. To finish the picture, it is intimated that in the character of allies we are the more exposed to this danger from the secret and hostile ambition of France.

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It will not be expected that any formal refutation should be wasted on absurdities which answer themselves. None but those who have surrendered their reasoning faculties to the violence of their prejudices, will listen to suggestions implying that the freest nation in Europe is the basest people on the face of the earth; that instead of the friendly and festive sympathy indulged by the people of the United States, they ought to go into mourning at every triumph of the French arms; that instead of regarding the French revolution as a blessing to mankind and a bulwark to their own, they ought to anticipate its success as of all events the most formidable to their liberty and sovereignty; and that, calculating on the political connexion with that nation, as the source of additional danger from its enmity and its usurpation, the first favorable moment ought to be seized for putting an end to it.

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It is not easy to dismiss this subject, however, without reflecting, with grief and surprise, on the readiness with which many launch into speculations unfriendly to the struggles of France, and regardless of the interesting relations in which that country stands to this. They seem to be more struck with every circumstance that can be made a topic of reproach or of chimerical apprehensions, than with all the splendid objects which are visible through the gloom of a revolution. But if there be an American who can see, without benevolent joy, the progress of that liberty to which he owes his own happiness, interest, at least, ought to find a place in his calculations. And if he cannot enlarge his views to the influence of the successes and friendship of France, or our safety as a nation, and particularly as a Republic, how can he be insensible to the benefits presented to the United States in her commerce? The French markets consume more of our best productions than are consumed by any other nation. If a balance in specie be as favorable as is usually supposed, the sum which supplies the immense drains of our specie is derived also from the same source more than from any other. And in the great and precious article of navigation, the share of American tonnage employed in the trade with the French dominions gives to that trade a distinguished value; as well to that part of the Union which most depends on ships and seamen for its prosperity, as to that which most requires them for its protection.

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Whenever these considerations shall have that full weight which a calm review will not fain to allow them, none will wonder more than the mercantile class of citizens themselves, that whilst they so anxiously wait stipulations from Great Britain, which are always within our command, so much indifference should be felt to those more important privileges in the trade of France, which, if not secured by a seasonable improvement of the commercial treaty with her, may possibly be forever lost to us.

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Among the aspersions propagated against the friends, and the merits arrogated by the opponents, of the commercial propositions, much use has been made of the envoyship extraordinary to Great Britain. It has been affirmed that the former were averse to the measure on account of its pacific tendency; and that it was embraced by the latter as the proper substitute for all commercial operations on the policy of Great Britain. It is to be remembered, however,

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1. That this measure originated wholly with the Executive.

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2. That the opposition to it in the Senate (as far as the public have any knowledge of it) was made, not to the measure of appointing an envoy extraordinary, but to the appointment of the Chief Justice of the United States for that service.

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3. That the House of Representatives never gave any opinion on the occasion, and that no opinion appears to have been expressed in debate by any individual of that House which can be tortured into a disapprobation of the measure on account of its pacific tendency.

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4. That the measure did not take place until the commercial propositions had received all the opposition that could be given to them.

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5. That there is no spark of evidence, that if the envoyship had never taken place or been thought of, the opponents of the propositions would have concurred in any commercial measures whatever, even after the West India spoliations had laid in their full claim to the public attention.

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But it may be fairly asked of those who opposed first the commercial propositions, and then the non-importation bill, and who rest their justification on the appointment of an envoy extraordinary, wherein lay the inconsistency between these legislative and executive plans?

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Was it thought best to appeal to the voluntary justice or liberal policy of Great Britain, and to these only? This was not certainly the case with those who opposed the commercial appeals to the interest and the apprehension of Great Britain, because they were the most zealous for appealing to her fears by military preparations and menaces. If these had any meaning, they avowed that Great Britain was not to be brought to reason otherwise than by the danger of injury to herself. And such being her disposition, she would, of course, be most influenced by measures, of which the comparative operation would be most against her. Whether that would be apprehended from measures of the one or the other kind will easily be decided. But in every view, if fear was a proper auxiliary to negotiation, the appeal to it in the commercial measures proposed could not be inconsistent with the envoyship. The inconsistency belongs to the reasoning of those who would pronounce it proper and effectual to say to Great Britain, do us justice or we will seize on Canada, though the loss will be trifling to you, while the cost will be immense to us; and who pronounce it improper and ineffectual to say to Great Britain, do us justice or you will suffer a wound where you will most of all feel it, in a branch of your commerce which feeds one part of your dominions, and sends annually to the other a balance in specie of more than ten millions of dollars.

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The opponents of the commercial measures may be asked, in the next place, to what cause the issue of the envoyship, if successful, ought to be ascribed?

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Will it have been the pure effect ova benevolent and conciliatory disposition in Great Britain towards the United States? This will hardly be pretended by her warmest admirers and advocates. It is disproved by the whole tenor of her conduct ever since we were an independent and republican nation. Had this cordial disposition, or even a disposition to do us justice, been really felt, the delay would not have been spun out to so late a day. The moment would rather have been chosen when we were least in condition to vindicate our interest by united councils and persevering efforts. The motives then would have been strongest, and the merit most conspicuous; instead of this honourable and prudent course, it has been the vigilant study of Great Britain to take all possible advantage of our embarrassments; nor has the least inclination been shown to relax her system, except at the crisis in 1783, already mentioned, when, not foreseeing these embarrassments, she was alarmed for her commerce with the United States.

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Will the success be ascribable to the respect paid to that country by the measure, or to the talents and address of the envoy?

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Such an explanation of the fact is absolutely precluded by a series of other facts.

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Soon after the peace, Mr. Adams, the present Vice President of the United States, was appointed Minister Plenipotentiary to the British Court. The measure was the more respectful as no mutual arrangement had been promised between the two countries, nor any intimation received from Great Britain that the civility should be returned; nor was the civility returned during the whole period of his residence. The manner in which he was treated, and the United States through him, his protracted exertions and the mortifying inefficacy of them are too much in the public remembrance to need a rehearsal.

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This first essay on the temper of Great Britain towards the United States was prior to the establishment of the Federal Constitution. The important change produced in our situation by this event led to another essay, which is not unknown to the public. Although in strictness it might not unreasonably have been expected, after what had been done in the instance of Mr. Adams, that the advance towards a diplomatic accommodation should then have come from Great Britain, Mr. G. Morris was made an agent for feeling her pulse and soothing her pride a second time. The history of his operations is not particularly known. It is certain, however, that this repetition of the advance produced no sensible change on her disposition towards us, much less any actual compliance with our just expectations and demands. The most that can be said is, that it was, after a considerable interval, followed by the mission of Mr. Hammond to the United States; who, as it is said, however, refused, notwithstanding the long residence of Mr. Adams at the court of London without a return of the civility, to commit the dignity of his master, until the most explicit assurances were given that Mr. Pinckney should immediately counter-place him.

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The mission of this last respectable citizen forms a third appeal to the justice and good will of the British Government on the subjects between the two countries. His negotiations on that side the Atlantic, as well as those through Mr. Hammond on this, having been laid before the Congress and printed for general information, will speak for themselves. It will only be remarked, that they terminated here in the disclosure that Mr. Hammond had no authority, either to adjust the differences connected with the treaty of peace, or to concur in any solid arrangements for reciprocity in commerce and navigation; and that in Great Britain they terminated in the conviction of Mr. Pinckney that nothing was to be expected from the voluntary justice or policy of that country, and in his advice, before quoted, of Commercial Regulations, as the best means for obtaining a compliance with our just claims.

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All who weigh these facts with candor will join in concluding that the success of the envoyship must be otherwise explained than by the operation of diplomatic compliments, or of personal talents.

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To what causes, then, will the United States be truly indebted for any favorable result to the envoyship?

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Every well-informed and unprejudiced mind will answer, to the following: 1. The spirit of America expressed by the vote of the House of Representatives, on the subject of the commercial propositions, by the large majority of that house (overruled by the casting voice in the Senate) in favour of the non importation bill, and by the act laying an embargo. Although these proceedings would, doubtless, have been mere efficacious if the two former had obtained the sanction of laws, and if the last had not been so soon repealed,\* yet they must have had no little effect as warnings to the British Government, that if her obstinacy should take away the last pretext from the opponents of such measures, it might be impossible to divide or mislead our public councils with respect to them in future.

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There is no room to pretend that her relaxation in this case, if she should relax, will be the effect, not of those proceedings, but of the ultimate defeat of them. Former defeats of a like policy had repeatedly taken place, and are known to have produced, instead of relaxation, a more confirmed perseverance on the part of Great Britain. Under the old Confederation, the United States had not the power over commerce: of that situation she took advantage. The new government which contained the power did not evince the will to exert it: of that situation she still took the advantage. Should she yield, then, at the present juncture, the problem ought not to be solved, without presuming her to be satisfied by what has lately passed—that the United States have now not only the power but the will to exert it.

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The reasoning is short and conclusive. In the year 1783, when Great Britain apprehended commercial restrictions from the United States, she was disposed to concede and to accommodate. From the year 1783 to the year 1794, when she apprehended no commercial restrictions, she showed no disposition to concede or to accommodate. In the year 1794, when alarming evidence was given of the danger of commercial restrictions, she did concede and accommodate.

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If anything can have weakened the operation of the proceedings above referred to on the British Government, it must be the laboured and vehement attempts of their opponents to show that the United States had little to demand and everything to dread from Great Britain; that the commerce between the two countries was more essential to us than to her; that our citizens would be less willing than her subjects to bear, and our Government less able than hers to enforce, restrictions or interruptions of it: in a word, that we were more dependent on her than she was on us; and, therefore, ought to court her not to withdraw from us her supplies, though chiefly luxuries, instead of threatening to withdraw from her our supplies, though mostly necessaries.

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It is difficult to say whether the indiscretion or the fallacy of such arguments be the more remarkable feature in them. All that can be hoped is, that an antidote to their mischievous tendency in Great Britain may be found in the consciousness there of the errors on which they are founded, and the contempt which they will be known to have excited in this country.

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2. The other cause will be, the posture into which Europe has been thrown by the war with France, and particularly by the campaign of 1794. The combined armies have everywhere felt the superior valour, discipline, and resources of their Republican enemies. Prussia, after heavy and perfidious [?] draughts on the British Treasury, has retired from the common standard to contend with new dangers peculiar to herself. Austria, worn out in unavailing resistence, her arms disgraced, her treasure exhausted, and her vassals discontented, seeks her last consolation in the same source of British subsidy. The Dutch, instead of continuing their proportion of aids for the war, have their whole fac-ulties turned over to France. Spain, with all her wealth and all her pride, is palsied in every nerve, and forced to the last resorts of royalty, to a reduction of salaries and pensions, and to the hoards of superstition. Great Britain herself has seen her military glory eclipsed, her projects confounded, her hopes blasted, her marine threatened, her resources overcharged, and her Government in danger of losing its energy, by the despotic excesses into which it has been overstrained.

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If, under such circumstances, she does not abandon herself to apathy and despair, it is because she finds her credit still alive, and in that credit sees some possibility of making terms with misfortune. But what is the basis of that credit? Her commerce. And what is the most valuable remnant of that resource? The commerce with the U. States. Will she risk this best part of her last resource, by persevering in her selfish and unjust treatment of the United States?

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Time will give a final answer to this question. All that can be now pronounced is, that if, on the awful precipice to which G. Britain is driven, she will open neither her eyes to her danger nor her heart to her duty, her character must be a greater contrast to the picture of it drawn by the opponents of the commercial measures than could have easily been imagined. If, on the other hand, she should relent and consult her reason, the change will be accounted for by her prospects on the other side of the Atlantic, and the countenance exhibited on this; without supposing her character to vary in a single feature from the view of it entertained by the friends of such measures.

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That the rising spirit of America, and the successes of France, will have been the real causes of any favorable terms obtained by the mission of Mr. Jay, cannot be controverted. Had the same forbearance which was tried for ten years on the part of the United States been continued, and had the combined Powers proceeded in the victorious career which has signalized the French arms, under this reverse of circumstances the most bigoted Englishman will be ashamed to say that any relaxing change in the policy of his Government was to be hoped for by the United States.

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Such are the reflections which occur on the supposition of a successful issue to the envoyship. Should it unhappily turn out that neither the new countenance presented by America, nor the adverse fortunes of Great Britain, can bend the latter to a reasonable accommodation, it may be worth while to inquire what will probably be the evidence furnished by the friends and adversaries of commercial measures with respect to their comparative attachments to peace?\*

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If any regard be paid to consistency, those who opposed all such measures must be for an instant resort to arms. With them there was no alternative, but negotiation or war. Their language was, let us try the former, but be prepared for the latter; if the olive branch fail, let the sword vindicate our rights, as it has vindicated the rights of other nations. A real war is both more honourable and more eligible than commercial regulations. In these G. B. is an over-match for us.

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On the other side, the friends of commercial measures, if consistent, will prefer these measures, as an intermediate experiment between negotiation and war. They will persist in their language, that Great Britain is more dependent on us than we are on her; that this has ever been the American sentiment, and is the true basis of American policy; that war should not be resorted to till everything short of war has been tried; that if Great Britain be invulnerable to our attacks, it is in her fleets and armies; that if the United States can bring her to reason at all, the surest as well as the cheapest means will be a judicious system of commercial operations; that here the United States are unquestionably an over-match for Great Britain.

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It must be the ardent prayer of all, that the occasion may not happen for such a test of the consistency and the disposition of those whose counsels were so materially different on the subject of a commercial vindication of our rights. Should it be otherwise ordained, the public judgment will pronounce on which side the politics were most averse to war, and most anxious for every pacific effort that might at the same time be an efficient one, in preference to that last and dreadful resort of injured nations.

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There remain two subjects belonging to the session of Congress under review, on each of which some comments are made proper by the misrepresentations which have been propagated.

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The first is, The naval armament.

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The second, The new taxes then established.

Writings of Madison, Volume 4: 1829-1836, p.502

As to the first, it appears from the debates and other accounts, to have been urged in favour of the measure, that six frigates of one hundred and eighty-four guns, to be stationed at the mouth of the Mediterranean, would be sufficient to protect the American trade against the Algerine pirates; that such a force would not cost more than six hundred thousand dollars, including an outfit of stores and provisions for six month, and might be built in time to take their station by July or August last; that the expense of this armament would be fully justified by the importance of our trade to the south of Europe; that without such a protection the whole trade of the Atlantic would be exposed to depredation; nay, that the American coast might not escape the enterprising avarice of these roving barbarians; that such an effort on the part of the United States was particularly due to the unfortunate citizens already groaning in chains and pining in despair, as well as to those who might otherwise be involved in the same fate. Other considerations of less influence may have entered into the decision on the same side.

Writings of Madison, Volume 4: 1829-1836, p.503

On the other side, it was said that the force was insufficient for the object; that the expense would be greater than was estimated; that there was a limit to the expense which could be afforded for the protection of any branch of trade; that the aggregate value of the annual trade, export and import, to Spain and Portugal, appeared, from authentic documents, not to exceed three and an half millions of dollars;\* that the profit, only, on this amount was to be compared with the expense of the frigates; that if the American vessels engaged in those channels should give place to vessels at peace with Algiers, they would repair to the channels quitted by the latter vessels, so that it would be rather a change than a loss of employment; that the other distant branches of our trade would be little affected, and our own coast not at all; that the frigates, at so great a distance on a turbulent sea, would be exposed to dangers, as well as attended with expenses, not to be calculated; and if stationed where intended, would leave our trade up the Mediterranean as unprotected as it is at present: That in addition to these considerations, the frigates would not be ready by the time stated, nor probably until the war and the occasion would be over; that if the removal of the Portuguese squadron from the blockade really proceeded, as was alleged, from Great Britain, she would, under some pretext or other, contrive to defeat the object of the frigates; that if Great Britain was not at the bottom of the measure, the interest which Portugal had in our trade, which supplies her with the necessaries of life, would soon restore the protection she had withdrawn; that it would be more effectual, as well as cheaper, to concert arrangements with Portugal, by which the United States would be subjected to an equitable share only, instead of taking on themselves the whole of the burden; that as to our unfortunate citizens in captivity, the frigates could neither be in time nor of force to relieve them; that money alone could do this, and that a sufficient sum ought to be provided for the purpose; that it was moreover to be considered, that if there were any disposition in Great Britain to be irritated into a war with us, or to seek an occasion for it, those who, on other questions, had taken that ground of argument ought to be particularly aware of danger from the collision of naval armaments within the sphere of British jealousy, and in the way, perhaps, of a favourite object.

Writings of Madison, Volume 4: 1829-1836, p.503

No undue blame is meant to be thrown on those who did not yield to this reasoning, however conclusive it may now appear. The vote in favor of the measure, was, indeed, so checkered, that it cannot even be attributed to the influence of party. It is but justice, at the same time, to those who opposed the measure, to remark, that instead of the frigates being at their destined station in July or August last, the keel of one only was laid in December; the timber for the rest being then in the forest, and the whole of the present year stated to be necessary for their completion; that, consequently, it is nearly certain now they will not be in service before the war in Europe will be over,\* and that in the mean time it has turned out as was foretold, that Portugal has felt sufficient motives to renew the blockade; so that if the frigates had been adapted to the original object they would not be required for it; more especially as it has likewise turned out, according to another anticipation, that money would alone be the agent for restoring the captive exiles to their freedom and their country.

Writings of Madison, Volume 4: 1829-1836, p.504

It may possibly be said that the frigates, though not necessary or proper for the service first contemplated, may usefully be applied to the security of our coasts, against pirates, privateers, and smugglers. This is a distinct question. The sole and avowed object of the naval armament was the protection of our trade against the Algerines. To that object the force is appropriated by the law itself. The President can apply it to no other. If any other now presents itself it may fairly be now discussed; but as it was not the object then, the measure cannot be tested by it now. If there be sufficient reasons of any sort for such a naval establishment, those who disapproved it for an impracticable and impolitic object may, with perfect consistency, allow these reasons their full weight. It is much to be questioned, however, whether any good reason could be found for going on with the whole undertaking; besides, that in general, the commencement of political measures under one pretext, and the prosecution of them under another, has always an aspect that justifies circumspection, if not suspicion.

Writings of Madison, Volume 4: 1829-1836, p.504

With respect to the new taxes, the second remaining subject, a very brief explanation will be sufficient.

Writings of Madison, Volume 4: 1829-1836, p.504

From a general view of the proceedings of Congress on this subject, it appears that the advocates for the new taxes urged them—1st On the probability of a diminution of the import for 1794, as an effect of some of the questions agitated in Congress on the amount of exports from Great Britain to the United States. 2dly. On the probability of war with Great Britain, which would still further destroy the revenue, at the same time that it would beget an immense addition to the public expenditures. On the first of these points, those who did not concur in the new taxes, at least in all of them, denied the probability of any material diminution of the import without a war. On the other point, they denied any such probability of a war as to require what was proposed; and in both these opinions they have been justified by subsequent experience. War has not taken place, nor does it appear ever to have been meditated, unless in the event of subverting the French Republic, which was never probable; whilst the revenue from the import, instead of being diminished, has very considerably exceeded any former amount.

Writings of Madison, Volume 4: 1829-1836, p.505

It will not be improper to remark, as a further elucidation of this subject— 1st. That most, if not all, who refused to concur in some of the new taxes as not justified by the occasion, actually concurred in others which were least objectionable, as an accommodating precaution against contingencies. 2d. That the objection to one of the taxes was its breach of the Constitution—an objection insuperable in its nature, and which there is reason to believe will be established by the judicial authority, if ever brought to that test; and that the objections to others were such as had always had weight with the must enlightened patriots of America. 3. That in the opinions of the most zealous patrons of new Ways and Means, the occasion, critical as they pressed it, did not ultimately justify all the taxes proposed. It appears, in particular, that a bill imposing a variety of duties, mostly in the nature of stamp duties, into which a duty on transfers of stock had been inserted as an amendment, was in the last stage defeated by those who had, in general, urged the new taxes, and this very bill itself in the earlier stage of it.

Writings of Madison, Volume 4: 1829-1836, p.505

These, with the preceding observations on a very interesting period of Congressional history, will be left to the candid judgment of the public. Such as may not before have viewed the transactions of that period through any other medium than the misrepresentations which have been circulated, will have an opportunity of doing justice to themselves as well as to others. And no doubt can be entertained, that in this, as in all other cases, it will be found that truth, however stifled or perverted for a time, will finally triumph in the detection of calumny, and in the contempt which awaits its authors.

APRIL 20, 1795.

Virginia Resolutions of 1798.

Writings of Madison, Volume 4: 1829-1836, p.506

IN THE HOUSE OF DELEGATES.

FRIDAY, December 21, 1798

Writings of Madison, Volume 4: 1829-1836, p.506

[1.] Resolved, That the General Assembly of Virginia doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States, and the Constitution of this State, against every aggression either foreign or domestic; and that they will support the Government of the United States in all measures warranted by the former.

Writings of Madison, Volume 4: 1829-1836, p.506

[2.] That this Assembly most solemnly declares a warm attachment to the Union of the States, to maintain which it pledges all its powers; and that, for this end, it is their duty to watch over and oppose every infraction of those principles which constitute the only basis of that Union, because a faithful observance of them can alone secure its existence and the public happiness.

Writings of Madison, Volume 4: 1829-1836, p.506

[3.] That this Assembly doth explicitly and peremptorily declare that it views the powers of the Federal Government as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact; as no further valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States, who are parties thereto, have the right and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them.

Writings of Madison, Volume 4: 1829-1836, p.506

[4.] That the General Assembly doth also express its deep regret, that a spirit has in sundry instances been manifested by the Federal Government to enlarge its powers by forced constructions of the constitutional charter which defines them; and that indications have appeared of a design to expound certain general phrases (which, having been copied from the very limited grant of powers in the former Articles of Confederation, were the less liable to be misconstrued) so as to destroy the meaning and effect of the particular enumeration which necessarily explains and limits the general phrases; and so as to consolidate the States, by degrees, into one sovereignty, the obvious tendency and inevitable result of which would be to transform the present republican system of the United States into an absolute, or, at best, a mixed monarchy.

Writings of Madison, Volume 4: 1829-1836, p.506

[5.] That the General Assembly doth particularly protest against the palpable and alarming infractions of the Constitution in the two late cases of the "Alien and Sedition Acts," passed at the last session of Congress; the first of which exercises a power nowhere delegated to the Federal Government, and which, by uniting legislative and judicial powers to those of [the] executive, subvert the general principles of free government, as well as the particular organization and positive provisions of the Federal Constitution; and the other of which acts exercises, in like manner, a power not delegated by the Constitution, but, on the contrary, expressly and positively forbidden by one of the amendments thereto,—a power which, more than any other, ought to produce universal alarm, because it is levelled against the right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right.

Writings of Madison, Volume 4: 1829-1836, p.507

[6.] That this State having by its Convention which ratified the Federal Constitution expressly declared that, among other essential rights, "the liberty of conscience and of the press cannot be cancelled, abridged, restrained or modified by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry or ambition, having, with other States, recommended an amendment for that purpose, which amendment was in due time annexed to the Constitution,—it would mark a reproachful inconsistency and criminal degeneracy, if an indifference were now shown to the palpable violation of one of the rights thus declared and secured, and to the establishment of a precedent which may be fatal to the other.

Writings of Madison, Volume 4: 1829-1836, p.507

[7.] That the good people of this Commonwealth, having ever felt and continuing to feel the most sincere affection for their brethren of the other States, the truest anxiety for establishing and perpetuating the union of all and the most scrupulous fidelity to that Constitution, which is the pledge of mutual friendship, and the instrument of mutual happiness, the General Assembly doth solemnly appeal to the like dispositions of the other States, in confidence that they will concur with this Commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional; and that the necessary and proper measures will be taken by each for co-operating with this State, in maintaining unimpaired the authorities, rights, and liberties reserved to the States respectively, or to the people.

Writings of Madison, Volume 4: 1829-1836, p.507

[8.] That the Governor be desired to transmit a copy of the foregoing resolutions to the Executive authority of each of the other States, with a request that the same may be communicated to the Legislature thereof; and that a copy be furnished to each of the Senators and Representatives representing this State in the Congress of the United States.

Attest: JOHN STEWART.

1798, December 24. Agreed to by the Senate.

H. BROOKE.

Writings of Madison, Volume 4: 1829-1836, p.507

A true copy from the original deposited in the office of the General Assembly.

Writings of Madison, Volume 4: 1829-1836, p.507

JOHN STEWART, Keeper of Rolls.

Virginia Resolutions of 1799.

Writings of Madison, Volume 4: 1829-1836, p.508

[IN THE HOUSE OF DELEGATES,

FRIDAY, January 4, 1799.

Resolved, That the General Assembly of Virginia will co-operate with the authorities of the United States in maintaining the independence, Union, and Constitution thereof, against the hostilities or intrigues of all foreign Powers whatsoever; and that although differences of opinion do exist in relation to internal and domestic measures, yet a charge that there is a party in this Commonwealth under the influence of any foreign Power is unfounded and calumnious.

Resolved, That the General Assembly do, and will always, behold with indignation, depredations on our commerce, insults on our citizens, impressments of our seamen, or any other injuries committed on the people or Government of the United States by foreign nations.

Resolved, Nevertheless, that our security from invasion and the force of our militia render a standing army unnecessary; that the policy of the United States forbids a war of aggression; that our whole reliance ought to be on ourselves; and, therefore, that while we will repel invasion at every hazard, we shall deplore and deprecate the evils of war for any other cause.

Resolved, That a copy of the foregoing resolutions be sent to each of the Senators and Representatives of this State in Congress.

Writings of Madison, Volume 4: 1829-1836, p.508

Attest: JOHN STEWART, C. H. D.

Writings of Madison, Volume 4: 1829-1836, p.508

1799, January 10th. Agreed to by the Senate.

Writings of Madison, Volume 4: 1829-1836, p.508

H. BROOKE, C. S.

Writings of Madison, Volume 4: 1829-1836, p.508

A true copy from the original deposited in the office oF the General Assembly.

Writings of Madison, Volume 4: 1829-1836, p.508

JOHN STEWART, Keeper of Rolls.]

Address of the General Assembly to the

People of the Commonwealth of Virginia.

Writings of Madison, Volume 4: 1829-1836, p.509

FELLOW-CITIZENS,—Unwilling to shrink from our representative responsibility, conscious of the purity of our motives, but acknowledging your right to supervise our conduct, we invite your serious attention to the emergency which dictated the subjoined resolutions. Whilst we disdain to alarm you by ill-founded jealousies, we recommend an investigation, guided by the coolness of wisdom, and a decision bottomed on firmness but tempered with moderation.

Writings of Madison, Volume 4: 1829-1836, p.509

It would be perfidious in those entrusted with the guardianship of the State sovereignty, and acting under the solemn obligation of the following oath, "I do swear that I will support the Constitution of the United States," not to warn you of encroachments, which, though clothed with the pretext of necessity, or disguised by arguments of expediency, may yet establish precedents which may ultimately devote a generous and unsuspicious people to all the consequences of usurped power.

Writings of Madison, Volume 4: 1829-1836, p.509

Encroachments springing from a government whose organization cannot be maintained without the co-operation of the States, furnish the strongest excitements upon the State Legislatures to watchfulness, and impose upon them the strongest obligation to preserve unimpaired the line of partition.

Writings of Madison, Volume 4: 1829-1836, p.509

The acquiescence of the States under infractions of the federal compact, would either beget a speedy consolidation, by precipitating the State governments into impotency and contempt; or prepare the way for a revolution, by a repetition of these infractions, until the people are roused to appear in the majesty of their strength. It is to avoid these calamities that we exhibit to the people the momentous question, whether the Constitution of the United States shall yield to a construction which defies every restraint and overwhelms the best hopes of republicanism.

Writings of Madison, Volume 4: 1829-1836, p.509

Exhortations to disregard domestic usurpation, until foreign danger shall have passed, is an artifice which may be forever used; because the possessors of power, who are the advocates for its extension, can ever create national embarrassments, to be successively employed to soothe the people into sleep, whilst that power is swelling, silently, secretly, and fatally. Of the some character are insinuations of a foreign influence, which seize upon a laudable enthusiasm against danger from abroad, and distort it by an unnatural application, so as to blind your eyes against danger at home.

Writings of Madison, Volume 4: 1829-1836, p.509

The sedition act presents a scene which was never expected by the early friends of the Constitution. It was then admitted that the State sovereignties were only diminished by powers specifically enumerated, or necessary to carry the specified powers into effect. Now, Federal authority is deduced from implication; and from the existence of State law, it is inferred that Congress possess a similar power of legislation; whence Congress will be endowed with a power of legislation in all cases whatsoever, and the States will be stripped of every right reserved, by the concurrent claims of a paramount Legislature.

Writings of Madison, Volume 4: 1829-1836, p.510

The sedition act is the offspring of these tremendous pretensions, which inflict a death-wound on the sovereignty of the States.

Writings of Madison, Volume 4: 1829-1836, p.510

For the honor of American understanding, we will not believe that the people have been allured into the adoption of the Constitution by an affectation of defining powers, whilst the preamble would admit a construction which would erect the will of Congress into a power paramount in all cases, and therefore limited in none. On the contrary, it is evident that the objects for which the Constitution was formed were deemed attainable only by a particular enumeration and specification of each power granted to the Federal Government; reserving all others to the people, or to the States. And yet it is in vain we search for any specified power embracing the fight of legislation against the freedom of the press.

Writings of Madison, Volume 4: 1829-1836, p.510

Had the States been despoiled of their sovereignty by the generality of the preamble, and had the Federal Government been endowed with whatever they should judge to be instrumental towards union, justice, tranquillity, common defence, general welfare, and the preservation of liberty, nothing could have been more frivolous than an enumeration of powers.

Writings of Madison, Volume 4: 1829-1836, p.510

It is vicious in the extreme to calumniate meritorious public servants; but it is both artful and vicious to arouse the public indignation against calumny in order to conceal usurpation. Calumny is forbidden by the laws, usurpation by the Constitution. Calumny injures individuals, usurpation, States. Calumny may be redressed by the common judicatures; usurpation can only be controlled by the act of society. Ought usurpation, which is most mischievous, to be rendered less hateful by calumny, which, though injurious, is in a degree less pernicious? But the laws for the correction of calumny were not detective. Every libellous writing or expression might receive its punishment in the State courts, from juries summoned by an officer, who does not receive his appointment from the President, and is under no influence to court the pleasure of Government, whether it injured public officers or private citizens. Nor is there any distinction in the Constitution empowering Congress exclusively to punish calumny directed against an officer of the General Government; so that a construction assuming the power of protecting the reputation of a citizen officer will extend to the case of any other citizen, and open to Congress a fight of legislation in every conceivable case which can arise between individuals.

Writings of Madison, Volume 4: 1829-1836, p.510

In answer to this, it is urged that every Government possesses an inherent power of self-preservation, entitling it to do whatever it shall judge necessary for that purpose.

Writings of Madison, Volume 4: 1829-1836, p.511

This is a repetition of the doctrine of implication and expediency in different language, and admits of a similar and decisive answer, namely, that as the powers of Congress are defined, powers inherent, implied, or expedient, are obviously the creatures of ambition; because the care expended in defining powers would otherwise have been superfluous. Powers extracted from such sources will be indefinitely multiplied by the aid of armies and patronage, which, with the impossibility of controlling them by any demarcation, would presently terminate reasoning, and ultimately swallow up the State sovereignties.

Writings of Madison, Volume 4: 1829-1836, p.511

So insatiable is a love of power that it has resorted to a distinction between the freedom and licentiousness of the press for the purpose of converting the third amendment of the Constitution, which was dictated by the most lively anxiety to preserve that freedom, into an instrument for abridging it. Thus usurpation even justifies itself by a precaution against usurpation; and thus an amendment universally designed to quiet every fear is adduced as the source of an act which has produced general terror and alarm.

Writings of Madison, Volume 4: 1829-1836, p.511

The distinction between liberty and licentiousness is still a repetition of the Protean doctrine of implication, which is ever ready to work its ends by varying its shape. By its help, the judge as to what is licentious may escape through any constitutional restriction. Under it men of a particular religious opinion might be excluded from office, because such exclusion would not amount to an establishment of religion, and because it might be said that their opinions were licentious. And under it Congress might denominate a religion to be heretical and licentious, and proceed to its suppression. Remember that precedents once established are so much positive power; and that the nation which reposes on the pillow of political confidence, will sooner or later end its political existence in a deadly lethargy. Remember, also, that it is to the press mankind are indebted for having dispelled the clouds which long encompassed religion, for disclosing her genuine lustre, and disseminating her salutary doctrines.

Writings of Madison, Volume 4: 1829-1836, p.511

The sophistry of a distinction between the liberty and the licentiousness of the press is so forcibly exposed in a late memorial from our late envoys to the Minister of the French Republic, that we here present it to you in their own words:

Writings of Madison, Volume 4: 1829-1836, p.511

"The genius of the Constitution, and the opinion of the people of the United States, cannot be overruled by those who administer the Government. Among those principles deemed sacred in America, among those sacred rights considered as forming the bulwark of their liberty, which the Government contemplates with awful reverence and would approach only with the most cautious circumspection, there is no one of which the importance is more deeply impressed on the public mind than the liberty of the press. That this liberty is often carried to excess; that it has sometimes degenerated into licentiousness, is seen and lamented, but the remedy has not yet been discovered. Perhaps it is an evil inseparable from the good with which it is allied; perhaps it is a shoot which cannot be stripped from the stalk without wounding vitally the plant from which it is torn. However desirable those measures might be which might correct without enslaving the press, they have never yet been devised in America. No regulations exist which enable the Government to suppress whatever calumnies or invectives any individual may choose to offer to the public eye, or to punish such calumnies and invectives otherwise than by a legal prosecution in courts which are alike open to all who consider themselves as injured."

Writings of Madison, Volume 4: 1829-1836, p.512

As if we were bound to look for security from the personal probity of Congress amidst the frailties of man, and not from the barriers of the Constitution, it has been urged that the accused under the sedition act is allowed to prove the truth of the charge. This argument will not for a moment disguise the unconstitutionality of the act, if it be recollected that opinions as well as facts are made punishable, and that the truth of an opinion is not susceptible of proof. By subjecting the truth of opinion to the regulation, fine, and imprisonment, to be inflicted by those who are of a different opinion, the free range of the human mind is injuriously restrained. The sacred obligations of religion flow from the due exercise of opinion, in the solemn discharge of which man is accountable to his God alone; yet, under this precedent the truth of religion itself may be ascertained, and its pretended licentiousness punished by a jury of a different creed from that held by the person accused. This law, then, commits the double sacrilege of arresting reason in her progress towards perfection, and of placing in a state of danger the free exercise of religious opinions. But where does the Constitution allow Congress to create crimes and inflict punishment, provided they allow the accused to exhibit evidence in his defence? This doctrine, united with the assertion, that sedition is a common law offence, and therefore within the correcting power of Congress, opens at once the hideous volumes of penal law, and turns loose upon us the utmost invention of insatiable malice and ambition, which, in all ages, have debauched morals, depressed liberty, shackled religion, supported despotism, and deluged the scaffold with blood.

Writings of Madison, Volume 4: 1829-1836, p.512

All the preceding arguments, arising from a deficiency of constitutional power in Congress, apply to the alien act; and this act is liable to other objections peculiar to itself. If a suspicion that aliens are dangerous constitute the justification of that power exercised over them by Congress, then a similar suspicion will justify the exercise of a similar power over natives; because there is nothing in the Constitution distinguishing between the power of a State to permit the residence of natives and of aliens. It is, therefore, a right originally possessed, and never surrendered, by the respective States, and which is rendered dear and valuable to Virginia, because it is assailed through the bosom of the Constitution, and because her peculiar situation renders the easy admission of artisans and laborers an interest of vast importance.

Writings of Madison, Volume 4: 1829-1836, p.512

But this bill contains other features, still more alarming and dangerous. It dispenses with the trial by jury; it violates the judicial system; it confounds legislative, executive, and judicial powers; it punishes without trial; and it bestows upon the President despotic power over a numerous class of men. Are such measures consistent with our constitutional principles? And will an accumulation of power so extensive in the hands of the Executive, over aliens, secure to natives the blessings of republican liberty?

Writings of Madison, Volume 4: 1829-1836, p.513

If measures can mould governments, and if an uncontrolled power of construction is surrendered to those who administer them, their progress may be easily foreseen, and their end easily foretold. A lover of monarchy, who opens the treasures of corruption by distributing emolument among devoted partisans, may at the same time be approaching his object and deluding the people with professions of republicanism. He may confound monarchy and republicanism, by the art of definition. He may varnish over the dexterity which ambition never fails to display, with the pliancy of language, the seduction of expediency, or the prejudices of the times; and he may come at length to avow, that so extensive a territory as that of the United States can only be governed by the energies of monarchy; that it cannot be defended, except by standing armies; and that it cannot be united except by consolidation.

Writings of Madison, Volume 4: 1829-1836, p.513

Measures have already been adopted which may lead to these consequences. They consist—

Writings of Madison, Volume 4: 1829-1836, p.513

In fiscal systems and arrangements, which keep a host of commercial and wealthy individuals imbodied, and obedient to the mandates of the treasury.

Writings of Madison, Volume 4: 1829-1836, p.513

In armies and navies, which will, on the one hand, enlist the tendency of man to pay homage to his fellow-creature who can feed or honor him; and on the other, employ the principle of fear, by punishing imaginary insurrections, under the pretext of preventive justice.

Writings of Madison, Volume 4: 1829-1836, p.513

In the extensive establishment of a volunteer militia, rallied together by a political creed, armed and officered by executive power, so as to deprive the States of their constitutional right to appoint militia officers, and to place the great bulk of the people in a defenceless situation.

Writings of Madison, Volume 4: 1829-1836, p.513

In swarms of officers, civil and military, who can inculcate political tenets tending to consolidation and monarchy both by indulgencies and severities; and can act as spies over the free exercise of human reason.

Writings of Madison, Volume 4: 1829-1836, p.513

In destroying, by the sedition act, the responsibility of public servants and public measures to the people, thus retrograding towards the exploded doctrine "that the administrators of the Government are the masters, and not the servants, of the people," and exposing America, which acquired the honour of taking the lead among nations towards perfecting political principles, to the disgrace of returning first to ancient ignorance and barbarism.

Writings of Madison, Volume 4: 1829-1836, p.513

In exercising a power of depriving a portion of the people of that representation in Congress bestowed by the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.513

In the adoration and efforts of some known to be rooted in enmity to Republican Government, applauding and supporting measures by every contrivance calculated to take advantage of the public confidence, which is allowed to be ingenious, but will be fatally injurious.

Writings of Madison, Volume 4: 1829-1836, p.513

In transferring to the Executive important legislative powers; particularly the power of raising armies, and borrowing money without limitation of interest.

Writings of Madison, Volume 4: 1829-1836, p.514

In restraining the freedom of the press, and investing the Executive with legislative, executive, and judicial powers, over a numerous body of men.

Writings of Madison, Volume 4: 1829-1836, p.514

And, that we may shorten the catalogue, in establishing, by successive precedents, such a mode of construing the Constitution as will rapidly remove every restraint upon Federal power.

Writings of Madison, Volume 4: 1829-1836, p.514

Let history be consulted; let the man of experience reflect: nay, let the artificers of monarchy be asked what further materials they can need for building up their favorite system.

Writings of Madison, Volume 4: 1829-1836, p.514

These are solemn but painful truths; and yet we recommend it to you not to forget the possibility of danger from without, although danger threatens us from within. Usurpation is indeed dreadful; but against foreign invasion, if that should happen, let us rise with hearts and hands united, and repel the attack with the zeal of freemen who will strengthen their title to examine and correct domestic measures, by having defended their country against foreign aggression.

Writings of Madison, Volume 4: 1829-1836, p.514

Pledged as we are, fellow-citizens, to these sacred engagements, we yet humbly and fervently implore the Almighty Disposer of events to avert from our land war and usurpation, the scourges of mankind; to permit our fields to be cultivated in peace i to instil into nations the love of friendly intercourse; to suffer our youth to be educated in virtue, and to preserve our morality from the pollution invariably incident to habits of war; to prevent the laborer and husbandman from being harassed by taxes and imposts; to remove from ambition the means of disturbing the commonwealth; to annihilate all pretexts for power afforded by war; to maintain the Constitution; and to bless our nation with tranquillity, under whose benign influence we may reach the summit of happiness and glory, to which we are destined by nature and nature's God.

Writings of Madison, Volume 4: 1829-1836, p.514

Attest: JOHN STEWART, C. H. D.

Writings of Madison, Volume 4: 1829-1836, p.514

1799, January 23d. Agreed to by the Senate.

Writings of Madison, Volume 4: 1829-1836, p.514

H. BROOKE, C. S.

Writings of Madison, Volume 4: 1829-1836, p.514

A true copy from the original deposited in the office of the General Assembly.

Writings of Madison, Volume 4: 1829-1836, p.514

JOHN STEWART, Keeper of Rolls.

Report on the Virginia Resolutions.

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HOUSE OF DELEGATES, Session of 1799-1800.

Report of the Committee to whom were referred the Communications of various States, relative to the Resolutions of the last General Assembly of this State, concerning the Alien and Sedition Laws.

Whatever room might be found in the proceedings of some of the States, who have disapproved of the resolutions of the General Assembly of this Commonwealth, passed on the 21st day of December, 1798, for painful remarks on the spirit and manner of those proceedings, it appears to the committee most consistent with the duty, as well as dignity, of the General Assembly, to hasten an oblivion of every circumstance which might be construed into a diminution of mutual respect, confidence, and affection among the members of the Union.

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The committee have deemed it a more useful task to revise, with a critical eye, the resolutions which have met with this disapprobation; to examine fully the several objections and arguments which have appeared against them; and to inquire whether there be any errors of fact, of principle, or of reasoning, which the candor of the General Assembly ought to acknowledge and correct.

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The first of the resolutions is in the words following:

"Resolved, That the General Assembly of Virginia doth unequivocally express a firm resolution to maintain and defend the Constitution of the United States and the Constitution of this State against every aggression, either foreign or domestic, and that they will support the Government of the United States in all measures warranted by the former."

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No unfavorable comment can have been made on the sentiments here expressed. To maintain and defend the Constitution of the United States, and of their own State, against every aggression, both foreign and domestic, and to support the Government of the United States in all measures warranted by their Constitution, are duties which the General Assembly ought always to feel, and to which, on such an occasion, it was evidently proper to express their sincere and firm adherence.

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In their next resolution—

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"The General Assembly most solemnly declares a warm attachment to the Union of the States, to maintain which it pledges all its powers; and that for this end it is their duty to watch over and oppose every infraction of those principles which constitute the only basis of that Union, because a faithful observance of them can alone secure its existence, and the public happiness."

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The observation just made is equally applicable to this solemn declaration of warm attachment to the Union, and this solemn pledge to maintain it; nor can any question arise among enlightened friends of the Union, as to the duty of watching over and opposing every infraction of those principles which constitute its basis, and a faithful observance of which can alone secure its existence, and the public happiness thereon depending.

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The third resolution is in the words following:

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"That this Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact—as no further valid than they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States who are parties thereto have the right and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them."

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On this resolution the committee have bestowed all the attention which its importance merits. They have scanned it not merely with a strict, but with a severe eye; and they feel confidence in pronouncing that, in its just and fair construction, it is unexceptionably true in its several positions, as well as constitutional and conclusive in its inferences.

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The resolution declares, first, that "it views the powers of the Federal Government as resulting from the compact to which the States are parties;" in other words, that the Federal powers are derived from the Constitution; and that the Constitution is a compact to which the States are parties.

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Clear as the position must seem, that the Federal powers are derived from the Constitution, and from that alone, the committee are not unapprized of a late doctrine which opens another source of Federal powers not less extensive and important than it is new and unexpected. The examination of this doctrine will be most conveniently connected with a review of a succeeding resolution. The committee satisfy themselves here with briefly remarking, that in all the contemporary discussions and comments which the Constitution underwent, it was constantly justified and recommended on the ground that the powers not given to the Government were withheld from it; and that if any doubt could have existed on this subject, under the original text of the Constitution, it is removed, as far as words could remove it, by the 12th amendment, now a part of the Constitution, which expressly declares "that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

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The other position involved in this branch of the resolution, namely, "that the States are parties to the Constitution" or compact, is, in the judgment of the committee, equally free from objection. It is indeed true that the term "States" is sometimes used in a vague sense, and sometimes in different senses, according to the subject to which it is applied. Thus, it sometimes means the separate sections of territory occupied by the political societies within each; sometimes the particular governments established by those societies; sometimes those societies as organized into those particular governments; and, lastly, it means the people composing those political societies, in their highest sovereign capacity. Although it might be wished that the perfection of language admitted less diversity in the signification of the same words, yet little inconvenience is produced by it where the true sense can be collected with certainty from the different applications. In the present instance, whatever different construction of the term "States," in the resolution, may have been entertained, all will at least concur in that last mentioned; because in that sense the Constitution was submitted to the "States;" in that sense the "States" ratified it; and in that sense of the term "States" they are consequently parties to the compact from which the powers of the Federal Government result.

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The next position is, that the General Assembly views the powers of the Federal Government "as limited by the plain sense and intention of the instrument constituting that compact," and "as no farther valid than they are authorized by the grants therein enumerated." It does not seem possible that any just objection can lie against either of these clauses. The first amounts merely to a declaration that the compact ought to have the interpretation plainly intended by the parties to it; the other, to a declaration that it ought to have the execution and effect intended by them. If the powers granted be valid, it is solely because they are granted; and if the granted powers are valid because granted, all other powers not granted must not be valid.

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The resolution having taken this view of the Federal compact, proceeds to infer "that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States who are parties thereto have the right and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them."

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It appears to your committee to be a plain principle, founded in common sense, illustrated by common practice, and essential to the nature of compacts, that where resort can be had to no tribunal superior to the authority of the parties, the parties themselves must be the rightful judges, in the last resort, whether the bargain made has been pursued or violated. The Constitution of the United States was formed by the sanction of the States, given by each in its sovereign capacity. It adds to the stability and dignity, as well as to the authority of the Constitution, that it rests on this legitimate and solid foundation. The States, then, being the parties to the constitutional compact, and in their sovereign capacity, it follows of necessity that there can be no tribunal above their authority to decide, in the last resort, whether the compact made by them be violated; and, consequently, that, as the parties to it, they must themselves decide, in the last resort, such questions as may be of sufficient magnitude to require their interposition.

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It does not follow, however, because the States, as sovereign parties to their constitutional compact, must ultimately decide whether it has been violated, that such a decision ought to be interposed either in a hasty manner or on doubtful and inferior occasions. Even in the case of ordinary conventions between different nations, where, by the strict rule of interpretation, a breach of a part may be deemed a breach of the whole—every part being deemed a Condition of every other part, and of the whole—it is always laid down that the breach must be both wilful and material to justify an application of the rule. But in the case of an intimate and constitutional union, like that of the United States, it is evident that the interposition of the parties, in their sovereign capacity, can be called for by occasions only deeply essentially affecting the vital principles of their political system.

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The resolution has, accordingly, guarded against any misapprehension of its object, by expressly requiring for such an interposition "the case of a deliberate, palpable, and dangerous breach of the Constitution by the exercise of powers not granted by it." It must be a case, not of a light and transient nature, but of a nature dangerous to the great purposes for which the Constitution was established. It must be a case, moreover, not obscure or doubtful in its construction, but plain and palpable. Lastly, it must be a case not resulting from a partial consideration or hasty determination, but a case stamped with a final consideration and deliberate adherence. It is not necessary, because the resolution does not require, that the question should be discussed, how far the exercise of any particular power, ungranted by the Constitution, would justify the interposition of the parties to it. As cases might easily be stated which none would contend ought to fall within that description, cases, on the other hand, might with equal ease be stated, so flagrant and so fatal as to unite every opinion in placing them within the description.

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But the resolution has done more than guard against misconstruction, by expressly referring to cases of a deliberate, palpable, and dangerous nature. It specifies the object of the interposition which it contemplates to be solely that of arresting the progress of the evil of usurpation, and of maintaining the authorities, fights, and liberties appertaining to the States as parties to the Constitution.

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From this view of the resolution it would seem inconceivable that it can incur any just disapprobation from those who, laying aside all momentary impressions, and recollecting the genuine source and object of the Federal Constitution, shall candidly and accurately interpret the meaning of the General Assembly. If the deliberate exercise of dangerous powers, palpably withheld by the Constitution, could not justify the parties to it in interposing even so far as to arrest the progress of the evil, and thereby to preserve the Constitution itself, as well as to provide for the safety of the parties to it, there would be an end to all relief from usurped power, and a direct subversion of the rights specified or recognised under all the State constitutions, as well as a plain denial of the fundamental principle on which our independence itself was declared.

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But it is objected that the judicial authority is to be regarded as the sole expositor of the Constitution, in the last resort; and it may be asked for what reason the declaration by the General Assembly, supposing it to be theoretically true, could be required at the present day, and in so solemn a manner.

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On this objection it might be observed, first, that them may be instances of usurped power, which the forms of the Constitution would never draw within the control of the judicial department; secondly, that if the decision of the judiciary be raised above the authority of the sovereign parties to the Constitution, the decisions of the other departments, not carried by the forms of the Constitution before the judiciary, must be equally authoritative and final with the decisions of that department. But the proper answer to the objection is, that the resolution of the General Assembly relates to those great and extraordinary cases in which all the forms of the Constitution may prove ineffectual against infractions dangerous to the essential rights of the parties to it. The resolution supposes that dangerous powers, not delegated, may not only be usurped and executed by the other departments, but that the judicial department also may exercise or sanction dangerous powers beyond the grant of the Constitution, and, consequently, that the ultimate right of the parties to the Constitution to judge whether the compact has been dangerously violated, must extend to violations by one delegated authority as well as by another; by the judiciary as well as by the executive or the legislature.

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However true, therefore, it may be that the judicial department is, in all questions submitted to it by the forms of the Constitution, to decide in the last resort, this resort must necessarily be deemed the last in relation to the authorities of the other departments of the Government; not in relation to the rights of the parties to the constitutional compact, from which the judicial as well as the other departments hold their delegated trusts. On any other hypothesis, the delegation of judicial power would annul the authority delegating it; and the concurrence of this department with the others in usurped powers might subvert forever, and beyond the possible reach of any rightful remedy, the very Constitution which all were instituted to preserve.

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The truth declared in the resolution being established, the expediency of making the declaration at the present day may safely be left to the temperate consideration and candid judgment of the American public. It will be remembered that a frequent recurrence to fundamental principles is solemnly enjoined by most of the State constitutions, and particularly by our own, as a necessary safeguard against the danger of degeneracy to which republics are liable, as well as other governments, though in a less degree than others. And a fair comparison of the political doctrines not unfrequent at the present day with those which characterized the epoch of our Revolution, and which form the basis of our republican constitutions, will best determine whether the declaratory recurrence here made to those principles ought to be viewed as unseasonable and improper, or as a vigilant discharge of an important duty. The authority of constitutions over governments, and of the sovereignty of the people over constitutions, are truths which are at all times necessary to be kept in mind, and at no time, perhaps, more necessary than at present.

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The fourth resolution stands as follows:

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"That the General Assembly doth also express its deep regret that a spirit has in sundry instances been manifested by the Federal Government to enlarge its powers by forced constructions of the constitutional charter which defines them; and that indications have appeared of a design to expound certain general phrases, (which, having been copied from the very limited grant of powers in the former Articles of Confederation, were the less liable to be misconstrued,) so as to destroy the meaning and effect of the particular enumeration which necessarily explains and limits the general phrases, and so as to consolidate the States by degrees into one sovereignty, the obvious tendency and inevitable result of which would be to transform the present republican system of the United States into an absolute, or at best a mixed, monarchy."

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The first question here to be considered is, whether a spirit has, in sundry instances, been manifested by the Federal Government to enlarge its powers by forced constructions of the constitutional charter.

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The General Assembly having declared their opinion merely by regretting, in general terms, that forced constructions for enlarging the Federal powers have taken place, it does not appear to the committee necessary to go into a specification of every instance to which the resolution may allude. The Alien and Sedition Acts being particularly named in a succeeding resolution, are of course to be understood as included in the allusion. Omitting others which have less occupied public attention, or been less extensively regarded as unconstitutional, the resolution may be presumed to refer particularly to the Bank Law, which, from the circumstances of its passage, as well as the latitude of construction on which it is founded, strikes the attention with singular force; and the Carriage Tax, distinguished also by circumstances in its history having a similar tendency. Those instances alone, if resulting from forced construction, and calculated to enlarge the powers of the Federal Government, as the committee cannot but conceive to be the case, sufficiently warrant this part of the resolution. The committee have not thought it incumbent on them to extend their attention to laws which have been objected to, rather as varying the constitutional distribution of powers in the Federal Government, than as an absolute enlargement of them; because instances of this sort, however important in their principles and tendencies, do not appear to fall strictly within the text under review.

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The other questions presenting themselves are—1. Whether indications have appeared of a design to expound certain general phrases copied from the "Articles of Confederation," so as to destroy the effect of the particular enumeration explaining and limiting their meaning. 2. Whether this exposition would by degrees consolidate the States into one sovereignty. 3. Whether the tendency and result of this consolidation would be to transform the republican system of the United States into a monarchy.

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1. The general phrases here meant, must be those "of providing for the common defence and general welfare."

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In the "Articles of Confederation," the phrases are used is follows, in Article VIII: "All charges of war, and all other expenses that shall be incurred for the common defence and general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of the common treasury, which shall be supplied by the several States in proportion to the value of all land within each State, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States, in Congress assembled, shall from time to time direct and appoint."

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In the existing Constitution they make the following part of Section 8: "The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States."

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This similarity in the use of these phrases, in the two great Federal charters, might well be considered as rendering their meaning less liable to be misconstrued in the latter; because it will scarcely be said that in the former they were ever understood to be either a general grant of power, or to authorize the requisition or application of money by the old Congress to the common defence and general welfare, except in the cases afterwards enumerated, which explained and limited their meaning; and if such was the limited meaning attached to these phrases in the very instrument revised and re-modeled by the present Constitution, it can never be supposed that, when copied into this Constitution, a different meaning ought to be attached to them.

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That, notwithstanding this remarkable security against misconstruction, a design has been indicated to expound these phrases in the Constitution so as to destroy the effect of the particular enumeration of powers by which it explains and limits them, must have fallen under the observation of those who have attended to the course of public transactions. Not to multiply proofs on this subject, it will suffice to refer to the Debates of the Federal Legislature, in which arguments have on different occasions been drawn, with apparent effect, from these phrases in their indefinite meaning.

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To these indications might be added, without looking further, the official Report on Manufactures, by the late Secretary of the Treasury, made on the 5th of December, 1791, and the Report of a Committee of Congress, in January, 1797, on the promotion of Agriculture. In the first of these it is expressly contended to belong "to the discretion of the National Legislature to pronounce upon the objects which concern the general welfare, and for which, under that description, an appropriation of money is requisite and proper." And there seems to be no room for a doubt that whatever concerns the general "interests of LEARNING, of AGRICULTURE, of MANUFACTURES, and of COMMERCE, are within the sphere of the National Councils, as far as regards an application of money." The latter Report assumes the same latitude of power in the national councils, and applies it to the encouragement of agriculture by means of a society to be established at the seat of Government. Although neither of these Reports may have received the sanction of a law carrying it into effect, yet, on the other hand, the extraordinary doctrine contained in both has passed without the slightest positive mark of disapprobation from the authority to which it was addressed.

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Now, whether the phrases in question be construed to authorize every measure relating to the common defence and general welfare, as contended by some—or every measure only in which there might be an application of money, as suggested by the caution of others—the effect must substantially be the same, in destroying the import and force of the particular enumeration of powers which follow these general phrases in the Constitution; for it is evident that there is not a single power whatever which may not have some reference to the common defence or the general welfare; nor a power of any magnitude, which, in its exercise, does not involve or admit an application of money. The government, therefore, which possesses power in either one or other of these extents, is a government without the limitations formed by a particular enumeration of powers; and, consequently, the meaning and effect of this particular enumeration is destroyed by the exposition given to these general phrases.

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This conclusion will not be affected by an attempt to qualify the power over the "general welfare," by referring it to cases where the general welfare is beyond the reach of separate provisions by the individual States, and leaving to these their jurisdictions in cases to which their separate provisions may be competent; for, as the authority of the individual States must in all cases be incompetent to general regulations operating through the whole, the authority of the United States would be extended to every object relating to the general welfare which might, by any possibility, be provided for by the general authority. This qualifying construction, therefore, would have little, if any, tendency to circumscribe the power claimed under the latitude of the terms "general welfare."

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The true and fair construction of this expression, both in the original and existing Federal compacts, appears to the committee too obvious to be mistaken. In both, the Congress is authorized to provide money for the common defence and general welfare. In both, is subjoined to this authority an enumeration of the cases to which their powers shah extend. Money cannot be applied to the general welfare, otherwise than by an application of it to some particular measure conducive to the general welfare. Whenever, therefore, money has been raised by the general authority, and is to be applied to a particular measure, a question arises whether the particular measure be within the enumerated authorities vested in Congress. If it be, the money requisite for it may be applied to it; if it be not, no such application can be made. This fair and obvious interpretation coincides with and is enforced by the clause in the Constitution which declares that "no money shall be drawn from the Treasury, but in consequence of appropriations by law." An appropriation of money to the general welfare would be deemed rather a mockery than an observance of this constitutional injunction.

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2. Whether the exposition of the general phrases here combatted would not by degrees consolidate the States into one sovereignty, is a question concerning which the committee can perceive little room for difference of opinion. To consolidate the States into one sovereignty, nothing more can be wanted than to supersede their respective sovereignties in the cases reserved to them, by extending the sovereignty of the United States to all cases of the n general welfare"—that is to say, to all cases whatever.

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3. That the obvious tendency and inevitable result of a consolidation of the States into one sovereignty, would be to transform the republican system of the United States into a monarchy, is a point which seems to have been sufficiently decided by the general sentiment of America. In almost every instance of discussion relating to the consolidation in question, its certain tendency to pave the way to monarchy seems not to have been contested. The prospect of such a consolidation has formed the only topic of controversy. It would be unnecessary, therefore, for the committee to dwell long on the reasons which support the position of the General Assembly. It may not be improper, however, to remark two consequences evidently flowing from an extension of the Federal powers to every subject falling within the idea of the "general welfare."

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One consequence must be, to enlarge the sphere of discretion allotted to the Executive Magistrate. Even within the legislative limits properly defined by the Constitution, the difficulty of accommodating legal regulations to a country so great in extent and so various in its circumstances has been much felt, and has led to occasional investments of power in the Executive, which involve perhaps as large a portion of discretion as can be deemed consistent with the nature of the Executive trust. In proportion as the objects of legislative care might be multiplied, would the time allowed for each be diminished, and the difficulty of providing uniform and particular regulations for all be increased. From these sources would necessarily ensue a greater latitude to the agency of that department which is always in existence, and which could best mould regulations of a general nature so as to suit them to the diversity of particular situations. And it is in this latitude, as a supplement to the deficiency of the laws, that the degree of Executive prerogative materially consists.

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The other consequence would be, that of an excessive augmentation of the offices, honors, and emoluments, depending on the Executive will. Add to the present legitimate stock all those of every description which a consolidation of the States would take from them and turn over to the Federal Government, and the patronage of the Executive would necessarily be as much swelled in this case as its prerogative would be in the other.

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This disproportionate increase of prerogative and patronage must, evidently, either enable the Chief Magistrate of the Union, by quiet means, to secure his re-election from time to time, and finally to regulate the succession as he might please; or, by giving so transcendent an importance to the office, would render the elections to it so violent and corrupt, that the public voice itself might call for an hereditary in place of an elective succession. Whichever of these events might follow, the transformation of the republican system of the United States into a monarchy, anticipated by the General Assembly from a consolidation of the States into one sovereignty, would be equally accomplished; and whether it would be into a mixed or an absolute monarchy might depend on too many contingencies to admit of any certain foresight.

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The resolution next in order is contained in the following terms: "That the General Assembly cloth particularly protest against the palpable and alarming infractions of the Constitution, in the two late cases of the 'Alien and Sedition Acts,' passed at the last session of Congress; the first of which exercises a power nowhere delegated to the Federal Government, and which, by uniting legislative and judicial powers to those of executive, subverts the general principles of a free Government, as well as the particular organization and positive provisions of the Federal Constitution; and the other of which acts exercises, in life manner, a power not delegated by the Constitution, but, on the contrary, expressly and positively forbidden by one of the amendments thereto; a power which, more than any other, ought to produce universal alarm; because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right."

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The subject of this resolution having, it is presumed, more particularly led the General Assembly into the proceedings which they communicated to the other States, and being in itself of peculiar importance, it deserves the most critical and faithful investigation, for the length of which no other apology will be necessary.

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The subject divides itself into—first, "The Alien Act;" secondly, "The Sedition Act."

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Of the "Alien Act," it is affirmed by the resolution—1st. That it exercises a power nowhere delegated to the Federal Government. 2d. That it unites legislative and judicial powers to those of the Executive. 3d. That this union of power subverts the general principles of free government. 4th. That it subverts the particular organization and positive provisions of the Federal Constitution.

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In order to clear the way for a correct view of the first position several observations will be premised.

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In the first place, it is to be borne in mind that it being a characteristic feature of the Federal Constitution, as it was originally ratified, and an amendment thereto having precisely declared, "That the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people;" it is incumbent in this, as in every other exercise of power by the Federal Government, to prove from the Constitution that it grants the particular power exercised.

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The next observation to be made is, that much confusion and fallacy have been thrown into the question by blending the two cases of aliens, members of a hostile nation, and aliens, members of friendly nations. These two cases are so obviously and so essentially distinct, that it occasions no little surprise that the distinction should have been disregarded; and the surprise is so much the greater, as it appears that the two cases are actually distinguished by two separate acts of Congress, passed at the same session, and comprised in the same publication; the one providing for the case of "alien enemies;" the other, "concerning aliens" indiscriminately, and, consequently, extending to aliens of every nation in peace and amity with the United States. With respect to alien enemies, no doubt has been intimated as to the Federal authority over them; the Constitution having expressly delegated to Congress the power to declare war against any nation, and, of course, to treat it and all its members as enemies. With respect to aliens who are not enemies, but members of nations in peace and amity with the United States, the power assumed by the act of Congress is denied to be constitutional; and it is, accordingly, against this act that the protest of the General Assembly is expressly and exclusively directed.

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A third observation is, that were it admitted, as is contended, that the "act concerning aliens" has for its object, not a penal, but a preventive justice, it would still remain to be proved that it comes within the constitutional power of the Federal Legislature; and, if within its power, that the Legislature has exercised it in a constitutional manner.

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In the administration of preventive justice the following principles have been held sacred: that some probable ground of suspicion be exhibited before some judicial authority; that it be supported by oath or affirmation; that the party may avoid being thrown into confinement by finding pledges or sureties for his legal conduct, sufficient in the judgment of some judicial authority; that he may have the benefit of a writ of habeas corpus, and thus obtain his release if wrongfully confined; and that he may at any time be discharged from his recognisance, or his confinement, and restored to his former liberty and rights on the order of the proper judicial authority, if it shall see sufficient cause.

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All these principles of the only preventive justice known to American jurisprudence are violated by the Alien Act. The ground of suspicion is to be judged of, not by any judicial authority, but by the Executive Magistrate alone. No oath or affirmation is required. If the suspicion be held reasonable by the President, he may order the suspected alien to depart the territory of the United States, without the opportunity of avoiding the sentence by finding pledges for his future good conduct. As the President may limit the time of departure as he pleases, the benefit of the writ of habeas corpus may be suspended with respect to the party, although the Constitution ordains that it shah not be suspended unless when the public safety may require it, in case of rebellion or invasion—neither of which existed at the passage of the act; and the party being, under the sentence of the President, either removed from the United States, or being punished by imprisonment, or disqualification ever to become a citizen, on conviction of not obeying the order of removal, he cannot be discharged from the proceedings against him, and restored to the benefits of his former situation, although the highest judicial authority should see the most sufficient cause for it.

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But, in the last place, it can never be admitted that the removal of aliens, authorized by the act, is to be considered, not as punishment for an offence, but as a measure of precaution and prevention. If the banishment of an alien from a country into which he has been invited as the asylum most auspicious to his happiness—a country where he may have formed the most tender connexions; where he may have invested his entire property, and acquired property of the real and permanent, as well as the movable and temporary kind; where he enjoys, under the laws, a greater share of the blessings of personal security, and personal liberty, than he can elsewhere hope for, and where he may have nearly completed his probationary rifle to citizenship; if, moreover, in the execution of the sentence against him, he is to be exposed, not only to the ordinary dangers of the sea, but to the peculiar casualties incident to a crisis of war and of unusual licentiousness on that element, and possibly to vindictive purposes which his emigration itself may have provoked; if a banishment of this sort be not a punishment, and among the severest of punishmentS, it will be difficult to imagine a doom to which the name can be applied. And if it be a punishment, it will remain to be inquired whether it can be constitutionally inflicted, on mere suspicion, by the single will of the Executive Magistrate, on persons convicted of no personal offence against the laws of the land, nor involved in any offence against the law of nations, charged on the foreign State of which they are members.

Writings of Madison, Volume 4: 1829-1836, p.526

One argument offered in justification of this power exercised over aliens is, that the admission of them into the country being of favor, not of right, the favor is at all times revocable.

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To this argument it might be answered, that, allowing the truth of the inference, it would be no proof of what is required. A question would still occur, whether the Constitution had vested the discretionary power of admitting aliens in the Federal Government or in the State governments.

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But it cannot be a true inference, that, because the admission of an alien is a favor, the favor may be revoked at pleasure. A grant of land to an individual may be of favor, not of right; but the moment the grant is made, the favor becomes a right, and must be forfeited before it can be taken away. To pardon a malefactor may be a favor, but the pardon is not, on that account, the less irrevocable. To admit an alien to naturalization, is as much a favor as to admit him to reside in the country; yet it cannot be pretended that a person naturalized can be deprived of the benefits any more than a native citizen can be disfranchised.

Writings of Madison, Volume 4: 1829-1836, p.527

Again, it is said, that aliens not being parties to the Constitution, the rights and privileges which it secures cannot be at all claimed by them.

Writings of Madison, Volume 4: 1829-1836, p.527

To this reasoning, also, it might be answered that, although aliens are not parties to the Constitution, it does not follow that the Constitution has vested in Congress an absolute power over them. The parties to the Constitution may have granted, or retained, or modified, the power over aliens, without regard to that particular consideration.

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But a more direct reply is, that it does not follow, because aliens are not parties to the Constitution, as citizens are parties to it, that, whilst they actually conform to it, they have no right to its protection. Aliens are not more parties to the laws than they are parties to the Constitution; yet it will not be disputed that, as they owe, on one hand, a temporary obedience, they are entitled, in return, to their protection and advantage.

Writings of Madison, Volume 4: 1829-1836, p.527

If aliens had no rights under the Constitution, they might not only be banished, but even capitally punished, without a jury or the other incidents to a fair trial. But so far has a contrary principle been carried, in every part of the United States, that, except on charges of treason, an alien has, besides all the common privileges, the special one of being tried by a jury, of which one-half may be also aliens.

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It is said further, that, by the law and practice of nations, aliens may be removed, at discretion, for offences against the law of nations; that Congress are authorized to define and punish such offences; and that to be dangerous to the peace of society is, in aliens, one of those offences.

Writings of Madison, Volume 4: 1829-1836, p.527

The distinction between alien enemies and alien friends is a clear and conclusive answer to this argument. Alien enemies are under the law of nations, and liable to be punished for offences against it. Alien friends, except in the single case of public ministers, are under the municipal law, and must be tried and punished according to that law only.

Writings of Madison, Volume 4: 1829-1836, p.527

This argument also, by referring the alien act to the power of Congress to define and punish offences against the law of nations, yields the point that the act is of a penal, not merely of a preventive operation. It must, in truth, be so considered. And if it be a penal act, the punishment it inflicts must be justified by some offence that deserves it.

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Offences for which aliens, within the jurisdiction of a country, are punishable, are—first, offences committed by the nation of which they make a part, and in whose offences they are involved; secondly, offences committed by themselves alone, without any charge against the nation to which they belong. The first is the case of alien enemies; the second, the case of alien friends. In the first case, the offending nation can no otherwise be punished than by war, one of the laws of which authorizes the expulsion of such of its members as may be found within the country against which the offence has been committed. In the second case—the offence being committed by the individual, not by his nation, and against the municipal law, not against the law of nations the individual only, and not the nation, is punishable; and the punishment must be conducted according to the municipal law, not according to the law of nations. Under this view of the subject, the act of Congress for the removal of alien enemies, being conformable to the law of nations, is justified by the Constitution; and the "act" for the removal of alien friends, being repugnant to the constitutional principles of municipal law, is unjustifiable.

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Nor is the act of Congress for the removal of alien friends more agreeable to the general practice of nations than it is within the purview of the law of nations. The general practice of nations distinguishes between alien friends and alien enemies. The latter it has proceeded against, according to the law of nations, by expelling them as enemies. The former it has considered as under a local and temporary allegiance, and entitled to a correspondent protection. If contrary instances are to be found in barbarous countries, under undefined prerogatives, or amid revolutionary dangers, they will not be deemed fit precedents for the Government of the United States, even if not beyond its constitutional authority.

Writings of Madison, Volume 4: 1829-1836, p.528

It is said that Congress may grant letters of marque and reprisal; that reprisals may be made on persons as well as property; and that the removal of aliens may be considered as the exercise, in an inferior degree, of the general power of reprisal on persons.

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Without entering minutely into a question that does not seem to require it, it may be remarked that reprisal is a seizure of foreign persons or property, with a view to obtain that justice for injuries done by one State, or its members, to another State, or its members, for which a refusal of the aggressors requires such a resort to force under the law of nations. It must be considered as an abuse of words to call the removal of persons from a country a seizure or reprisal on them; nor is the distinction to be overlooked between reprisals on persons within the country and under the faith of its laws, and on persons out of the country. But laying aside these considerations, it is evidently impossible to bring the alien act within the power of granting reprisals, since it does not allege or imply any injury received from any particular nation for which this proceeding against its members was intended as a reparation. The proceeding is authorized against aliens of every nation; of nations charged neither with any similar proceedings against American citizens, nor with any injuries for which justice might be sought in the mode prescribed by the act, Were it true, therefore, that good causes existed for reprisals against one or more foreign nations, and that neither the persons nor property of its members under the faith of our laws could plead an exemption, the operation of the act ought to have been limited to the aliens among us belonging to such nations. To license reprisals against all nations for aggressions charged on one only, would be a measure as contrary to every principle of justice and public law as to a wise policy, and the universal practice of nations.

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It is said that the right of removing aliens is an incident to the power of war vested in Congress by the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.529

This is a former argument in a new shape only, and is answered by repeating, that the removal of alien enemies is an incident to the power of war; that the removal of alien friends is not an incident to the power of war.

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It is said that Congress are, by the Constitution, to protect each State against invasion; and that the means of preventing invasion are included in the power of protection against it.

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The power of war, in general, having been before granted by the Constitution, this clause must either be a mere specification for greater caution and certainty, of which there are other examples in the instrument, or be the injunction of a duty superadded to a grant of the power. Under either explanation it cannot enlarge the powers of Congress on the subject. The power and the duty to protect each State against an invading enemy would be the same under the general power, if this regard to greater caution had been omitted.

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Invasion is an operation of war. To protect against invasion is an exercise of the power of war. A power, therefore, not incident to war cannot be incident to a particular modification of war. And as the removal of alien friends has appeared to be no incident to a general state of war, it cannot be incident to a partial state or a particular modification of war.

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Nor can it ever be granted that a power to act on a case when it actually occurs, includes a power over all the means that may tend to prevent the occurrence of the case. Such a latitude of construction would render unavailing every practical definition of particular and limited powers. Under the idea of preventing war in general, as well as invasion in particular, not only an indiscriminate removal of all aliens might be enforced, but a thousand other things still more remote from the operations and precautions appertenant to war might take place. A bigoted or tyrannical nation might threaten us with war, unless certain religious or political regulations were adopted by us i yet it never could be inferred, if the regulations which would prevent war were such as Congress had otherwise no power to make, that the power to make them would grow out of the purpose they were to answer. Congress have power to suppress insurrections, yet it would not be allowed to follow that they might employ all the means tending to prevent them, of which a system of moral instruction for the ignorant, and of provident support for the poor, might be regarded as among the most efficacious.

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One argument for the power of the General Government to remove aliens would have been passed in silence, if it had appeared under any authority inferior to that of a report made during the last session of Congress to the House of Representatives by a committee, and approved by the House. The doctrine on which this argument is founded is of so new and so extraordinary a character, and strikes so radically at the political system of America, that it is proper to state it in the very words of the report:

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"The act [concerning aliens] is said to be unconstitutional, because to remove aliens is a direct breach of the Constitution, which provides, by the 9th section of the 1st article, that the migration or importation of such persons as any of the States shall think proper to admit, shall not be prohibited by the Congress prior to the year 1808."

Writings of Madison, Volume 4: 1829-1836, p.530

Among the answers given to this objection to the constitutionality of the act, the following very remarkable one is extracted:

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"Thirdly, that as the Constitution has given to the States no power to remove aliens during the period or the limitation under consideration, in the mean time, on the construction assumed, there would be no authority in the country empowered to send away dangerous aliens, which cannot be admitted."

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The reasoning here used would not in any view be conclusive, because there are powers exercised by most other Governments, which, in the United States, are withheld by the people, both from the General Government and from the State governments. Of this sort are many of the powers prohibited by the Declarations of Right prefixed to the constitutions, or by the clauses in the constitutions in the nature of such declarations. Nay, so far is the political system of the United States distinguishable from that of other countries, by the caution with which powers are delegated and defined, that in one very important case, even of commercial regulation and revenue, the power is absolutely locked up against the hands of both Governments. A tax on exports can be laid by no constitutional authority whatever. Under a system thus peculiarly guarded there could surely be no absurdity in supposing that alien friends, who, if guilty of treasonable machinations, may be punished, or if suspected on probable grounds, may be secured by pledges or imprisonment, in like manner with permanent citizens, were never meant to be subjected to banishment by any arbitrary and unusual process, either under the one Government or the other.

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But it is not the inconclusiveness of the general reasoning in this passage which chiefly calls the attention to it. It is the principle assumed by it, that the powers held by the States are given to them by the Constitution of the United States; and the inference from this principle, that the powers supposed to be necessary which are not so given to the State governments, must reside in the Government of the United States.

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The respect which is felt for every portion of the constituted authorities forbids some of the reflections which this singular paragraph might excite; and they are the more readily suppressed, as it may be presumed, with justice perhaps as well as candor, that inadvertence may have had its share in the error. It would be an unjustifiable delicacy, nevertheless, to pass by so portentous a claim, proceeding from so high an authority, without a monitory notice of the fatal tendencies with which it would be pregnant.

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Lastly, it is said that a law on the same subject with the Alien Act, passed by this State originally in 1785, and re-enacted in 1792, is a proof that a summary removal of suspected aliens was not heretofore regarded by the Virginia Legislature as liable to the objections now urged against such a measure.

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This charge against Virginia vanishes before the simple remark, that the law of Virginia relates to "suspicious persons, being the subjects of any foreign power or State who shall have made a declaration of war, or actually commenced hostilities, or from whom the President shall apprehend hostile designs;" whereas the act of Congress relates to aliens, being the subjects of foreign powers and States who have neither declared war nor commenced hostilities, nor from whom hostile designs are apprehended.

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2. It is next affirmed of the Alien Act, that it unites legislative, judicial, and executive powers, in the hands of the President.

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However difficult it may be to mark in every case with clearness and certainty the line which divides legislative power from the other departments of power, all will agree that the powers referred to these departments may be so general and undefined as to be of a legislative, not of an executive or judicial nature, and may for that reason be unconstitutional. Details, to a certain degree, are essential to the nature and character of a law; and on criminal subjects, it is proper that details should leave as little as possible to the discretion of those who are to apply and execute the law. If nothing more were required, in exercising a legislative trust, than a general conveyance of authority—without laying down any precise rules by which the authority conveyed should be carried into effect—it would follow that the whole power of legislation might be transferred by the Legislature from itself, and proclamations might become substitutes for laws. A delegation of power in this latitude would not be denied to be a union of the different powers.

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To determine, then, whether the appropriate powers of the distinct departments are united by the act authorizing the Executive to remove aliens, it must be inquired whether it contains such details, definitions, and rules, as appertain to the true character of a law; especially a law by which personal liberty is invaded, property deprived of its value to the owner, and life itself indirectly exposed to danger.

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The Alien Act declares "that it shall be lawful for the President to order all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable ground to suspect are concerned in any treasonable or secret machinations against the Government thereof, to depart," &c.

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Could a power be given in terms less definite, less particular, and less precise? To be dangerous to the public safety—to be suspected of secret machinations against the Government; these can never be mistaken for legal rules or certain definitions. They leave everything to the President. His will is the law.

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But it is not a legislative power only that is given to the President. He is to stand in the place of the judiciary also. His suspicion is the only evidence which is to convict; his order, the only judgment which is to be executed.

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Thus it is the President whose will is to designate the offensive conduct; it is his will that is to ascertain the individuals on whom it is charged; and it is his will that is to cause the sentence to be executed. It is rightly affirmed, therefore, that the act unites legislative and judicial powers to those of the executive.

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3. It is affirmed that this union of power subverts the general principles of free government.

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It has become an axiom in the science of government, that a separation of the legislative, executive, and judicial departments is necessary to the preservation of public liberty. Nowhere has this axiom been better understood in theory, or more carefully pursued in practice, than ia the United States.

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4. It is affirmed that such a union of power subverts the particular organization and positive provisions of the Federal Constitution.

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According to the particular organization of the Constitution, its legislative powers are vested in the Congress, its executive powers in the President, and its judicial powers in a supreme and inferior tribunals. The union of any two of these powers, and still more of all three, in any one of these departments, as has been shown to be done by the Alien Act, must, consequently, subvert the constitutional organization of them.

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That positive provisions in the Constitution, securing to individuals the benefits of fair trial, are also violated by the union of powers in the Alien Act, necessarily results from the two facts that the Act relates to alien friends, and that alien friends, being under the municipal law only, are entitled to its protection.

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The second object against which the resolution protests is the Sedition Act. Of this Act it is affirmed: 1. That it exercises in like manner a power not delegated by the Constitution. 2. That the power, on the contrary, is expressly and positively forbidden by one of the amendments to the Constitution. 3. That this is a power which more than any other ought to produce universal alarm, because it is levelled against that right of freely examining public characters and measures, and of free communication thereon, which has ever been justly deemed the only effectual guardian of every other right.

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1. That it exercises a power not delegated by the Constitution.

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Here, again, it will be proper to recollect that the Federal Government being composed of powers specifically granted, with a reservation of all others to the States or to the people, the positive authority under which the Sedition Act could be passed must be produced by those who assert its constitutionality. In what part of the Constitution, then, is this authority to be found?

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Several attempts have been made to answer this question, which will be examined in their order. The committee will begin with one which has filled them with equal astonishment and apprehension, and which, they cannot but persuade themselves, must have the same effect on all who will consider it with coolness and impartiality, and with a reverence for our Constitution in the true character in which it issued from the sovereign authority of the people. The committee refer to the doctrine lately advanced, as a sanction to the Sedition Act, "that the common or unwritten law," a law of vast extent and complexity, and embracing almost every possible subject of legislation, both civil and criminal, makes a part of the law of these States, in their united and national capacity.

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The novelty, and, in the judgment of the committee, the extravagance of this pretension, would have consigned it to the silence in which they have passed by other arguments which an extraordinary zeal for the Act has drawn into the discussion; but the auspices under which this innovation presents itself have constrained the committee to bestow on it an attention which other considerations might have forbidden.

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In executing the task, it may be of use to look back to the colonial state of this country, prior to the Revolution; to trace the effect of the Revolution which converted the Colonies into independent States; to inquire into the import of the Articles of Confederation, the first instrument by which the Union of the States was regularly established; and, finally, to consult the Constitution of 1787, which is the oracle that must decide the important question.

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In the state prior to the Revolution, it is certain that the common law, under different limitations, made a part of the colonial codes. But whether it be understood that the original colonists brought the law with them, or made it their law by adoption, it is equally certain that it was the separate law of each colony within its respective limits, and was unknown to them as a law pervading and operating through the whole as one society.

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It could not possibly be otherwise. The common law was not the same in any two of the Colonies; in some the modifications were materially and extensively different. There was no common legislature by which a common will could be expressed in the form of a law; nor any common magistracy by which such a law could be carried into practice. The will of each colony, alone and separately, had its organs for these purposes.

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This stage of our political history furnishes no foothold for the patrons of this new doctrine.

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Did, then, the principle or operation of the great event which made the Colonies independent States imply or introduce the common law as a law of the Union?

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The fundamental principle of the Revolution was, that the Colonies were co-ordinate members with each other and with Great Britain, of an empire united by a common executive sovereign, but not united by any common legislative sovereign. The legislative power was maintained to be as complete in each American Parliament, as in the British Parliament. And the royal prerogative was in force in each Colony by virtue of its acknowledging the King for its executive magistrate, as it was in Great Britain by virtue of a like acknowledgment there. A denial of these principles by Great Britain, and the assertion of them by America, produced the Revolution.

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There was a time, indeed, when an exception to the legislative separation of the several component and co-equal parts of the empire obtained a degree of acquiescence. The British Parliament was allowed to regulate the trade with foreign nations, and between the different parts of the empire. This was, however, mere practice without right, and contrary to the true theory of the Constitution. The convenience of some regulations, in both cases, was apparent; and as there was no legislature with power over the whole, nor any constitutional pre-eminence among the legislatures of the several parts, it was natural for the legislature of that particular part which was the eldest and the largest to assume this function, and for the others to acquiesce in it. This tacit arrangement was the less criticised, as the regulations established by the British Parliament operated in favour of that part of the empire which seemed to bear the principal share of the public burdens, and were regarded as an indemnification of its advances for the other parts. As long as this regulating power was confined to the two objects of conveniency and equity, it was not complained of nor much inquired into. But, no sooner was it perverted to the selfish views of the party assuming it, than the injured parties began to feel and to reflect; and the moment the claim to a direct and indefinite power was ingrafted on the precedent of the regulating power, the whole charm was dissolved; and every eye opened to the usurpation. The assertion by Great Britain of a power to make laws for the other members of the empire in all cases whatsoever, ended in the discovery that she had a fight to make laws for them in no cases whatsoever.

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Such being the ground of our Revolution, no support nor colour can be drawn from it for the doctrine that the common law is binding on these States as one society. The doctrine, on the contrary, is evidently repugnant to the fundamental principle of the Revolution.

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The Articles of Confederation are the next source of information on this subject.

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In the interval between the commencement of the Revolution and the final ratification of these Articles, the nature and extent of the Union was determined by the circumstances of the crisis, rather than by any accurate delineation of the general authority. It will not be alleged that the "common law" could have had any legitimate birth as a law of the United States during that state of things. If it came as such into existence at all, the Charter of Confederation must have been its parent.

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Here again, however, its pretensions are absolutely destitute of foundation. This instrument does not contain a sentence or a syllable that can be tortured into a countenance of the idea that the parties to it were, with respect to the objects of the common law, to form one community. No such law is named, or implied, or alluded to, as being in force, or as brought into force by that compact. No provision is made by which such a law could be carried into operation; whilst, on the other hand, every such inference or pretext is absolutely precluded by Article II, which declares "that each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not by this Confederation expressly delegated to the United States in Congress assembled."

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Thus far it appears that not a vestige of this extraordinary doctrine can be found in the origin or progress of American institutions. The evidence against it has, on the contrary, grown stronger at every step, till it has amounted to a formal and positive exclusion, by written articles of compact among the parties concerned.

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Is this exclusion revoked, and the common law introduced as national law by the present Constitution of the United States? This is the final question to be examined.

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It is readily admitted that particular parts of the common law may have a sanction from the Constitution, so far as they are necessarily comprehended in the technical phrases which express the powers delegated to the Government; and so far also as such other parts may be adopted by Congress as necessary and proper for carrying into execution the powers expressly delegated. But the question does not relate to either of these portions of the common law. It relates to the common law beyond these limitations.

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The only part of the Constitution which seems to have been relied on in this case is the 2d section of Article III: "The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made under their authority."

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It has been asked, what cases, distinct from those arising under the laws and treaties of the United States, can arise under the Constitution, other than those arising under the common law? and it is inferred that the common law is accordingly adopted or recognised by the Constitution.

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Never, perhaps, was so broad a construction applied to a text so dearly unsusceptible of it. If any colour for the inference could be found, it must be in the impossibility of finding any other cases in law and equity, within the provisions of the Constitution, to satisfy the expression; and rather than resort to a construction affecting so essentially the whole character of the Government, it would perhaps be more rational to consider the expression as a mere pleo-nasm or inadvertence. But it is not necessary to decide on such a dilemma. The expression is fully satisfied and its accuracy justified by two descriptions of cases to which the judicial authority is extended, and neither of which implies that the common law is the law of the United States. One of these descriptions comprehends the cases growing out of the restrictions on the legislative power of the States. For example, it is provided that "no State shall emit bills of credit," or "make any thing but gold and silver coin a tender in payment of debts." Should this prohibition be violated, and a suit between citizens of the same State be the consequence, this would be a case arising under the Constitution before the judicial power of the United States. A second description comprehends suits between citizens and foreigners, of citizens of different States, to be decided according to the State or foreign laws, but submitted by the Constitution to the judicial power of the United States, the judicial power being in several instances extended beyond the legislative power of the United States.

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To this explanation of the text the following observations may be added:

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The expression "cases in law and equity" is manifestly confined to cases of a civil nature, and would exclude cases of criminal jurisdiction. Criminal cases in law and equity would be a language unknown to the law.

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The succeeding paragraph of the same section is in harmony with this construction. It is in these words: "In all cases affecting ambassadors, or other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases (including cases of law and equity arising under the Constitution) the Supreme Court shall have appellate jurisdiction both as to law and fact; with such exceptions and under such regulations as Congress shall make."

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This paragraph, by expressly giving an appellate jurisdiction in cases of law and equity arising under the Constitution, to fact as well as to law, clearly excludes criminal cases where the trial by jury is secured, because the fact in such cases is not a subject of appeal. And, although the appeal is liable to such exceptions and regulations as Congress may adopt, yet it is not to be supposed that an exception of all criminal cases could be contemplated, as well because a discretion in Congress to make or omit the exception would be improper, as because it would have been unnecessary. The exception could as easily have been made by the Constitution itself, as referred to the Congress.

Writings of Madison, Volume 4: 1829-1836, p.536

Once more: the amendment last added to the Constitution deserves attention as throwing light on this subject. "The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign power." As it will not be pretended that any criminal proceeding could take place against a State, the terms law or equity must be understood as appropriate to civil in exclusion of criminal cases.

Writings of Madison, Volume 4: 1829-1836, p.536

From these considerations it is evident that this part of the Constitution, even if it could be applied at all to the purpose for which it has been cited, would not include any cases whatever of a criminal nature, and consequently would not authorize the inference from it that the judicial authority extends to offences against the common law as offences arising under the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.537

It is further to be considered that, even if this part of the Constitution could be strained into an application to every common-law case, criminal as well as civil, it could have no effect in justifying the Sedition Act; which is an exercise of legislative and not of judicial power: and it is the judicial power only of which the extent is defined in this part of the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.537

There are two passages in the Constitution in which a description of the law of the United States is found. The first is contained in Article III, Section 2, in the words following: "This Constitution, the laws of the United States, and treaties made or which shall be made under their authority." The second is contained in the second paragraph of Article VI, as follows: "This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land." The first of these descriptions was meant as a guide to the judges of the United States; the second, as a guide to the judges of the several States. Both of them consist of an enumeration which was evidently meant to be precise and complete. If the common law had been understood to be a law of the United States, it is not possible to assign a satisfactory reason why it was not expressed in the enumeration.

Writings of Madison, Volume 4: 1829-1836, p.537

In aid of these objections the difficulties and confusion inseparable from a constructive introduction of the common law would afford powerful reasons against it.

Writings of Madison, Volume 4: 1829-1836, p.537

Is it to be the common law with or without the British statutes?

Writings of Madison, Volume 4: 1829-1836, p.537

If without the statutory amendments, the vices of the code would be insupportable.

Writings of Madison, Volume 4: 1829-1836, p.537

If with these amendments, what period is to be fixed for limiting the British authority over our laws?

Writings of Madison, Volume 4: 1829-1836, p.537

Is it to be the date of the eldest or the youngest of the Colonies? Or are the dates to be thrown together and a medium deduced? Or is our independence to be taken for the date?

Writings of Madison, Volume 4: 1829-1836, p.537

Is, again, regard to be had to the various changes in the common law made by the local codes of America?

Writings of Madison, Volume 4: 1829-1836, p.537

Is regard to be had to such changes, subsequent as well as prior to the establishment of the Constitution?

Writings of Madison, Volume 4: 1829-1836, p.537

Is regard to be had to future as well as past changes?

Writings of Madison, Volume 4: 1829-1836, p.537

Is the law to be different in every State as differently modified by its code, or are the modifications of any particular State to be applied to all?

Writings of Madison, Volume 4: 1829-1836, p.537

And, on the latter supposition, which, among the State codes, would form the standard?

Writings of Madison, Volume 4: 1829-1836, p.538

Questions of this sort might be multiplied with as much ease as there would be difficulty in answering them.

Writings of Madison, Volume 4: 1829-1836, p.538

The consequences flowing from the proposed construction furnish other objections equally conclusive, unless the text were peremptory in its meaning and consistent with other parts of the instrument.

Writings of Madison, Volume 4: 1829-1836, p.538

These consequences may be in relation to the legislative authority of the United States; to the executive authority; to the judicial authority; and to the governments of the several States.

Writings of Madison, Volume 4: 1829-1836, p.538

If it be understood that the common law is established by the Constitution, it follows that no part of the law can be altered by the Legislature; such of the statutes already passed as may be repugnant thereto would be nullified, particularly the Sedition Act itself, which boasts of being a melioration of the common law; and the whole code, with all its incongruities, barbarisms, and bloody maxims, would be inviolably saddled on the good people of the United States.

Writings of Madison, Volume 4: 1829-1836, p.538

Should this consequence be rejected and the common law be held, like other laws, liable to revision and alteration by the authority of Congress, it then follows that the authority of Congress is co-extensive with the objects of common law—that is to say, with every object of legislation; for to every such object does some branch or other of the common law extend. The authority of Congress would therefore be no longer under the limitations marked out in the Constitution. They would be authorized to legislate in all cases whatsoever.

Writings of Madison, Volume 4: 1829-1836, p.538

In the next place, as the President possesses the executive powers of the Constitution, and is to see that the laws be faithfully executed, his authority also must be co-extensive with every branch of the common law. The additions which this would make to his power, though not readily to be estimated, claim the most serious attention.

Writings of Madison, Volume 4: 1829-1836, p.538

This is not all; it will merit the most profound consideration, how far an indefinite admission of the common law, with a latitude in construing it, equal to the construction by which it is deduced from the Constitution, might draw after it the various prerogatives making part of the unwritten law of England. The English Constitution itself is nothing more than a composition of unwritten laws and maxims.

Writings of Madison, Volume 4: 1829-1836, p.538

In the third place, whether the common law be admitted as of legal or of constitutional obligation, it would confer on the judicial department a discretion little short of a legislative power.

Writings of Madison, Volume 4: 1829-1836, p.538

On the supposition of its having a constitutional obligation, this power in the judges would be permanent and irremediable by the Legislature. On the other supposition the power would not expire until the Legislature should have introduced a full system of statutory provisions. Let it be observed, too, that besides all the uncertainties above enumerated, and which present an immense field for judicial discretion, it would remain with the same department to decide what parts of the common law would, and what would not, be properly applicable to the circumstances of the United States.

Writings of Madison, Volume 4: 1829-1836, p.539

A discretion of this sort has always been lamented as incongruous and dangerous, even in the Colonial and State courts, although so much narrowed by positive provisions in the local codes on all the principal subjects embraced by the common law. Under the United States, where so few laws exist on those subjects, and where so great a lapse of time must happen before the vast chasm could be supplied, it is manifest that the power of the judges over the law would, in fact, erect them into legislators, and that for a long time it would be impossible for the citizens to conjecture, either what was or would be law.

Writings of Madison, Volume 4: 1829-1836, p.539

In the last place, the consequence of admitting the common law as the law of the United States, on the authority of the individual States, is as obvious as it would be fatal. As this law relates to every subject of legislation, and would be paramount to the Constitutions and laws of the States, the admission of it would overwhelm the residuary sovereignty of the States, and by one constructive operation new model the whole political fabric of the country.

Writings of Madison, Volume 4: 1829-1836, p.539

From the review thus taken of the situation of the American colonies prior to their independence; of the effect of this event on their situation; of the nature and import of the Articles of Confederation; of the true meaning of the passage in the existing Constitution from which the common law has been deduced; of the difficulties and uncertainties incident to the doctrine; and of its vast consequences in extending the powers of the Federal Government, and in superseding the authorities of the State governments—the committee feel the utmost confidence in concluding that the common law never was, nor by any fair construction ever can be, deemed a law for the American people as one community; and they indulge the strongest expectation that the same conclusion will finally be drawn by all candid and accurate inquirers into the subject. It is, indeed, distressing to reflect that it ever should have been made a question, whether the Constitution, on the whole face of which is seen so much labor to enumerate and define the several objects of Federal power, could intend to introduce in the lump, in an indirect manner, and by a forced construction of a few phrases, the vast and multifarious jurisdiction involved in the common law—a law filling so many ample volumes; a law overspread-ing the entire field of legislation; and a law that would sap the foundation of the Constitution as a system of limited and specified powers. A severer reproach could not, in the opinion of the committee, be thrown on the Constitution, on those who framed or on those who established it, than such a supposition would throw on them.

Writings of Madison, Volume 4: 1829-1836, p.539

The argument, then, drawn from the common law, on the ground of its being adopted or recognised by the Constitution, being inapplicable to the Sedition Act, the committee will proceed to examine the other arguments which have been founded on the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.539

They will waste but little time on the attempt to cover the act by the preamble to the Constitution, it being contrary to every acknowledged rule of construction to set up this part of an instrument in opposition to the plain meaning expressed in the body of the instrument. A preamble usually contains the general motives or reasons for the particular regulations or measures which follow it, and is always understood to be explained and limited by them. In the present instance, a contrary interpretation would have the inadmissible effect of rendering nugatory or improper every part of the Constitution which succeeds the preamble.

Writings of Madison, Volume 4: 1829-1836, p.540

The paragraph in Article I, Section 8, which contains the power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare, having been already examined, will also require no particular attention in this place. It will have been seen that, in its fair and consistent meaning, it cannot enlarge the enumerated powers vested in Congress.

Writings of Madison, Volume 4: 1829-1836, p.540

The part of the Constitution which seems most to be recurred to, in the defence of the Sedition Act, is the last clause of the above section, empowering Congress "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

Writings of Madison, Volume 4: 1829-1836, p.540

The plain import of this clause is, that Congress shall have all the incidental or instrumental powers necessary and proper for carrying into execution all the express powers, whether they be vested in the Government of the United States, more collectively, or in the several departments or officers thereof.

Writings of Madison, Volume 4: 1829-1836, p.540

It is not a grant of new powers to Congress, but merely a declaration, for the removal of all uncertainty, that the means of carrying into execution those otherwise granted are included in the grant.

Writings of Madison, Volume 4: 1829-1836, p.540

Whenever, therefore, a question arises concerning the constitutionality of a particular power, the first question is, whether the power be expressed in the Constitution. If it be, the question is decided. If it be not expressed, the next inquiry must be, whether it is properly an incident to an express power, and necessary to its execution. If it be, it may be exercised by Congress. If it be not, Congress cannot exercise it.

Writings of Madison, Volume 4: 1829-1836, p.540

Let the question be asked, then, whether the power over the press exercised in the Sedition Act be found among the powers expressly vested in the Congress. This is not pretended.

Writings of Madison, Volume 4: 1829-1836, p.540

Is them any express power, for executing which it is a necessary and proper power?

Writings of Madison, Volume 4: 1829-1836, p.540

The power which has been selected, as least remote, in answer to this question, is that "of suppressing insurrections;" which is said to imply a power to prevent insurrections, by punishing whatever may lead or tend to them. But it surely cannot, with the least plausibility, be said, that the regulation of the press, and a punishment of libels, are exercises of a power to suppress insurrections. The most that could be said would be that the punishment of libels, if it had the tendency ascribed to it, might prevent the occasion of passing or executing laws necessary and proper for the suppression of insurrections.

Writings of Madison, Volume 4: 1829-1836, p.541

Has the Federal Government no power, then, to prevent as well as to punish resistence to the laws?

Writings of Madison, Volume 4: 1829-1836, p.541

They have the power, which the Constitution deemed most proper, in their hands for the purpose. The Congress has power, before it happens, to pass-laws for punishing it; and the executive and judiciary have power to enforce those laws when it does happen.

Writings of Madison, Volume 4: 1829-1836, p.541

It must be recollected by many, and could be shown to the satisfaction of all, that the construction here put on the terms "necessary and proper" is precisely the construction which prevailed during the discussions and ratifications of the Constitution. It may be added, and cannot too often be repeated, that it is a construction absolutely necessary to maintain their consistency with the peculiar character of the Government, as possessed of particular and definite powers only, not of the general and indefinite powers vested in ordinary Governments; for if the power to suppress insurrections includes a power to punish libels, or if the power to punish includes a power to prevent, by all the means that may have that tendency, such is the relation and influence among the most remote subjects of legislation, that a power over a very few would carry with it a power over all. And it must be wholly immaterial whether unlimited powers be exercised under the name of unlimited powers, or be exercised under the name of unlimited means of carrying into execution limited powers.

Writings of Madison, Volume 4: 1829-1836, p.541

This branch of the subject will be closed with a reflection which must have weight with all, but more especially with those who place peculiar reliance on the judicial exposition of the Constitution as the bulwark provided against undue extensions of the legislative power. If it be understood that the powers implied in the specified powers have an immediate and appropriate relation to them, as means necessary and proper for carrying them into execution, questions on the constitutionality of laws passed for this purpose will be of a nature sufficiently precise and determinate for judicial cognizance and control. If, on the other hand, Congress are not limited in the choice of means by any such appropriate relation of them to the specified powers; but may employ all such means as they may deem fitted to prevent as well as to punish crimes subjected to their authority; such as may have a tendency only to promote an object for which they are authorized to provide; every one must perceive that questions relating to means of this sort must be questions for mere policy and expediency, on which legislative discretion alone can decide, and from which the judicial interposition and control are completely excluded.

Writings of Madison, Volume 4: 1829-1836, p.541

II. The next point which the resolution requires to be proved is, that the power over the press exercised by the Sedition Act is positively forbidden by one of the amendments to the Constitution.

Writings of Madison, Volume 4: 1829-1836, p.542

The amendment stands in these words: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances."

Writings of Madison, Volume 4: 1829-1836, p.542

In the attempts to vindicate the Sedition Act it has been contended—1. That the "freedom of the press" is to be determined by the meaning of these terms in the common law. 2. That the article supposes the power over the press to be in Congress, and prohibits them only from abridging the freedom allowed to it by the common law.

Writings of Madison, Volume 4: 1829-1836, p.542

Although it will be shown, on examining the second of these positions, that the amendment is a denial to Congress of all power over the press, it may not be useless to make the following observations on the first of them:

Writings of Madison, Volume 4: 1829-1836, p.542

It is deemed to be a sound opinion that the Sedition Act, in its definition of some of the crimes created, is an abridgment of the freedom of publication, recognised by principles of the common law in England.

Writings of Madison, Volume 4: 1829-1836, p.542

The freedom of the press under the common law is, in the defences of the Sedition Act, made to consist in an exemption from all previous restraint on printed publications by persons authorized to inspect and prohibit them. It appears to the committee that this idea of the freedom of the press can never be admitted to be the American idea of it; since a law inflicting penalties on printed publications would have a similar effect with a law authorizing a previous restraint on them. It would seem a mockery to say that no laws should be passed preventing publications from being made, but that laws might be passed for punishing them in case they should be made.

Writings of Madison, Volume 4: 1829-1836, p.542

The essential difference between the British Government and the American Constitutions will place this subject in the clearest light.

Writings of Madison, Volume 4: 1829-1836, p.542

In the British Government the danger of encroachments on the rights of the people is understood to be confined to the executive magistrate. The representatives of the people in the Legislature are not only exempt themselves from distrust, but are considered as sufficient guardians of the rights of their constituents against the danger from the Executive. Hence it is a principle, that the Parliament is unlimited in its power; or, in their own language, is omnipotent. Hence, too, all the ramparts for protecting the rights of the people— such as their Magna Charta, their Bill of Rights, &c.—are not reared against the Parliament, but against the royal prerogative. They are merely legislative precautions against executive usurpations. Under such a government as this, an exemption of the press from previous restraint, by licensers appointed by the King, is all the freedom that can be secured to it.

Writings of Madison, Volume 4: 1829-1836, p.542

In the United States the case is altogether different. The People, not the Government, possess the absolute sovereignty. The Legislature, no less than the Executive, is under limitations of power. Encroachments are regarded as possible from the one as well as from the other. Hence, in the United States the great and essential rights of the people are secured against legislative as well as against executive ambition. They are secured, not by laws paramount to prerogative, but by constitutions paramount to laws. This security of the freedom of the press requires that it should be exempt not only from previous restraint by the Executive, as in Great Britain, but from legislative restraint also; and this exemption, to be effectual, must be an exemption not only from the previous inspection of licensers, but from the subsequent penalty of laws.

Writings of Madison, Volume 4: 1829-1836, p.543

The state of the press, therefore, under the common law, cannot, in this point of view, be the standard of its freedom in the United States.

Writings of Madison, Volume 4: 1829-1836, p.543

But there is another view under which it may be necessary to consider this subject It may be alleged that although the security for the freedom of the press be different in Great Britain and in this country, being a legal security only in the former, and a constitutional security in the latter; and although there may be a further difference, in an extension of the freedom of the press, here, beyond an exemption from previous restraint, to an exemption from subsequent penalties also; yet that the actual legal freedom of the press, under the common law, must determine the degree of freedom which is meant by tho terms, and which is constitutionally secured against both previous and subsequent restraints.

Writings of Madison, Volume 4: 1829-1836, p.543

The committee are not unaware of the difficulty of all general questions which may turn on the proper boundary between the liberty and licentiousness of the press. They will leave it, therefore, for consideration only how far the difference between the nature of the British Government and the nature of the American Governments, and the practice under the latter, may show the degree of rigor in the former to be inapplicable to and not obligatory in the latter.

Writings of Madison, Volume 4: 1829-1836, p.543

The nature of governments elective, limited, and responsible in all their branches, may well be supposed to require a greater freedom of animadversion than might be tolerated by the genius of such a government as that of Great Britain. In the latter it is a maxim that the King, an hereditary, not a responsible magistrate, can do no wrong, and that the Legislature, which in two-thirds of its composition is also hereditary, not responsible, can do what it pleases.

Writings of Madison, Volume 4: 1829-1836, p.543

In the United States the executive magistrates are not held to be infallible, nor the Legislatures to be omnipotent; and both being elective, are both responsible. Is it not natural and necessary, under such different circumstances, that a different degree of freedom in the use of the press should be contemplated?

Writings of Madison, Volume 4: 1829-1836, p.543

Is not such an inference favoured by what is observable in Great Britain itself? Notwithstanding the general doctrine of the common law on the subject of the press, and the occasional punishment of those who use it with a freedom offensive to the Government, it is well known that with respect to the responsible members of the Government, where the reasons operating here become applicable there, the freedom exercised by the press and protected by public opinion far exceeds the limits prescribed by the ordinary rules of law. The ministry, who are responsible to impeachment, are at all times animad-verted on by the press with peculiar freedom, and during the elections for the House of Commons, the other responsible pan of the Government, the press is employed with as little reserve towards the candidates.

Writings of Madison, Volume 4: 1829-1836, p.544

The practice in America must be entitled to much more respect. In every State, probably, in the Union, the press has exerted a freedom in canvassing the merits and measures of public men of every description which has not been confined to the strict limits of the common law. On this footing the freedom of the press has stood; on this footing it yet stands. And it will not be a breach either of truth or of candour to say, that no persons or presses are in the habit of more unrestrained animadversions on the proceedings and functionaries of the State governments than the persons and presses most zealous in vindicating the act of Congress for punishing similar animadversions on the Government of the United States.

Writings of Madison, Volume 4: 1829-1836, p.544

The last remark will not be understood as claiming for the State governments an immunity greater than they have heretofore enjoyed. Some degree of abuse is inseparable from the proper use of every thing, and in no instance is this more true than in that of the press. It has accordingly been decided by the practice of the States, that it is better to leave a few of its noxious branches to their luxuriant growth, than, by pruning them away, to injure the vigour of those yielding the proper fruits. And can the wisdom of this policy be doubted by any who reflect that to the press alone, chequered as it is with abuses, the world is indebted for all the triumphs which have been gained by reason and humanity over error and oppression; who reflect that to the same beneficent source the United States owe much of the lights which conducted them to the ranks of a free and independent nation, and which have improved their political system into a shape so auspicious to their happiness? Had "Sedition Acts," forbidding every publication that might bring the constituted agents into contempt or disrepute, or that might excite the hatred of the people against the authors of unjust or pernicious measures, been uniformly enforced against the press, might not the United States have been languishing at this day under the infirmities of a sickly Confederation? Might they not, possibly, be miserable colonies, groaning under a foreign yoke?

Writings of Madison, Volume 4: 1829-1836, p.544

To these observations one fact will be added, which demonstrates that the common law cannot be admitted as the universal expositor of American terms, which may be the same with those contained in that law. The freedom of conscience and of religion are found in the same instruments which assert the freedom of the press. It will never be admitted that the meaning of the former, in the common law of England, is to limit their meaning in the United States.

Writings of Madison, Volume 4: 1829-1836, p.544

Whatever weight may be allowed to these considerations, the committee do not, however, by any means intend to rest the question on them. They contend that the article of amendment, instead of supposing in Congress a power that might be exercised over the press, provided its freedom was not abridged, was meant as a positive denial to Congress of any power whatever on the subject.

Writings of Madison, Volume 4: 1829-1836, p.545

To demonstrate that this was the true object of the article, it will be sufficient to recall the circumstances which led to it, and to refer to the explanation accompanying the article.

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When the Constitution was under the discussions which preceded its ratification, it is well known that great apprehensions were expressed by many, lest the omission of some positive exception, from the powers delegated, of certain rights, and of the freedom of the press particularly, might expose them to the danger of being drawn, by construction, within some of the powers vested in Congress, more especially of the power to make all laws necessary and proper for carrying their other powers into execution. In reply to this objection, it was invariably urged to be a fundamental and characteristic principle of the Constitution, that all powers not given by it were reserved; that no powers were given beyond those enumerated in the Constitution, and such as were fairly incident to them; that the power over the rights in question, and particularly over the press, was neither among the enumerated powers, nor incident to any of them; and consequently that an exercise of any such power would be manifest usurpation. It is painful to remark how much the arguments now employed in behalf of the Sedition Act are at variance with the reasoning which then justified the Constitution, and invited its ratification.

Writings of Madison, Volume 4: 1829-1836, p.545

From this posture of the subject resulted the interesting question, in so many of the Conventions, whether the doubts and dangers ascribed to the Constitution should be removed by any amendments previous to the ratification, or be postponed in confidence that, as far as they might be proper, they would be introduced in the form provided by the Constitution. The latter course was adopted; and in most of the States, ratifications were followed by propositions and instructions for rendering the Constitution more explicit, and more safe to the rights not meant to be delegated by it. Among those rights, the freedom of the press, in most instances, is particularly and emphatically mentioned. The firm and very pointed manner in which it is asserted in the proceedings of the Convention of this State will be hereafter seen.

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In pursuance of the wishes thus expressed, the first Congress that assembled under the Constitution proposed certain amendments, which have since, by the necessary ratifications, been made a part of it; among which amendments is the article containing, among other prohibitions on the Congress, an express declaration that they should make no law abridging the freedom of the press.

Writings of Madison, Volume 4: 1829-1836, p.545

Without tracing farther the evidence on this subject, it would seem scarcely possible to doubt that no power whatever over the press was supposed to be delegated by the Constitution, as it originally stood, and that the amendment was intended as a positive and absolute reservation of it.

Writings of Madison, Volume 4: 1829-1836, p.546

But the evidence is still stronger. The proposition of amendments made by Congress is introduced in the following terms:

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"The Conventions of a number of the States having, at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstructions or abuse of its powers, that further declaratory and restrictive clauses should be added; and as extending the ground of public confidence in the Government will best insure the beneficent ends of its institution."

Writings of Madison, Volume 4: 1829-1836, p.546

Here is the most satisfactory and authentic proof that the several amendments proposed were to be considered as either declaratory or restrictive, and, whether the one or the other, as corresponding with the desire expressed by a number of the States, and as extending the ground of public confidence in the Government.

Writings of Madison, Volume 4: 1829-1836, p.546

Under any other construction of the amendment relating to the press, than that it declared the press to be wholly exempt from the power of Congress, the amendment could neither be said to correspond with the desire expressed by a number of the States, nor be calculated to extend the ground of public confidence in the Government.

Writings of Madison, Volume 4: 1829-1836, p.546

Nay, more; the construction employed to justify the Sedition Act would exhibit a phenomenon without a parallel in the political world. It would exhibit a number of respectable States, as denying, first, that any power over the press was delegated by the Constitution; as proposing, next, that an amendment to it should explicitly declare that no such power was delegated; and, finally, as concurring in an amendment actually recognising or delegating such a power.

Writings of Madison, Volume 4: 1829-1836, p.546

Is, then, the Federal Government, it will be asked, destitute of every authority for restraining the licentiousness of the press, and for shielding itself against the libellous attacks which may be made on those who administer it?

Writings of Madison, Volume 4: 1829-1836, p.546

The Constitution alone can answer this question. If no such power be expressly delegated, and if it be not both necessary and proper to carry into execution an express power—above all, if it be expressly forbidden, by a declaratory amendment to the Constitution the answer must be, that the Federal Government is destitute of all such authority.

Writings of Madison, Volume 4: 1829-1836, p.546

And might it not be asked, in turn, whether it is not more probable, under all the circumstances which have been reviewed, that the authority should be withheld by the Constitution, than that it should be left to a vague and violent construction, whilst so much pains were bestowed in enumerating other powers, and so many less important powers are included in the enumeration?

Writings of Madison, Volume 4: 1829-1836, p.546

Might it not be likewise asked, whether the anxious circumspection which dictated so many peculiar limitations on the general authority would be unlikely to exempt the press altogether from that authority? The peculiar magnitude of some of the powers necessarily committed to the Federal Government; the peculiar duration required for the functions of some of its departments; the peculiar distance of the seat of its proceedings from the great body of its constituents; and the peculiar difficulty of circulating an adequate knowledge of them through any other channel; will not these considerations, some or other of which produced other exceptions from the powers of ordinary governments, all together, account for the policy of binding the hand of the Federal Government from touching the channel which alone can give efficacy to its responsibility to its constituents, and of leaving those who administer it to a remedy, for their injured reputations, under the same laws, and in the same tribunals, which protect their lives, their liberties, and their properties?

Writings of Madison, Volume 4: 1829-1836, p.547

But the question does not turn either on the wisdom of the Constitution or on the policy which gave rise to its particular organization. it turns on the actual meaning of the instrument, by which it has appeared that a power over the press is clearly excluded from the number of powers delegated to the Federal Government.

Writings of Madison, Volume 4: 1829-1836, p.547

III. And, in the opinion of the committee, well may it be said, as the resolution concludes with saying, that the unconstitutional power exercised over the press by the Sedition Act ought, "more than any other, to produce universal alarm; because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right."

Writings of Madison, Volume 4: 1829-1836, p.547

Without scrutinizing minutely into all the provisions of the Sedition Act, it will be sufficient to cite so much of section 2d as follows: "And be it further enacted, that if any person shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or shall knowingly and willingly assist or aid in writing, printing, uttering, or publishing, any false, scandalous, and malicious writing or writings against the Government of the United States, or either house of the Congress of the United States, or the President of the United States, with an intent to defame the said Government or either house of the said Congress, or the President, or to bring them or either of them into contempt or disrepute, or to excite against them, or either or any of them, the hatred of the good people of the United States, &c.— then such person, being thereof convicted before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years."

Writings of Madison, Volume 4: 1829-1836, p.547

On this part of the act, the following observations present themselves:

Writings of Madison, Volume 4: 1829-1836, p.547

1. The Constitution supposes that the President, the Congress, and each of its Houses, may not discharge their trusts, either from defect of judgment or other causes. Hence they are all made responsible to their constituents, at the returning periods of election; and the President, who is singly intrusted with very great powers, is, as a further guard, subjected to an intermediate impeachment.

Writings of Madison, Volume 4: 1829-1836, p.548

2. Should it happen, as the Constitution supposes it may happen, that either of these branches of the Government may not have duly discharged its trust; it is natural and proper, that, according to the cause and degree of their faults, they should be brought into contempt or disrepute, and incur the hatred of the people.

Writings of Madison, Volume 4: 1829-1836, p.548

3. Whether it has, in any case, happened that the proceedings of either or all of those branches evince such a violation of duty as to justify a contempt, a disrepute, or hatred among the people, can only be determined by a free examination thereof, and a free communication among the people thereon.

Writings of Madison, Volume 4: 1829-1836, p.548

4. Whenever it may have actually happened that proceedings of this sort are chargeable on all or either of the branches of the Government, it is the duty, as well as right, of intelligent and faithful citizens to discuss and pro-mulge them freely, as well to control them by the censorship of the public opinion, as to promote a remedy according to the rules of the Constitution. And it cannot be avoided that those who are to apply the remedy must feel, in some degree, a contempt or hatred against the transgressing party.

Writings of Madison, Volume 4: 1829-1836, p.548

5. As the act was passed on July 14, 1798, and is to be in force until March 3, 1801, it was of course that, during its continuance, two elections of the entire House of Representatives, an election of a part of the Senate, and an election of a President, were to take place.

Writings of Madison, Volume 4: 1829-1836, p.548

6. That, consequently, during all these elections, intended by the Constitution to preserve the purity or to purge the faults of the Administration, the great remedial rights of the people were to be exercised, and the responsibility of their public agents to be screened, under the penalties of this act.

Writings of Madison, Volume 4: 1829-1836, p.548

May it not be asked of every intelligent friend to the liberties of his country, whether the power exercised in such an act as this ought not to produce great and universal alarm? Whether a rigid execution of such an act, in time past, would not have repressed that information and communication among the people which is indispensable to the just exercise of their electoral rights? And whether such an act, if made perpetual, and enforced with rigor, would not, in time to come, either destroy our free system of government, or prepare a convulsion that might prove equally fatal to it?

Writings of Madison, Volume 4: 1829-1836, p.548

In answer to such questions, it has been pleaded that the writings and publications forbidden by the act are those only which are false and malicious, and intended to defame; and merit is claimed for the privilege allowed to authors to justify, by proving the truth of their publications, and for the limitations to which the sentence of fine and imprisonment is subjected.

Writings of Madison, Volume 4: 1829-1836, p.548

To those who concurred in the act, under the extraordinary belief that the option lay between the passing of such an act and leaving in force the common law of libels, which punishes truth equally with falsehood, and submits the fine and imprisonment to the indefinite discretion of the court, the merit of good intentions ought surely not to be refused. A like merit may perhaps be due for the discontinuance of the corporal punishment, which the common law also leaves to the discretion of the court. This merit of intention, however, would have been greater, if the several mitigations had not been limited to so short a period; and the apparent inconsistency would have been avoided, between justifying the act, at one time, by contrasting it with the rigors of the common law otherwise in force; and at another time, by appealing to the nature of the crisis, as requiring the temporary rigor exerted by the act.

Writings of Madison, Volume 4: 1829-1836, p.549

But, whatever may have been the meritorious intentions of all or any who contributed to the Sedition Act, a very few reflections will prove that its baleful tendency is little diminished by the privilege of giving in evidence the truth of the matter contained in political writings.

Writings of Madison, Volume 4: 1829-1836, p.549

In the first place, where simple and naked facts alone are in question, there is sufficient difficulty in some cases, and sufficient trouble and vexation in all, of meeting a prosecution from the Government with the full and formal proof necessary in a court of law.

Writings of Madison, Volume 4: 1829-1836, p.549

But in the next place, it must be obvious to the plainest minds, that opinions and inferences, and conjectural observations, are not only in many cases inseparable from the facts, but may often be more the objects of the prosecution than the facts themselves; or may even be altogether abstracted from particular facts i and that opinions, and inferences, and conjectural observations, cannot be subjects of that kind of proof which appertains to facts, before a court of law.

Writings of Madison, Volume 4: 1829-1836, p.549

Again: it is no less obvious that the intent to defame, or bring into contempt, or disrepute, or hatred—which is made a condition of the offence created by the act—cannot prevent its pernicious influence on the freedom of the press. For, omitting the inquiry, how far the malice of the intent is an inference of the law from the mere publication, it is manifestly impossible to punish the intent to bring those who administer the Government into disrepute or contempt, without striking at the right of freely discussing public characters and measures; because those who engage in such discussions must expect and intend to excite these unfavorable sentiments, so far as they may be thought to be deserved. To prohibit, therefore, the intent to excite those unfavorable sentiments against those who administer the Government, is equivalent to a prohibition of the actual excitement of them; and to prohibit the actual excitement of them is equivalent to a prohibition of discussions having that tendency and effect; which, again, is equivalent to a protection of those who administer the Government, if they should at any time deserve the contempt or hatred of the people, against being exposed to it by free animadversions on their characters and conduct. Nor can there be a doubt, if those in public trust be shielded by penal laws from such strictures of the press as may expose them to contempt, or disrepute, or hatred, where they may deserve it, that, in exact proportion as they may deserve to be exposed, will be the certainty and criminality of the intent to expose them, and the vigilance of prosecuting and punishing it; nor a doubt that a government thus intrenched in penal statutes against the just and natural effects of a culpable administration will easily evade the responsibility which is essential to a faithful discharge of its duty.

Writings of Madison, Volume 4: 1829-1836, p.550

Let it be recollected, lastly, that the right of electing the members of the Government constitutes more particularly the essence era free and responsible government. The value and efficacy of this right depends on the knowledge of the comparative merits and demerits of the candidates for public trust, and on the equal freedom, consequently, of examining and discussing these merits and demerits of the candidates respectively. It has been seen that a number of important elections will take place while the act is in force, although it should not be continued beyond the term to which it is limited. Should there happen, then, as is extremely probable in relation to some or other of the branches of the Government, to be competitions between those who are and those who are not members of the Government, what will be the situations of the competitors? Not equal; because the characters of the former will be covered by the Sedition Act from animadversions exposing them to disrepute among the people, whilst the latter may be exposed to the contempt and hatred of the people without a violation of the act. What will be the situation of the people? Not free; because they will be compelled to make their election between competitors whose pretensions they are not permitted by the act equally to examine, to discuss, and to ascertain. And from both these situations will not those in power derive an undue advantage for continuing themselves in it, which, by impairing the right of election, endangers the blessings of the Government founded on it?

Writings of Madison, Volume 4: 1829-1836, p.550

It is with justice, therefore, that the General Assembly have affirmed, in the resolution, as well that the right of freely examining public characters and measures, and of free communication thereon, is the only effectual guardian of every other right, as that this particular right is levelled at by the power exercised in the Sedition Act.

Writings of Madison, Volume 4: 1829-1836, p.550

The Resolution next in order is as follows:

Writings of Madison, Volume 4: 1829-1836, p.550

"That this State having, by its Convention, which ratified the Federal Constitution, expressly declared that, among other essential rights, 'the liberty of conscience and of the press cannot be cancelled, abridged, restrained, or modified, by any authority of the United States;' and, from its extreme anxiety to guard these rights from every possible attack of sophistry and ambition, having, with other States, recommended an amendment for that purpose, which amendment was in due time annexed to the Constitution, it would mark a reproachful inconsistency, and criminal degeneracy, if an indifference were now shown to the most palpable violation of one of the rights thus declared and secured, and to the establishment of a precedent which may be fatal to the other."

Writings of Madison, Volume 4: 1829-1836, p.550

To place this Resolution in its just light, it will be necessary to recur to the act of ratification by Virginia, which stands in the ensuing form:

Writings of Madison, Volume 4: 1829-1836, p.551

"We, the delegates of the people of Virginia, duly elected in pursuance of a recommendation from the General Assembly, and now met in Convention, having fully and freely investigated and discussed the proceedings of the Federal Convention, and being prepared, as well as the most mature deliberation hath enabled us, to decide thereon—DO, in the name and in behalf of the people of Virginia, declare and make known, that the powers granted under the Constitution, being derived from the people of the United States, may be resumed by them whensoever the same shall be perverted to their injury or oppression; and that every power not granted thereby remains with them, and at their will. That, therefore, no right of any denomination can be cancelled, abridged, restrained, or modified, by the Congress, by the Senate or House of Representatives, acting in any capacity, by the President, or any department or officer of the United States, except in those instances in which power is given by the Constitution for those purposes; and that, among other essential rights, the liberty of conscience and of the press cannot be cancelled, abridged, restrained, or modified, by any authority of the United States."

Writings of Madison, Volume 4: 1829-1836, p.551

Here is an express and solemn declaration by the Convention of the State, that they ratified the Constitution in the sense that no right of any denomination can be cancelled, abridged, restrained, or modified, by the Government of the United States, or any part of it, except in those instances in which power is given by the Constitution; and in the sense, particularly, "that among other essential rights, the liberty of conscience and freedom of the press cannot be cancelled, abridged, restrained, or modified, by any authority of the United States."

Writings of Madison, Volume 4: 1829-1836, p.551

Words could not well express in a fuller or more forcible manner the understanding of the Convention, that the liberty of conscience and the freedom of the press were equally and completely exempted from all authority whatever of the United States.

Writings of Madison, Volume 4: 1829-1836, p.551

Under an anxiety to guard more effectually these rights against every possible danger, the Convention, after ratifying the Constitution, proceeded to prefix to certain amendments proposed by them a declaration of rights, in which are two articles providing, the one for the liberty of conscience, the other for the freedom of speech and of the press.

Writings of Madison, Volume 4: 1829-1836, p.551

Similar recommendations having proceeded from a number of other States, and Congress, as has been seen, having, in consequence thereof, and with a view to extend the ground of public confidence, proposed, among other declaratory and restrictive clauses, a clause expressly securing the liberty of conscience and of the press, and Virginia having concurred in the ratifications which made them a part of the Constitution, it will remain with a candid public to decide whether it would not mark an inconsistency and degeneracy, if an indifference were now shown to a palpable violation of one of those rights— the freedom of the press; and to a precedent, therein, which may be fatal to the other—the free exercise of religion.

Writings of Madison, Volume 4: 1829-1836, p.551

That the precedent established by the violation of the former of these rights may, as is affirmed by the resolution, be fatal to the latter, appears to be demonstrable by a comparison of the grounds on which they respectively rest, and from the scope of reasoning by which the power over the former has been vindicated.

First. Both of these rights, the liberty of conscience and of the press, rest equally on the original ground of not being delegated by the Constitution, and, consequently, withheld from the Government. Any construction, therefore, that would attack this original security for the one must have the like effect on the other.

Secondly. They are both equally secured by the supplement to the Constitution, being both included in the same amendment, made at the same time, and by the same authority. Any construction or argument, then, which would turn the amendment into a grant or acknowledgment of power with respect to the press, might be equally applied to the freedom of religion.

Thirdly. If it be admitted that the extent of the freedom of the press secured by the amendment is to be measured by the common law on this subject, the same authority may be resorted fo for the standard which is to fix the extent of the "free exercise of religion." It cannot be necessary to say what this standard would be; whether the common law be taken solely as the unwritten, or as varied by the written law of England.

Fourthly. If the words and phrases in the amendment are to be considered as chosen with a studied discrimination, which yields an argument for a power over the press under the limitation that its freedom be not abridged, the same argument results from the same consideration for a power over the exercise of religion, under the limitation that its freedom be not prohibited.

Writings of Madison, Volume 4: 1829-1836, p.552

For if Congress may regulate the freedom of the press, provided they do not abridge it, because it is said only "they shall not abridge it," and is not said "they shall make no law respecting it," the analogy of reasoning is conclusive that Congress may regulate and even abridge the free exercise of religion, provided they do not prohibit it; because it is said only "they shall not prohibit it," and is not said "they shall make no law respecting, or no law abridging it."

Writings of Madison, Volume 4: 1829-1836, p.552

The General Assembly were governed by the clearest reason, then, in considering the Sedition Act, which legislates on the freedom of the press, as establishing a precedent that may be fatal to the liberty of conscience; and it will be the duty of all, in proportion as they value the security of the latter, to take the alarm at every encroachment on the former.

Writings of Madison, Volume 4: 1829-1836, p.552

The two concluding resolutions only remain to be examined. They are in the words following:

Writings of Madison, Volume 4: 1829-1836, p.552

"That the good people of this Commonwealth having ever felt, and continuing to feel, the most sincere affection for their brethren of the other States, the truest anxiety for establishing and perpetuating the Union of all, and the most scrupulous fidelity to that Constitution which is the pledge of mutual friendship and the instrument of mutual happiness, the General Assembly doth solemnly appeal to the like dispositions in the other States, in confidence that they will concur with this Commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional; and that the necessary and proper measures will be taken by each for co-operating with this State in maintaining, unimpaired, the authorities, rights, and liberties reserved to the States respectively, or to the people.

Writings of Madison, Volume 4: 1829-1836, p.552

"That the Governor be desired to transmit a copy of the foregoing resolutions to the executive authority of each of the other States, with a request that the same may be communicated to the Legislature thereof; and that a copy be furnished to each of the Senators and Representatives representing this State in the Congress of the United States."

Writings of Madison, Volume 4: 1829-1836, p.553

The fairness and regularity of the course of proceeding here pursued have not protected it against objections even from sources too respectable to be disregarded.

Writings of Madison, Volume 4: 1829-1836, p.553

It has been said that it belongs to the judiciary of the United States, and not the State Legislatures, to declare the meaning of the Federal Constitution.

Writings of Madison, Volume 4: 1829-1836, p.553

But a declaration that proceedings of the Federal Government are not warranted by the Constitution is a novelty neither among the citizens nor among the Legislatures of the States; nor are the citizens or the Legislature of Virginia singular in the example of it.

Writings of Madison, Volume 4: 1829-1836, p.553

Nor can the declarations of either, whether affirming or denying the constitutionality of measures of the Federal Government, or whether made before or after judicial decisions thereon, be deemed, in any point of view, an assumption of the office of the judge. The declarations in such cases are expressions of opinion, unaccompanied with any other effect than what they may produce on opinion by exciting reflection. The expositions of the judiciary, on the other hand, are carried into immediate effect by force. The former may lead to a change in the legislative expression of the general will—possibly, to a change in the opinion of the judiciary; the latter enforces the general will, whilst that will and that opinion continue unchanged.

Writings of Madison, Volume 4: 1829-1836, p.553

And if there be no impropriety in declaring the unconstitutionality of proceedings in the Federal Government, where can be the impropriety of communicating the declaration to other States, and inviting their concurrence in a like declaration? What is allowable for one must be allowable for all; and a free communication among the States, where the Constitution imposes no restraint, is as allowable among the State governments as among other public bodies or private citizens. This consideration derives a weight that cannot be denied to it, from the relation of the State Legislatures to the Federal Legislature as the immediate constituents of one of its branches.

Writings of Madison, Volume 4: 1829-1836, p.553

The Legislatures of the States have a right also to originate amendments to the Constitution, by a concurrence of two-thirds of the whole number, in applications to Congress for the purpose. When new States are to be formed by a junction of two or more States, or parts of States, the Legislatures of the States concerned are, as well as Congress, to concur in the measure. The States have a right also to enter into agreements or compacts, with the consent of Congress. In all such cases a communication among them results from the object which is common to them.

Writings of Madison, Volume 4: 1829-1836, p.553

It is, lastly, to be seen whether the confidence expressed by the resolution, that the necessary and proper measures would be taken by the other States for co-operating with Virginia in maintaining the rights reserved to the States or to the people, be in any degree liable to the objections which have been raised against it.

Writings of Madison, Volume 4: 1829-1836, p.554

If it be liable to objection it must be because either the object or the means are objectionable.

Writings of Madison, Volume 4: 1829-1836, p.554

The object being to maintain what the Constitution has ordained, is in itself a laudable object.

Writings of Madison, Volume 4: 1829-1836, p.554

The means are expressed in the terms "the necessary and proper measures." A proper object was to be pursued by means both necessary and proper.

Writings of Madison, Volume 4: 1829-1836, p.554

To find an objection, then, it must be shown that some meaning was annexed to these general terms which was not proper; and for this purpose either that the means used by the General Assembly were an example of improper means, or that there were no proper means to which the terms could refer.

Writings of Madison, Volume 4: 1829-1836, p.554

In the example given by the State of declaring the Alien and Sedition Acts to be unconstitutional and of communicating the declaration to other. States, no trace of improper means has appeared. And if the other States had concurred in making a like declaration, supported, too, by the numerous applications flowing immediately from the people, it can scarcely be doubted that these simple means would have been as sufficient as they are unexceptionable.

Writings of Madison, Volume 4: 1829-1836, p.554

It is no less certain, that other means might have been employed which are strictly within the limits of the Constitution. The Legislatures of the States might have made a direct representation to Congress with a view to obtain a rescinding of the two offensive acts; or they might have represented to their respective Senators in Congress their wish that two-thirds thereof would propose an explanatory amendment to the Constitution; or two-thirds of themselves, if such had been their option, might, by an application to Congress, have obtained a Convention for the same object.

Writings of Madison, Volume 4: 1829-1836, p.554

These several means, though not equally eligible in themselves, nor, probably, to the States, were all constitutionally open for consideration. And if the General Assembly, after declaring the two acts to be unconstitutional, the first and most obvious proceeding on the subject, did not undertake to point out to the other States a choice among the farther measures that might become necessary and proper, the reserve will not be misconstrued by liberal minds into any culpable imputation.

Writings of Madison, Volume 4: 1829-1836, p.554

These observations appear to form a satisfactory reply to every objection which is not founded on a misconception of the terms employed in the resolutions. There is one other, however, which may be of too much importance not to be added. It cannot be forgotten, that among the arguments addressed to those who apprehend danger to liberty from the establishment of the General Government over so great a country, the appeal was emphatically made to the intermediate existence of the State governments, between the people and that Government; to the vigilance with which they would descry the first symptoms of usurpation; and to the promptitude with which they would sound the alarm to the public. This argument was probably not without its effect; and if it was a proper one then to recommend the establishment of the Constitution, it must be a proper one now to assist in its interpretation.

Writings of Madison, Volume 4: 1829-1836, p.555

The only part of the two concluding resolutions that remains to be noticed is, the repetition, in the first, of that warm affection to the Union and its members, and of that scrupulous fidelity to the Constitution, which have been invariably felt by the people of this State. As the proceedings were introduced with these sentiments, they could not be more properly closed than in the same manner. Should there be any so far misled as to call in question the sincerity of these professions, whatever regret may be excited by the error, the General Assembly cannot descend into a discussion of it. Those who have listened to the suggestion can only be left to their own recollection of the part which this State has borne in the establishment of our National Independence, in the establishment of our National Constitution, and in maintaining under it the authority and laws of the Union, without a single exception of internal resistence or commotion. By recurring to these facts they will be able to convince themselves that the Representatives of the people of Virginia must be above the necessity of opposing any other shield to attacks on their national patriotism than their own conscientiousness and the justice of an enlightened public, who will perceive in the resolutions themselves the strongest evidence of attachment both to the Constitution and to the Union, since it is only by maintaining the different governments and departments within their respective limits that the blessings of either can be perpetuated.

Writings of Madison, Volume 4: 1829-1836, p.555

The extensive view of the subject thus taken by the committee has led them to report to the House, as the result of the whole, the following Resolution:

Resolved, That the General Assembly having carefully and respectfully attended to the proceedings of a number of the States, in answer to their resolutions or December 21, 1798, and having accurately and fully re-examined and reconsidered the latter, find it to be their indispensable duty to adhere to the same, as founded in truth, as consonant with the Constitution, and as conducive to its preservation; and more especially to be their duty to renew, as they do hereby renew, their protest against "the Alien and Sedition Acts" as palpable and alarming infractions of the Constitution.

To Henry Clay.

LETTERS, ETC.

To Henry Clay.

MONTPELLIER, August 80, 1816.

Writings of Madison, Volume 4: 1829-1836, p.556

DEAR SIR,—Mr. Dallas seems to have made up his mind to retire early in October from the Department in his hands, and the event may draw after it a vacancy in the War Department. Will you permit me to avail our country of your services in the latter? It will be convenient to know your determination as soon as you have formed it, and it will be particularly gratifying if it assent to my request.

Correspondence With the Legislature of Virginia.

COUNCIL CHAMBER, Feb. 28, 1817.

Writings of Madison, Volume 4: 1829-1836, p.556

SIR,—By a resolution of the General Assembly of Virginia, it becomes the duty of the Governor to transmit to you the enclosed valedictory address.

Writings of Madison, Volume 4: 1829-1836, p.556

In the discharge of this duty it is natural for me to reflect on the astonishing contrast which this moment presents, compared with the eventful period of your administration. For a time our commerce was annihilated, our sacred rights abused, invaded and destroyed, our citizens impressed and held in bleeding bondage, and even our national sovereignty insulted and despised. Now we are remunerated by an overwhelming commerce, our rights inviolate, our citizens free and happy, respected at home and abroad, and our national character gloriously exalted. That you should have occupied the highest station and presided over the Union during this wonderful march of national prosperity and glory, can never cease to afford you the highest gratification. There is not a citizen, or soldier, or sailor, who, by his devotion to his country, has contributed in the smallest degree to this happy era, who will not hereafter repose upon the retrospect with joy and delight.

Writings of Madison, Volume 4: 1829-1836, p.556

In this renewed evidence of approbation from the General Assembly of Virginia in behalf of the good people of your native State, at the close of your public labors, which so happily terminates an administration that was environed with all the difficulties of an untried Government, a want of unanimity in the public councils, embarrassed finances, and a war with a powerful people, who disregarded the maxims of civilized nations—under all these circumstances, this testimony of approbation, next to an approving conscience, must be to a public servant the best reward and highest consolation; and that you may long live to enjoy it uninterruptedly is the sincere wish of your obedient, humble servant,

Writings of Madison, Volume 4: 1829-1836, p.557

JAMES P. PRESTON.

Writings of Madison, Volume 4: 1829-1836, p.557

To His Excellency JAMES MADISON, President of the United States.

To Governor Preston.

WASHINGTON, March 1, 1817.

Writings of Madison, Volume 4: 1829-1836, p.557

DEAR SIR,—Having received, through you, the address of the General Assembly of Virginia, of February 10th, I have to request that you will take charge of the enclosed answer to it. I must tender you my acknowledgments at the same time, for the friendly and flattering manner in which you have fulfilled the resolution of the General Assembly.

Writings of Madison, Volume 4: 1829-1836, p.557

I should express my feelings very imperfectly, if, in recurring to the events which led to the present enviable condition of our country, I did not avow my admiration and profound gratitude for that series of brilliant achievements which distinguish the American arms, and offer my congratulations on the reward so dear to honorable and virtuous minds, which you have received for the part you bore in them, in the suffrages which elevated you to the important station which you fill.

Writings of Madison, Volume 4: 1829-1836, p.557

Be pleased to accept assurances of my esteem and cordial respect.

Writings of Madison, Volume 4: 1829-1836, p.557

JAMES MADISON.

To the General Assembly of Virginia.

WASHINGTON, March 1, 1817.

Writings of Madison, Volume 4: 1829-1836, p.557

I have received, fellow-citizens, from Governor Preston, your address of the 22d ultimo. The sentiments which it conveys are particularly endeared to me, as being those of a State with which I am connected by the ties of my birth, and of my home, and by the recollections of its confidence and partiality, commencing at an early stage of my life, and continued under different public manifestations, to the moment of my final return to the station of a private citizen. The language of the address derives a further value from the high character which the State of Virginia has justly acquired by its uniform devotion to free Government, and by a constancy and zeal in maintaining the national rights, which no sufferings or sacrifices could impair. Nor can I be insensible to the consideration, that this expression of kindness and approbation comes at the close of my public career through a period of uncommon difficulties and embarrassments.

Writings of Madison, Volume 4: 1829-1836, p.557

A candid review of the entire period, of which that made a part, will always do justice to the course of policy which, under peculiar circumstances not likely to recur, was sanctioned by the national voice and pursued by the National Councils. The review will show that the obstinate rivalship of powerful nations in trampling on our dearest rights and dearest interests, left no option but between resistence and degradation; that a love of peace and a hope of justice selected every mode of resistence short of war, in preference to war; that although the appeals made to the commercial interests and the mutual jealousies of the contending parties was, at length, not without effect in producing a relinquishment of the aggressive system, even by the Power against which war was declared, and before the declaration, yet the relinquishment was at too late a day to prevent the war; that it is strictly true, therefore, that this last resort was not made until the last hope had been extinguished, that a prostration of the national character and of the national rights could be otherwise avoided. It is on record, also, that not a moment was lost after the sword was drawn in opening the way to reconciliation; nor an opportunity permitted by self-respect, untried, till it was at length restored to the scabbard, where it now happily remains.

Writings of Madison, Volume 4: 1829-1836, p.558

On the prosperous condition of our country, which has succeeded a conflict rendered peculiarly severe and peculiarly glorious, by contingent events as flattering to our adversaries as they were unlooked for by either party, I cordially unite in your congratulations, as well as in the hope that all the lessons afforded by the past may contribute to the future security and increase of the blessings we now enjoy.

Writings of Madison, Volume 4: 1829-1836, p.558

Through the remaining days of a life hitherto employed, with little intermission, in the public service, which you so much overvalue, my heart will cherish the affectionate sentiments which the representatives of my native State have addressed me, and will offer its fervent prayers for the public prosperity and individual happiness of its citizens.

JAMES MADISON.

Navigation of the Mississippi.

NAVIGATION OF THE MISSISSIPPI.

[Pub. in Madison Papers, I. xix-xxii. App. No. 4.]

To Mr. Niles.

MONTPELLIER, January 8, 1822.

Writings of Madison, Volume 4: 1829-1836, p.558

In Ramsay's History of the American Revolution, vol. 2, p. 300, 301, is the following passage:

Writings of Madison, Volume 4: 1829-1836, p.558

"Mr. Jay was instructed to contend for the right of the United States to the free navigation of the river Mississippi; and, if an express acknowledgment of it could not be obtained, he was restrained from acceding to any stipulation by which it should be relinquished. But, in February, 1781, when Lord Cornwallis was making rapid progress in overrunning the Southern States, and when the mutiny of the Pennsylvania line and other unfavorable circumstances depressed the spirits of the Americans, Congress, on the recommendation of Virginia, directed him to recede from his instructions, so far as they insist on the free navigation of that part of the Mississippi which lies below the thirty-first degree of north latitude; provided such concession should be unalterably insisted on by Spain, and provided the free navigation of the said river above the said degree of north latitude should be acknowledged and guarantied by his Catholic Majesty, in common with his own subjects."

Writings of Madison, Volume 4: 1829-1836, p.559

In this account of the instruction to Mr. Jay to relinquish the navigation of the Mississippi, below the southern boundary of the United States, the measure would seem to have had its origin with the State of Virginia.

Writings of Madison, Volume 4: 1829-1836, p.559

This was not the case; and the very worthy historian, who was not at that period a member of Congress, was led into his error by the silence of the journals as to what had passed on the subject previous to February 15th, 1781, when they agreed to the instruction to make the relinquishment, as moved by the delegates of Virginia, in pursuance of instructions from the Legislature. It was not unusual with the Secretary of Congress to commence his entries on the journal, with the stage in which the proceedings assumed a definitive character; omitting, or noting on separate and informal sheets only, the preliminary steps.

Writings of Madison, Volume 4: 1829-1836, p.559

The delegates from Virginia had been long under instructions from their State to insist on the right of the navigation of the Mississippi, and Congress had always included it in their ultimatum for peace. As late as the 4th of October, 1781, [see the secret journals of that date,] they had renewed their adherence to this point by unanimously agreeing to the report of a committee, to whom had been referred "certain instructions to the delegates of Virginia by their constituents, and a letter of May 29 from Mr. Jay, at Madrid," which report prohibited him from relinquishing the right of the United States to the free navigation of the river Mississippi, into and from the sea, as asserted in his former instructions; and, on the 17th of the same month, October, [see the secret journals of that date,] Congress agreed to the report of a committee explaining the reasons and principles on which the instructions of October the 4th were founded.

Writings of Madison, Volume 4: 1829-1836, p.559

Shortly after this last measure of Congress, the delegates of South Carolina and Georgia, seriously affected by the progress and views of the enemy in the Southern States, and by the possibility that the interference of the great neutral Powers might force a peace, on the principle of uti possidetis, whilst those States, or parts of them, might be in the military occupancy of Great Britain, urged with great zeal, within and without doors, the expediency of giving fresh vigor to the means of driving the enemy out of their country, by drawing Spain into an alliance, and into pecuniary succours, believed to be unattainable without yielding our claim to the navigation of the Mississippi. The efforts of those delegates did not fail to make proselytes till, at length, it was ascertained that a number was disposed to vote for the measure, sufficient without the vote of Virginia, and it happened that one of the two delegates from that State concurred in the policy of what was proposed. [See the annexed letter of November 25, and extract of December 5, 1780, from J. Madison to Joseph Jones.]

Writings of Madison, Volume 4: 1829-1836, p.560

In this posture of the business, Congress was prevailed on to postpone any final decision until the Legislature of Virginia could be consulted; it being regarded by all as very desirable, when the powers of Congress depended so much on the individual wills of the States, that an important member of the Union, on a point particularly interesting to it, should receive every conciliatory mark of respect, and it being calculated, also, that a change in the councils of that State might have been produced by the causes producing it in others.

Writings of Madison, Volume 4: 1829-1836, p.560

A joint letter, bearing date December 13, 1780, [which see annexed,] was accordingly written by the delegates of Virginia to Governor Jefferson, to be laid before the Legislature then in session, simply stating the case and asking instructions on the subject, without any expression of their own opinions, which, being at variance, could not be expressed in a letter to be signed by both.

Writings of Madison, Volume 4: 1829-1836, p.560

The result of these communications from the delegates was a repeal of the former instructions, and a transmission of different ones; the receipt of which, according to an understanding when the decision of Congress was postponed, made it incumbent on the two delegates to bring the subject before Congress. This they did by offering the instruction to Mr. Jay, agreed to on the 15th of February, 1781, and referred to in the historical passage above cited.

Writings of Madison, Volume 4: 1829-1836, p.560

It is proper to add, that the instant the menacing crisis was over, the Legislature of Virginia revoked the instruction to her delegates to cede the navigation of the Mississippi; and that Congress seized the first moment, also, for revoking theirs to Mr. Jay.

Writings of Madison, Volume 4: 1829-1836, p.560

I have thought a statement of these circumstances due to truth. And that its accuracy may be seen to depend, not on memory alone, the copies of co-temporary documents verifying it are annexed.

Writings of Madison, Volume 4: 1829-1836, p.560

In the hope that this explanation may find its way to the notice of some future historian of our revolutionary transactions, I request for it a place, if one can be afforded, in your REGISTER, where it may more readily offer itself to his researches, than in publications of more transient or miscellaneous contents.

Writings of Madison, Volume 4: 1829-1836, p.560

With friendly respects,

Writings of Madison, Volume 4: 1829-1836, p.560

JAMES MADISON.

To The Hon. Joseph Jones.

PHILADELPHIA, Nov. 25, 1780.

Writings of Madison, Volume 4: 1829-1836, p.561

DEAR SIR,—I informed you some time ago that the instructions to Mr. Jay had passed Congress, in a form which was entirely to my mind. I since informed you that a committee was preparing a letter to him, explanatory of the principles and objects of the instructions. This letter also passed in a form equally satisfactory. I did not suppose that anything further would be done on the subject; at least, until further intelligence should arrive from Mr. Jay. It now appears that I was mistaken. The delegates from Georgia and South Carolina, apprehensive that a uti possidetis may be obtruded on the belligerent Powers by the armed neutrality in Europe, and hoping that the accession of Spain to the alliance will give greater concert and success to the military operations that may be pursued for the recovery of their States, and likewise add weight to the means that may be used for obviating a uti possidetis, have moved for a reconsideration of the instructions, in order to empower Mr. Jay, in case of necessity, to yield to the claims of Spain on condition of her guarantying our independence and affording us a handsome subsidy. The expediency of such a motion is further urged from the dangerous negotiations now on foot, by British emissaries, for detaching Spain from the war. Wednesday last was assigned for the consideration of this motion, and it has continued the order of the day ever since, without being taken up. What the fate of it will be I do not predict; but whatever its own fate may be, it must do mischief in its operation. It will not probably be concealed that such a motion has been made and supported, and the weight which our demands would derive from unanimity and decision must be lost. I flatter myself, however, that Congress will see the impropriety of sacrificing the acknowledged limits and claims of any State, without the express concurrence of such State. Obstacles enough will be thrown in the way of peace, if it is to be bid for at the expense of particular members of the Union. The Eastern States must, on the first suggestion, take the alarm for their fisheries. If they will not support other States in their rights, they cannot expect to be supported themselves when theirs come into question.

Writings of Madison, Volume 4: 1829-1836, p.561

In this important business, which so deeply affects the claims and interests of Virginia, and which I know she has so much at heart, I have not the satisfaction to harmonize in sentiments with my colleague. He has embraced an opinion that we have no just claim to the subject in controversy between us and Spain, and that it is the interest of Virginia not to adhere to it. Under this impression, he drew up a letter to the Executive to be communicated to the Legislature, stating, in general, the difficulty Congress might be under, and calling their attention to a revision of their instructions to their Delegates on the subject. I was obliged to object to such a step, and, in order to prevent it, observed, that the instructions were given by the Legislature of Virginia on mature consideration of the case, and on a supposition that Spain would make the demands she has done; that no other event has occurred to change the mind of our constituents but the armed neutrality in Europe and the successes of the enemy to the southward, which are as well known to them as to ourselves; that we might every moment expect a third Delegate here, who would either adjust or decide the difference in opinion between us, and that whatever went from the delegation would then go in its proper form and have its proper effect; that if the instructions from Virginia were to be revised, and their ultimatum reduced, it could not be concealed in so populous an assembly, and everything which our minister should be authorized to yield would be insisted on; that Mr, Jay's last despatches encouraged us to expect that Spain would not be inflexible if we were so; that we might every day expect to have more satisfactory information from him; that, finally, if it should be thought expedient to listen to the pretensions of Spain, it would be best, before we took any decisive step in the matter, to take the counsel of those who best know the interests, and have the greatest influence on the opinions, of our constituents; that, as you were both a member of Congress and of the Legislature, and were now with the latter, you would be an unexceptionable medium for effecting this; and that I would write to you for the purpose by the first safe conveyance.

Writings of Madison, Volume 4: 1829-1836, p.562

These objections had not the weight with my colleague which they had with me. He adhered to his first determination, and has, I believe, sent the letter above mentioned by Mr. Walker, who will, I suppose, soon forward it to the Governor. You will readily conceive the embarrassments this affair must have cost me. All I have to ask of you is, that if my refusing to concur with my colleague in recommending to the Legislature a revision of their instructions should be misconstrued by any, you will be so good as to place it in its true light; and if you agree with me as to the danger of giving express power to concede, or the inexpediency of conceding at all, that you will consult with gentlemen of the above description and acquaint me with the result.

Writings of Madison, Volume 4: 1829-1836, p.562

I need not observe to you that the alarms with respect to the inflexibility of Spain in her demands, the progress of British intrigues at Madrid, and the danger of uti possidetis, may, with no small probability, be regarded as artifices for securing her objects on the Mississippi. Mr. Adams, in a late letter from Amsterdam, a copy of which has been enclosed to the Governor, supposes that the pretended success of the British emissaries at Madrid is nothing but a ministerial finesse to facilitate the loans and keep up the spirits of the people.

Writings of Madison, Volume 4: 1829-1836, p.562

This will be conveyed by Col. Grayson, who has promised to deliver it himself; or if anything unforeseen should prevent his going to Richmond, to put it into such hands as will equally insure its safe delivery.

Writings of Madison, Volume 4: 1829-1836, p.562

I am, dear sir, yours, sincerely,

Writings of Madison, Volume 4: 1829-1836, p.562

J. MADISON, JR.

Extract of a Letter From James Madison to Joseph Jones.

Dated December 5th, 1780.

Writings of Madison, Volume 4: 1829-1836, p.563

"We had letters yesterday from Mr. Jay and Mr. Carmichael, as late as the 4th and 9th of September. Mr. Jay informs us that it is absolutely necessary to cease drawing bills on him; that 150,000 dollars, to be repaid in three years, with some aid in clothing, &c., is all that the court will adventure for us. The general tenor of the letter is, that our affairs there make little progress; that the court is rather backward; that the navigation of the Mississippi is likely to prove a very serious difficulty; that Spain has herself been endeavoring to borrow a large sum in France, on which she meant to issue a paper currency; that the terms and means used by her displeased Mr. Neckar, who, in consequence, threw such discouragements on it, as, in turn, were not very pleasing to the Spanish minister; that Mr. Cumberland is still at Madrid, laboring, in concert with other secret emissaries of Britain, to give unfavorable impressions of our affairs; that he is permitted to keep up a correspondence by his couriers with London; that if negotiations for peace should be instituted this winter, as Spain has not yet taken a decided part with regard to America, England will probably choose to make Madrid, rather than Versailles, the seat of it. However unfavorable many of these particulars may appear, it is the concurrent representation of the above ministers that our disappointment of pecuniary succor at Madrid is to be imputed to the want of ability, and not of inclination, to supply us; that the steadiness of his Catholic Majesty is entirely confided in by the French ambassador; and that the mysterious conduct of Mr. Cumberland, and of the court of Spain towards him, seems to excite no uneasiness in the ambassador. The letters add, that, on the pressing remonstrance of France and Spain, Portugal had agreed to shut her ports against English prizes, but that she persisted in her refusal to accede to the armed neutrality.

Writings of Madison, Volume 4: 1829-1836, p.563

"The receipt of the foregoing intelligence has awakened the attention of the Georgia delegates to their motion, of which I informed you particularly by Col. Grayson. It has lain ever since it was made undisturbed on the table. This morning is assigned for the consideration of it, and I expect it will, without fail, be taken up. I do not believe Congress will adopt it without the express concurrence of all the States immediately interested. Both my principles and my instructions will determine me to oppose it. Virginia and the United States in general are too deeply interested in the subject of controversy to give it up as long as there is a possibility of retaining it. And I have ever considered the mysterious and reserved behaviour of Spain, particularly her backwardness in the article of money, as intended to alarm us into concessions rather than as the effect of a real indifference to our fate, or to an alliance with us. I am very anxious, notwithstanding, to have an answer to my letter by Grayson."

To Thomas Jefferson, Governor of Virginia.

PHILADELPHIA, December 13th, 1780.

Writings of Madison, Volume 4: 1829-1836, p.564

His Excellency THOMAS JEFFERSON, Esq., Governor of Virginia:

Writings of Madison, Volume 4: 1829-1836, p.564

SIR,—The complexion of the intelligence received of late from Spain, with the manner of thinking which begins to prevail in Congress, with regard to the claims to the navigation of the Mississippi, makes it our duty to apply to our constituents for their precise, full, and ultimate sense on this point. If Spain should make a relinquishment of the navigation of that river on the part of the United States an indispensable condition of an alliance with them, and the State of Virginia should adhere to their former determination to insist on the right of navigation, their delegates ought to be so instructed; not only for their own satisfaction, but that they may the more effectually obviate arguments drawn from a supposition that the change of circumstances, which has taken place since the former instructions were given, may have changed the opinion of Virginia with regard to the object of them. If, on the other side, any such change of opinion should have happened, and it is now the sense of the State that an alliance with Spain ought to be purchased, even at the price of such a cession, if it cannot be obtained on better terms, it is evidently necessary that we should be authorized to concur in it. It will also be expedient for the Legislature to instruct us in the most explicit terms whether any, and what extent of territory, on the east side of the Mississippi and within the limits of Virginia, is, in any event, to be yielded to Spain as the price of an alliance with her. Lastly, it is our earnest wish to know what steps it is the pleasure of our constituents we should take in case we should be instructed in no event to concede the claims of Virginia, either to territory or to the navigation of the above-mentioned river, and Congress should, without their concurrence, agree to such concession.

Writings of Madison, Volume 4: 1829-1836, p.564

We have made use of the return of the honorable Mr. Jones to North Carolina to transmit this to your Excellency, and we request that you will immediately communicate it to the General Assembly.

Writings of Madison, Volume 4: 1829-1836, p.564

We have the honor to be, with the most perfect respect and esteem, your Excellency's most obedient and humble servants,

Writings of Madison, Volume 4: 1829-1836, p.564

JAMES MADISON,

JUNR. THEO'K BLAND.

To Roger C. Weightman, Mayor of Washington,

and Chairman of the Committee of Arrangements.

MONTPELLIER, June 20, 1826.

Writings of Madison, Volume 4: 1829-1836, p.564

DEAR SIR,—I received, by yesterday's mail, your letter of the 14th, inviting, in the name of the Committee of Arrangements, my presence at the celebration in the Metropolis of the United States of the fiftieth anniversary of American Independence.

Writings of Madison, Volume 4: 1829-1836, p.565

I am deeply sensible of what I owe to this manifestation of respect on the part of the committee; and not less so of the gratifications promised by an opportunity of joining, with those among whom I should find myself, in commemorating the event which calls forth so many reflections on the past, and anticipations of the future career of our country. Allow me to add, that the opportunity would derive an enhanced value from the pleasure with which I should witness the growing prosperity of Washington and of its citizens, whose kindness, during my long residence among them, will always have a place in my grateful recollections.

Writings of Madison, Volume 4: 1829-1836, p.565

With impressions such as these, it is with a regret readily to be imagined that I am constrained to decline the flattering invitation you have communicated. Besides the infirmities incident to the period of life I have now reached, there is an instability of my health at present which would forbid me to indulge my wishes, were no other circumstance unpropitious to them.

Writings of Madison, Volume 4: 1829-1836, p.565

This explanation will, I trust, be a sufficient pledge that, although absent, all my feelings will be in sympathy with the sentiments inspired by the occasion. Ever honored will be the day which gave birth to a nation, and to a system of self-government making it a new epoch in the history of man.

Writings of Madison, Volume 4: 1829-1836, p.565

Be pleased to accept, sir, for yourself and the committee, assurances of my respectful consideration, and of my best wishes.

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JAMES MADISON.

To Henry Clay.

MONTPELLIER, March 24, 1827.

Writings of Madison, Volume 4: 1829-1836, p.565

DEAR SIR,—After your kind offer I make no apology for inclosing another letter, which I wish to have the advantage of a conveyance from the Department of State. Its object is to obtain from Mr. Gallatin a small service for our University, and that with as little delay as may be.

Writings of Madison, Volume 4: 1829-1836, p.565

While I was charged with the Department of State, the British doctrine against a neutral trade with belligerent ports, shut in peace and open in war, was examined at some length, and the examination published in a stout pamphlet. I have been applied to by several friends for a copy, which I could not furnish, nor do I know that they are attainable, unless obsolete copies should remain in the Department. If this be the case, I should be thankful for the means of complying with the application.

Writings of Madison, Volume 4: 1829-1836, p.565

Mrs. Madison joins in offering to Mrs. Clay and yourself assurances of cordial regards and best wishes.

To Henry Clay.

MONTPELLIER, January 6, 1828.

Writings of Madison, Volume 4: 1829-1836, p.566

DEAR SIR,—I have duly received the copy of your Address politely forwarded to me. Although I have taken no part in the depending contests, and have been led to place myself publicly on that ground, I could not peruse the appeal you have made without being sensible of the weight of testimony it exhibits, and of the eloquence by which it is distinguished.

Writings of Madison, Volume 4: 1829-1836, p.566

Having occasion to write to Mr. Brougham\* on a subject which interests our University, I take the liberty of asking your friendly attention to the letter which I inclose. I hope it may find an early conveyance from the Department of State, with despatches about to be destined for London. Should this not be the case, Mr. Brent will save you the trouble of giving the intimation, that a duplicate may seek some other channel. It is desirable that the letter should reach Mr. Brougham with as little delay as may be.

To Henry Clay.

MONTPELLIER, March 13, 1832

Writings of Madison, Volume 4: 1829-1836, p.566

J. Madison, with his best respects to Mr. Clay, thanks him for the copy of his speech "in defence of the American System," &c. It is a very able, a very eloquent, and a very interesting one. If it does not establish all its positions, in all their extent, it demolishes not a few of those relied on by the opponents. J. M. feels a pleasure in offering this tribute to its merits. But he must be pardoned for expressing a regret that an effusion of personal feeling was, in one instance, admitted into the discussion.

Correspondence With the Virginia

National Republican State Convention.

Writings of Madison, Volume 4: 1829-1836, p.566

At the late session of the Virginia National Republican State Convention at Staunton, among other proceedings, the following resolutions were adopted:

"Resolved, That this Convention will not close its deliberations without a unanimous expression of their highest approbation of, and grateful acknowledgments to, the venerable ex-President James Madison, of Orange county, for his many and distinguished services to his country, considering him as one of the Fathers of the Constitution, the faithful expounder of that instrument, the benefactor of mankind, and the able advocate of civil liberty.

"Resolved, That the President or this Convention address a letter to Mr. Madison, and tender to him the respectful consideration of this Convention, and the homage of their best wishes, with their united hope that his exemplary life may be preserved to enjoy the blessings of our free Government, which he, in so eminent a degree, contributed to establish.

"Resolved, That a copy of these resolutions be forwarded in said communication."

To Charles J. Faulkner,

President of the

National Republican Convention of Virginia.

Writings of Madison, Volume 4: 1829-1836, p.567

[The following is Mr. MADISON'S answer to the letter of the President of the Convention, transmitting him copies of the above resolutions:]

MONTPELLIER, 26th July, 1832.

Writings of Madison, Volume 4: 1829-1836, p.567

DEAR SIR,—I have duly received your letter communicating the resolutions in which "the National Republican Convention of Virginia, at Staunton," has been pleased to express its approbation of my public services, and its kind wishes for my personal welfare. I cannot be insensible to the value I ought to place on opinions so favorable, and sentiments so friendly, coming from a body rendered so respectable by the members composing it; and I tender all the acknowledgments which I feel to be due from me.

Writings of Madison, Volume 4: 1829-1836, p.567

If it was my lot to be in any degree instrumental in promoting the substitution of our present Constitutional system for the inadequate one which preceded it, my participation in the great work, conscious, as I am, of its being overrated by the partiality of the Convention, could not fail to be an increasing source of gratifying recollection, as the fruits of the change have been signalized in the prosperity of our country.

Writings of Madison, Volume 4: 1829-1836, p.567

For the obliging terms in which you made the communication, I pray you to accept my thanks, with assurances of my esteem and good wishes.

Writings of Madison, Volume 4: 1829-1836, p.567

JAMES MADISON.

Writings of Madison, Volume 4: 1829-1836, p.567

CHARLES JAMES FAULKNER, Esq.,

President of the National Republican Convention of Virginia.

To Henry Clay.

MONTPELLIER, April 2, 1833.

Writings of Madison, Volume 4: 1829-1836, p.567

DEAR SIR,—Accept my acknowledgments for the copy of your speech on the bill modifying the tariff. I need not repeat what is said by all on the ability and advantages with which the subject was handled. It has certainly had the effect of an anodyne on the feverish excitement under which the public mind was laboring; and a relapse may happily not ensue. There is no certainty, however, that a surplus revenue will not revive the difficulty of adjusting an impost to the claims of the manufacturing and the feelings of the agricultural States. The effect of a reduction, including the protected articles, on the manufacturers, is manifest; and a discrimination in their favor will, besides the complaint of inequality, exhibit the protective principle, without disguise, to the protesters against its Constitutionality. An alleviation of the difficulty may, perhaps, be found in such an apportionment of the tax on the protected articles most consumed in the South, and on the unprotected most consumed in the North, as will equalize the burden between them and limit the advantage of the latter to the benefits flowing from a location of the manufacturing establishments.

Writings of Madison, Volume 4: 1829-1836, p.567

May there not be a more important alleviation in embryo—an assimilation of the employment of labor in the South to its employment in the North? A difference, and even a contrast, in that respect, is at the bottom of the discords which have prevailed, and would so continue, until the manufacturers of the North could, without a bounty, take the place of the foreign in supplying the South; in which event, the source of discord would become a bond of interest, and the difference of pursuits more than equivalent to a similarity. In the mean time, an advance towards the latter must have an alleviating tendency. And does not this advance present itself in the certainty that, unless agriculture can find new markets for its products, or new products for its markets, the rapid increase of slave labor, and the still more rapid increase of its fruits, must divert a large portion of it from the plough and the hoe to the loom and the workshop? When we can no longer convert our flour, tobacco, cotton, and rice into a supply of our habitual wants from abroad, labor must be withdrawn from those articles and made to supply them at home.

Writings of Madison, Volume 4: 1829-1836, p.568

It is painful to turn from anticipations of this sort to the prospect, opened by the torch of discord, bequeathed by the Convention of South Carolina to its country; by the insidious exhibitions of a permanent incompatibility, and even hostility of interests between the South and the North; and by the contagious zeal in vindicating and varnishing the doctrines of nullification and secession; the tendency of all of which, whatever be the intention, is to create a disgust with the Union, and then to open the way out of it. We must oppose to this aspect of things confidence that, as the gulf is approached the deluded will recoil from its horrors, and that the deluders, if not themselves sufficiently startled, will be abandoned and overwhelmed by their followers.

Writings of Madison, Volume 4: 1829-1836, p.568

As we were disappointed of the expected visit last fall from yourself and Mrs. Clay, we hope the promise will not be forgotten when the next opportunity occurs. For the present, Mrs. Madison joins in cordial regards and all good wishes to you both.

To Aaron Vail.

FEB. 3, 1834.

Writings of Madison, Volume 4: 1829-1836, p.568

DEAR SIR,—Your letter of ——— was duly received, and the enclosed paper complies with the request which it makes. With friendly respects and good wishes,

J.M.

Autographic Specimen for the Princess Victoria.

Writings of Madison, Volume 4: 1829-1836, p.568

It being understood that an autographic specimen from me, as from some others of my countrymen, would be acceptable for a collection which the Princess Victoria is making, these few lines, with my signature, though written at a very advanced age and with rheumatic fingers, are offered for the occasion. They will be an expression, at least, of the respect due to the young Princess, who is understood to be developing, under the wise counsels of her august parent, the endowments and virtues which give beauty and value to personal character, and are auspicious to the high station to which she is destined.

Writings of Madison, Volume 4: 1829-1836, p.568

JAMES MADISON.

FEB. 1, 1834.

Extract From Mr. Madison's Will,

Dated April 15, 1835.

Writings of Madison, Volume 4: 1829-1836, p.569

"I give all my personal estate of every description, ornamental as well as useful, except as hereinafter otherwise given, to my dear wife; and I also give to her all my manuscript papers, having entire confidence in her discreet and proper use of them, but subject to the qualification in the succeeding clause. Considering the peculiarity and magnitude of the occasion which produced the Convention at Philadelphia in 1787; the characters who composed it; the Constitution which resulted from their deliberations; its effects during a trial of so many years on the people living under it; and the interest it has inspired among the friends of free Government; it is not an unreasonable inference, that a careful and extended report of the proceedings and discussions of that body, which were with closed doors, by a member who was constant in his attendance, will be particularly gratifying to the people of the United States, and to all who take an interest in the progress of political science and the cause of true liberty. It is my desire that the report as made by me should be published under her authority and direction; and, as the publication may yield a considerable amount beyond the necessary expenses thereof, I give the net proceeds thereof to my wife, charged with the following legacies, to be paid out of that fund only," &c., &c.

The President of the United States

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