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THURSDAY, SEPTEMBER 5, 1850.

The editor of the American will gratify a subscriber, and perform a commendable service, by copying the following

From the Evening Post.

Since writing the following article, which has been waiting for insertion some time—the letter signed *An Injured Merchant*, and the document which accompanies it, have been sent to this office, with a view to publication—we give it as we received it—and leave to others the reflections which arise upon its perusal.

The situation of this country with regard to Spain is rather curious, but not so much an object of surprise, as of grief, with those who know the manner in which some persons have conducted themselves. The Spanish government or its agents have acted with some art. Suppose an affair of this kind had occurred—Suppose that a person in an official station had stated a case which was exactly the parallel of the business between the United States and Spain, to some attorneys in Philadelphia, and procured their opinions—suppose their opinions militated against the just claims of the United States—suppose that these men received 1000 dollars each for their opinions—suppose that their opinions were transmitted to Spain; and suppose that the Spanish government produced these identical documents to prove that the laws of nations did not authorize the claim—that the U. S. State's lawyers were of opinion, that the claim could not be supported—and that Messrs. Munroe and Pinckney left Madrid on this account, to return home?

We lay down this case with the desire of solving the mystery; it has been related to us upon the very best authority, that there are some secrets in the way of success, which our ministers have met with at Madrid, which fully justify inquiries of this kind; and we hope that they will speedily be developed.

The report current in Philadelphia, that Mr. Madison and the Spanish ambassador, have been engaged in a warm epistolary correspondence, gives additional weight to the story handed to us; and if some of the papers do not come forward to detail the business; we shall do it ourselves. No lawyer's opinion can satisfy the demands of an injured country; if they have been the cause of the conduct which Spain has adopted.

From the Evening Post.

The writer commences with some strictures upon a few remarks which appeared in the *Enquirer* of the 2nd inst. These not being relevant to the present subject nor suitable for present investigation are omitted. He then proceeds.

There are other circumstances that appear not to have been treated with attention; I mean the failure of the convention of 1802. I believe that it is the convention entered into by the hon. C. Pinckney, ambassador to the court of Spain. The ratification of that convention was frustrated, as I am informed, by an artifice of the Spanish ambassador here, who, it seems by means of four or five thousand dollars, given in fees to as many lawyers, procured an opinion which, on being laid before the Spanish cabinet caused the suspension of the convention. The opinion is annexed, and I leave it to your animadversions, and to the public attention. The following is a copy, handed to me by a gentleman who is but a few weeks from Spain; and who says the suspension of the restitution of our claims was wholly owing to this legal opinion. Upon the merits of the opinion I say nothing as I am not a professional man, but

An Injured Merchant.

[COPY.]

January 9, 1850.

Abstract Question.—The power A. lives in perfect harmony and friendship with the power B. The power C. either with reason or without, commits hostilities against the subjects of the power B. takes some of their vessels, carries them into the ports of A. friend of both, where they are condemned and sold by the official agents of power C. without power A. being able to prevent it. At last a treaty is entered into, by which the powers B. and C. adjust their differences, and in this treaty the power B. renounces and abandons to the power C. the right to any claim for the injuries and losses occasioned to its subjects by the hostilities from power C.

Query.—Has the power B. any right to call upon the power A. for indemnities for the losses occasioned in its ports and coasts to its subjects, by those of power C. After the power B. has abandoned or relinquished, by its treaty with C. its right for the damages, which could be claimed for the injuries sustained from the hostile conduct of power C.?

Answer.—We have considered the above case, and are of opinion, that on the general principles of the law of nations, the power A. is not liable to the power B. for acts done upon the vessels belonging to the subjects of the power B. by the power C. within the ports of A. the latter not being able to prevent it. Nations are not, any more than individuals, bound to perform impossibilities.

But even leaving impossibilities out of the question, and admitting that the power A. could have prevented the injury which was committed by the power C. but refused or neglected to do it, we are of opinion, that if the power B. has released or relinquished the same injury to power C. in that case, the power A. is no longer liable to any responsibilities in damages on account of its acquiescence.

1st. Because it appears to us, that in the present case, the power C. is to be considered as the principal party, and the power A. merely as an accessory, and that it is in that relation to each other, that their several acts and their respective liability to the injured party, is to be considered. Now it is in the nature of all accessory things, that they cannot subsist without the principal thing; and the principal trespass being done away by the release to C. the accessory offence of A. must be done away likewise, according to the well known maxim of the law, *accessorium sequitur principale*.

2d. Because a release or relinquishment of a right, implies in law, the receipt of satisfaction, and it is contrary to every principle of jurisprudence, for a party to receive a double satisfaction for the same injury, and here the injury received by B. from C. and from A. is essentially the same; the act of these two persons were indeed different, but the effect which they produced was the same, and that effect only, can be the object of compensation in damages.

3d. Because if the power A. could be compelled to make satisfaction to the power B. for the injury which the latter has released or relinquished to C. that release or relinquishment would be defeated to every useful purpose, as the power C. would be liable to the power A. for the same damages from which it was intended to be discharged by the release of B. Now a release, as well as any other contract or engagement, implies that nothing shall be done by the grantor, directly or indirectly, to defeat its bonafide intent or effect. If, therefore, the claim preferred by B. upon a will, if admitted, indirectly defeat the release granted to C. such claim must be pronounced to be illegal.

Upon the whole, we are of opinion that the release granted by the power B. to the power C. operates also a release to the power A. for its participation in the injury which was the object of that release.

Philadelphia, Nov. 15, 1802.

JARED INGRESOLL,
WILLIAM RAWLE,
JOSEPH B. M'KEAN,
Es. Copia. PETERS B. DUPONCEAU.

Answer of an attorney of N. York, to the same question.

According to the above statement; I should have no doubt that B. having abandoned its rights to an indemnity against A. more especially as the case supposes it out of the power of A. to have prevented the transaction.

New York, Nov. 3, 1802.

*Spain. †U. States. ‡France.

From the AURORA.

Mr. Duane.—The observations in your paper concerning the shameful intrigue to which five American lawyers became accessories, to the injury of the merchants, are such as might satisfy every reasonable man, of the utter disregard of national character and national happiness, which the most respectable of the legal profession feel when it enters into contact with their emolument. I am by no means an enemy to either of the gentlemen who have lent their names to this disreputable transaction; but as I am myself a sufferer by their act, I believe they can have no reason to complain of me, when I have so much reason to complain of them. To my very great sorrow I have been acquainted with the cause of the failure of the convention with Spain a long while, and could not but feel some mortification, having for several years acted in politics with the federal party. I could not but feel mortified to see the general government under his excellency Thomas Jefferson, censured for the failure of that convention, when I knew the real cause, or at least the cause assigned by his excellency the Spanish cabinet minister, was the opinion of so many celebrated American civilians.

A friend of mine well known in this city and other parts of the United States advised me of the convention, at the time, and gave me an account of it, as the matter was related in the family of the honorable Charles Pinckney, our ambassador at Madrid.

When the honorable Mr. Pinckney, as my friend supposes, was directed by his government to press the matter of the restitution of property, and was instructed to shew, that in various cases, our own government had made restitution for acts of depredations of a like kind made in our ports, he first experienced delays and equivocations—he was told that the laws of America did not sanction any such practice—it was in vain that the honorable Mr. Pinckney referred to the cases, which had occurred in the presi-

dency of general Washington; the Spanish minister insisted that these were only concessions of policy or of fear, but that the laws of America were against the claim which our government, by our ambassador set up. This the honorable Mr. Pinckney denied; and then it was that the legal opinions were produced—in vain did the honorable Mr. Pinckney attempt to explain this opinion to be of no legal force, that such an opinion on an hypothetical question might be had for a sum of money on any subject—that the mode of putting the questions, always indicated the answers expected, and that the gentlemen of the long robe considered it a mere professional act, the same as if they were called upon to defend a cause upon a brief in which the evidence of one party only is stated.

It seems the Spanish minister was very well instructed on the answers which he had to make to such objections, for he directly told the honorable Mr. Pinckney that though he had no doubt that might be the course pursued by inferior or worthless men, which are to be found among every profession in every country, yet he was well informed of the eminent rank those gentlemen held in America. He said the honorable Mr. E. Livingston had been an eminent member of the general congress, and was the attorney-general of the United States;—that the honorable Mr. Ingersoll had been attorney general, that the honorable Mr. Rawle had been attorney general also; that one of them, Mr. Duponceau, though he appeared not to hold any office was represented to him as one of the first civilians in America, and that the honorable Mr. M'Kean was then the attorney general of Pennsylvania, and being the son of the governor of that state must be supposed to know its laws and comprehend its policy too well to hazard an opinion lightly.

The honorable Mr. Pinckney resorted to such arguments as were calculated to convey more correct ideas; but the impression was made, and the opinion of those gentlemen was opposed to the calls of justice and the claims of injured men. As the subject has come before the public, I think it would be wrong to conceal any of the facts relating to it, and on this account as well to remove prejudices, I make this communication, and shall add with great satisfaction, that I have good information, that no steps were left untried by the president and the secretary of state, nor by our ambassador at Madrid, but that this unfortunate opinion baffled all negotiation on the head of our claims.

***** A SUFFERER.

August 22, 1850.

To the Editor of the Aurora.

Mr. DUANE.—The legal opinion which you published in the Aurora of the 20th inst. from a Baltimore paper, respecting the dispute between this country and Spain, appears to me to be a document which merits the most serious attention of the citizens of the United States—and it is certainly your duty and the duty of every man in a similar situation, to endeavor by every possible means, to ascertain the truth of the facts stated or rather insinuated, in the Baltimore paper respecting this business.

If it is true that those lawyers, who gave this opinion, were employed by the Spanish ambassador, at a fee (perhaps it would be more correct to call it a bribe) of a thousand dollars each, to give the opinion, and knew for what purpose it was intended—if they knew it was designed to be transmitted to Spain and made use of by the Spanish government against their own country, to prove that the United States have no legal claim upon Spain for an indemnification for the depredations they have committed on our commerce—if they knew all this at the time the opinion was given, and it is true that the opinion was actually made use of by the Spanish government, for the above-mentioned purpose; and our claim for indemnification has been defeated by that means—they have certainly been guilty of an act of the most unpardonable treachery to their country. I hope for the honor of the American character, that such is not the fact—but really the affair bears a very suspicious aspect at present. It is true that the supposed case on which the opinion is predicated is a simple question between A, B, and C—but if they know what were alluded to by these letters, the offence is as great as if the several countries were particularly named.

It is the *quo animo* with which the thing was done that constitutes its criminality.

A majority of the lawyers who gave this opinion are of the first standing at the bar, and as legal characters are well known in several European countries, this the Spanish ambassador knew very well, and all parties knew what weight their opinions would have with the Spanish government. Let us suppose a similar case, if a dispute of the same kind were now to take place between Great Britain and the U. S. and our ambassador at London, now to obtain the opinion of Mr. Erskine, Garrow and three or four others, (of the most celebrated lawyers in England) (the attorney general among the rest) most decidedly in our favour, would not these opinions have very great weight with our government?

Viewing the question in this way, I presume you will be of opinion with me, that if the facts are as they have been stated, the conduct of those lawyers is in the

highest degree reprehensive, and that the facts ought to be enquired into.

Another question which merits consideration is, whether the opinion given, is correct in point of law. This point I shall take an opportunity to investigate, when I have more leisure to attend to it. I must however say, that the arguments made use of to prove that the release of this country to France, will operate as a release to Spain likewise, is, in my opinion, the most miserable sophistry I ever read. But even if the opinion is correct in point of law, it will not justify the lawyers who gave it under such circumstances.

SIDERFIN.

LONDON, July 10.

GEORGE R.

Instruction to our Courts of Admiralty, and to the Commanders of our Ships of War and Privateers.

In consideration of the present state of commerce, we are graciously pleased to direct, that neutral vessels, having on board the articles hereafter enumerated, and trading, directly or circuitously, between the ports of our united kingdom and the enemy's ports in Europe (such ports not being blockaded,) shall not be interrupted in their voyages by our ships of war or privateers, on account of such articles or any of them, being the property of our subjects trading with the enemy, without having obtained our special licence for that purpose; and if any neutral vessel, trading as aforesaid, shall be brought into our ports for adjudication, such vessel shall be forthwith liberated by our courts of admiralty, together with the enumerated articles laden therein, which shall be shewn to be British or neutral property.

EXPORTS.

List of goods permitted to be exported to Holland, France and Spain—British manufactures (not naval or military stores) grocery, alum, annatta, coffee, cocoa, calicoes, copperas, drugs (not drying drugs) rhubarb, spices, sugar, pepper, tobacco, vitriol, elephants teeth, pimento, cinnamon, nutmegs, corneal stone, nankeens, East India bale, tortoise shell, cloves, red, green, and yellow earth, earthenware, indigo (not exceeding five tons in one vessel) woollens, rum and prize goods, not prohibited to be exported.

IMPORTS.

From Holland—Grain, (if importable according to the provisions of the corn laws) salted provisions of all sorts (not being salted beef or pork), oak bark, flax, flax-seed, clover, and other seed, madder roots, salted hides and skins, leather, rushes, hoops, saccarum saturni, barilla, smalts, yarn, saffron, butter, cheese, quills, clinkers, terrace, Geneva, vinegar, white lead, oil, turpentine, pitch, hemp, bottles, wainscoat boards, raw materials, naval stores, lace, and French cambricks and lawns.

From France—Grain, (as above) salted provisions of all sorts, (not being salted beef) pork, seed, saffron, rags, oak bark, turpentine, hides, skins, honey, wax, fruit, raw materials, linsced, cakes, tallow, weld, lace, French cambrics and lawns, vinegar, and brandy.

From Spain—Cochineal, barilla, fruit, orchella weed, Spanish wool, indigo, hides, skins, shumac, liquorice juice, seeds, saffron, silk, sweet almonds, Castile soap, raw materials, oak bark, anniseed, wine, cork, black lead, naval stores, vinegar and brandy.

And we are further pleased to direct, that the foregoing enumeration may be added to, or altered by any order of the lords of our council.—By his majesty's command. HAWKESBURY.

BELFAST, July 20.

We are still unable to satisfy the public impatience with any accounts of lord Nelson. In the event of his not falling in with the enemy, it is satisfactory to know, that all due diligence has been employed by the admiralty, in reinforcing our squadrons on the French and Spanish coasts, to enable them to intercept the combined fleets, if they are on their return, as reported by the Curieux. Admiral Sir Robert Calder, we find, has been reinforced off Ferrol, by the Windsor Castle and Barfleur, of 94 guns, and the Triumph Reasonable, and Warrior, of 74 guns each. And considerable accessions have been made to the Rochefort and Cadiz blockading squadrons.

The news from the continent considering the important subjects which are supposed to be under discussion, are very uninteresting. The mission of M. Novosiltzoff, while in contemplation, excited some little degree of anxiety and expectation, but no sooner had that negociator set out on his pacific errand, than the journals under the controul of France, are immediately silent with respect to that circumstance. Not a sentence appears in them, tending either to increase our hopes, or add to our apprehensions. The bare fact of his arrival at Berlin is ascertained, and no more. Whether the much talked of negotiation is to be under the auspices of the cabinet of Prussia is not yet disclosed, nor is it perhaps of much consequence, whilst the apathy of the north of Germany augurs most unfavorably against its success.

PARIS, June 26.

Under the present form of our Government, & considering the genius which directs every thing, it is no wonder that such profound secrecy has been hitherto preserved respecting the destination of the Toulon fleet. Four different plans had

been laid before the Emperor, relative to the destination of that fleet, which was virtualled at all events, for a long period. He cancelled and burnt three of those plans, and sent himself the plan he had adopted to Toulon to be followed; so that those in his confidence did not know which plan his Majesty had chosen.

The Emperor has provided the minister of the Interior Champagny, with the necessary powers to organize the three Genoese Departments. From the 9th of June, all the acts of that Minister must be observed as laws in the whole compass of these three departments.

NEW-YORK, September 2.

By the brig Nancy, Childs, in 39 days from Dublin, we have received the *Dublin Evening Post* of the 20 July, containing London dates to the 16th.

An order was received at the Custom-house, Cork, to lay under quarantine, &c. any ship or ships of the combined fleets, which may be captured by the British ships of war; as a malignant disease is said to prevail on board them. The order is general throughout the kingdom.—It would appear from this precaution, that government have a strong expectation of Lord Nelson's being able to overtake them; or that if they succeeded in escaping them, they will be intercepted before they can arrive in a French or Spanish port.

Capt. Brown, of the *Orestes* sloop of war, lost off Calais, was ordered to attempt the destruction of the French flotilla, in which he had every reasonable prospect of success. Every thing favored the enterprize. By the lead it appeared he was in 7 fathoms water, but on the succeeding heave the vessel had only three.—The ship was immediately put about, but her stern was on the bank.—Every attempt was made to get her off but in vain. It was a beautiful moonlight morning, and a vast number of the French gun-boats and prams were in motion.—The captain and crew took to their long-boat, and rather than suffer their enemy to be benefited by this misfortune, they contrived to set her on fire, and shortly after she blew up.—Captain Brown and his crew got safe back to the other ships.

Talleyrand Perigord, the French Minister, said to have died, the Paris papers state to be alive, and as actively employed in confusing Europe as ever.

By the arrival of the ship *Augusta*, from Belfast, we have received from our correspondent a regular file of the Belfast Chronicle to the 21st of July, containing London dates to the 16th, from which we have made some valuable extracts for this day's Daily Advertiser. It will be perceived that the British government, apprehensive of the return of the combined fleets to some port in France or Spain, have sent reinforcements to their blockading squadrons at Ferrol and Cadiz, so as to enable them to cope with their inveterate foes. The British expedition under general Craig are said to be destined to reinforce the garrison at Malta, and to take possession of Alexandria in Egypt.

We have received the following note from Capt. Purger, of the ship *Augusta*, who arrived this morning from Belfast. The *Augusta* is probably the ship which we mentioned yesterday (on the authority of captain Weymouth) as being then detained by the sloop of war *Hawke*.

[Com. Adv.]

On the 30 instant, Sandy-Hook bearing N. by W. distant 5 leagues, I was boarded by his Britannic Majesty's sloop of war *Hawke*, captain Thompson, who pressed thirteen passengers out of the *Augusta*, and treated us in every respect with very great rudeness. Mr. Hughes in particular made use of the most abusive language, and threatened to take me on board the sloop of war and have me punished unless I instantly presented on deck all my passengers, of whom I had forty-nine.

On the 31st, Sandy-Hook bearing N. N. W. distant 3 leagues, was boarded by his majesty's frigate *Cleopatra*, and treated very politely.

The following are the names of the passengers who were impressed:

John Allen, Edward Lowry, James Davidson, Jenkin Killins, John Patterson, George Weir, Samuel Bishop, James Chambers, John Crozitt, John Beatry, Daniel Campbell, John M'Conagh.
JAMES D. BURGER.

Columbia Garden.

On THURSDAY EVENING, September 5

The garden will open with

A Grand Concert of

Vocal and Instrumental Music;
A characteristic discursive piece (of one act)

Patrick O'Carroll in the Registers-office.
A song with Dialogue by Mr. Durang, jun. called:

Teddy's Amour.

Followed by an
IRISH LILT & JIG.
Characters by the company.
After which a comic piece in dialogue and song called

Jobson & Nell.

Jobson—Nell—Conjuror—Snob—Countryman
The whole to conclude with a sea-faring ballad
told in action, with songs, dances, &c. called

The Constellation crew on

Fell's-Point;

Or JACK IN DISTRESS.
A Treble Hornpipe!

Poor Jack—Songs—Huza for the Constellation
Swig—the Rowing can.
September 4