

hipotentiary of the United States, to represent to the British government the signal aggression which had been committed on their sovereignty and their flag; and to require the satisfaction due for it; indulging the expectation that his Britannic majesty would at once perceive it to be the truest magnanimity, as well as the strictest justice, to offer that prompt and full expiation of an acknowledged wrong which would re-establish and improve, both in fact and in feeling, the state of things which it had violated.

This expectation was considered as not only honourable to the sentiments of his majesty, but was supported by known examples, in which, being the complaining party, he had required and obtained, as a preliminary to any counter complaints, whatever, a precise replacement of things, in every practicable circumstance, in their pre-existing situation.

Thus in the year 1764, Bermudians and other British subjects, who had according to annual custom, taken possession of Turk's Island for the season of making salt, having been forcibly removed with their vessels and effects by a French detachment from the Island of St. Domingo, to which Turk's Island was alleged to be an appertenance, the British ambassador at Paris, in pursuance of instructions from his government, demanded, as a satisfaction for the violence committed, that the proceedings should be disavowed, the intention of acquiring Turk's Island disclaimed, orders given for the immediate abandonment of it on the part of the French, every thing restored to the condition in which it was at the time of the aggression, and reparation made of the damages which any British subjects should be found to have sustained, according to an estimation to be settled between the governors of St. Domingo and Jamaica. A compliance with the whole of this demand was the result.

Again:—In the year 1789, certain English merchants having opened a trade at Nootka Sound, on the north-west coast of America, and attempted a settlement at that place, the Spaniards, who had long claimed that part of the world as their exclusive property, dispatched a frigate from Mexico, which captured two English vessels engaged in the trade, and broke up the settlement on the coast. The Spanish government was the first to complain in this case, of the intrusions committed by the British merchants. The British government, however, demanded that the vessels taken by the Spanish frigate should be restored, and adequate satisfaction granted, previous to any other discussion.

This demand prevailed; the Spanish government agreeing to make full restoration of the captured vessels, and to indemnify the parties interested in them for the losses sustained. They restored also the buildings and tracts of land, of which the British subjects had been dispossessed. The British, however, soon gave a proof of the little value they set on the possession, by a voluntary dereliction, under which it has since remained.

The case which will be noted last, though of a date prior to the case of Nootka Sound, is that of Falkland's Islands. These islands lie about 100 leagues eastward of the Straits of Magellan. The title to them had been a subject of controversy among several of the maritime nations of Europe. From the position of the islands, and other circumstances, the pretension of Spain bore an advantageous comparison with those of her competitors. In the year 1770, the British took possession of Port Egmont, in one of the islands; the Spaniards being at the time in possession of another part, and protesting against a settlement by the British. The protest being without effect, ships and troops were sent from Buenos Ayres, by the governor of that place, which forcibly dispossessed and drove off the British settlers.

The British government looking entirely to the dispossession by force, demanded as a specific condition of preserving harmony between the two courts, not only the disavowal of the Spanish proceedings; but that the affairs of that settlement should be immediately restored to the precise state in which they were previous to the act of dispossession. The Spanish government made some difficulties; requiring particularly a disavowal on the part of Great-Britain, of the conduct of her officer at Falkland's Islands, which, it was alleged, gave occasion to the steps taken by the Spanish governor; and proposing an adjustment by mutual stipulation in the ordinary form.

The reply was, that the moderation of his Britannic majesty having limited his demand to the smallest reparation he could accept for the injury done, nothing was left for discussion but the mode of carrying the disavowal and restitution into execution; reparation losing its value if it be conditional, and to be obtained by any stipulation whatever from the party injured.

The Spanish government yielded. The violent proceedings of its officers were disavowed. The fort, the port, and every thing else were agreed to be immediately restored to the precise situation which had been disturbed; and the duplicates of orders issued for the purpose to the Spanish officers, were delivered into the hands of one of the British principal secretaries of state. Here again it is to be remarked that satisfaction having been made for the forcible dispossession, the islands lost their importance in the eyes of the British government, were in a short time finally evacuated, and Port Egmont remains with every other part of them in the hands of Spain.

Could stronger pledges have been given, than are here found, that an honourable and instant reparation would be made in a case, differing no otherwise from those recited than as it furnished to the same monarch of a great nation, an opportunity to prove, that adhering always to the same immutable principle, he was as ready to do right to others, as to require it for himself;

Returning to the instructions given to the minister plenipotentiary of the U. States at London, I am to observe that the president thought it just and expedient to insert, as a necessary ingredient in the adjustment of the outrage committed on the American frigate, a security against the future practice of the British naval commanders, in impressing from merchant vessels of the United States on the high seas, such of their crews as they might undertake to denominate British subjects.

To this association of the two subjects, the president was determined, first, by his regarding both as resting on kindred principles, the immunity of private ships, with the known exceptions made by the laws of nations, being as well established as that of public ships; and there being no pretext for including in these exceptions the impressment (if it could be freed from its enormous and notorious abuses) of the subjects of a belligerent, by the officers of that belligerent. The rights of a belligerent against the ships of a neutral nation, accrue merely from the relation of the neutral to the other belligerent, as in conveying to him contraband of war, or in supplying a blockaded port.

The claim of a belligerent to search for and seize on board neutral vessels on the high seas, persons under his allegiance, does not therefore rest on any belligerent right under the law of nations, but on a prerogative derived from municipal law; and involves the extravagant supposition, that one nation has a right to execute at all times and in all cases, its municipal laws and regulations, on board the ships of another nation, not being within its territorial limits.

The president was led to the same determination 2dly, by his desire of converting a particular incident, into an occasion for removing another and more extensive source of danger to the harmony of the two countries; and 3dly, by his persuasion that the liberality of the propositions authorized with this view, would not fail to induce the ready concurrence of his Britannic majesty; and that the more extensive source of irritation and perplexity being removed, a satisfactory adjustment of the particular incident would be less difficult. The president still thinks that such would have been the tendency of the mode for which he had provided; and he cannot therefore but regret that the door was shut against the experiment, by the peremptory refusal of Mr. Canning to admit it into discussion, even in the most informal manner, as was suggested by Mr. Monroe.

The president felt the greater regret, as the step he had taken towards a more enlarged and lasting accommodation became thus a bar to the adjustment of the particular and recent aggression which had been committed against the U. States: He found however an alleviation, in the signified purpose of his Britannic majesty, to charge with this adjustment a special mission to the U. States, which, restricted as it was, seemed to indicate a disposition from which a liberal and conciliatory arrangement of one great object at least might be confidently expected.

In this confidence, your arrival was awaited with every friendly solicitude; and our first interview having opened the way, by an acquiescence in the separation of the two cases insisted on by his Britannic majesty, notwithstanding the strong grounds on which they had been united by the president, it was not to be doubted that a tender of the satisfaction claimed by the United States, for a distinguished and an acknowledged insult, by one of his officers, would immediately follow.

It was not, therefore, without a very painful surprise, that the error of this expectation was discovered. Instead of the satisfaction due from the original aggressor, it was announced that the first step towards the adjustment must proceed from the party injured; and your letter now before me, formally repeats that as long as the proclamation of the president, which issued on the 2d July, 1807, shall be in force, it will be an insuperable obstacle to a negotiation, even on the subject of the aggression which preceded it; in other words, that the proclamation must be put out of force, before an adjustment of the aggression can be taken into discussion.

In explaining the grounds of this extraordinary demand, it is alleged to be supported by the consideration that the proceeding and pretension of the offending officer has been disavowed: that general assurances are given of a disposition and intention in his Britannic majesty to make satisfaction: that a special minister was dispatched with promptitude for the purpose of carrying into effect this disposition, and that you have a personal conviction that the particular terms, which you are not at liberty previously to disclose, will be deemed by the U. States satisfactory.

With respect to the disavowal, it would be unjust not to regard it as a proof of candour and amity towards the U. States, and as some prelude of the voluntary reparation which it implied to be due. But the disavowal can be the less confounded with the reparation itself; since it was sufficiently required by the respect which Great-Britain owed to her own honour; it being impossible that an enlightened government, had hostility been meditated, would have commenced it in such a manner, and in the midst of existing professions of peace and friendship. She owed it also to consistency with a disavowal on a former occasion, in which the pretension had been enforced by a British Squadron, against the fleet of war Baltimore, belonging to the U. States; and finally to the interest which Great-Britain has, more than any other nation, in disclaiming a principle which would expose her superior number of ships of war, to so many indignities from inferior navies.

As little can the general assurances that reparation would be made, claim a return which could properly follow the actual reparation only. They cannot amount to more than a disposition, or at most a promise, to do what the aggressor may deem a fulfilment of his obligation. They do not prove even a disposition to do what may be satisfactory to the injured party, who cannot have less than a right to decide on the sufficiency of the redress.

In dispatching a special minister for the purpose of adjusting the difference, the United States ought cheerfully to acknowledge all the proof it affords on the part of his Britannic majesty, of his pacific views towards them, and of his respect for their friendship. But whilst they could not under any circumstances allow to the measure more than a certain participation in an honourable reparation, it is to be recollected that the avowed and primary object of the mission was to substitute for the more extended adjustment proposed by the United States, at London, a settlement of the subjects, as preferred by his Britannic majesty, and you well know, sir, how fully this was accomplished.

With respect to the personal conviction which you have expressed, that the terms which you decline to disclose, would be satisfactory to the United States, it is incumbent on me to observe, that with the highest respect for your judgment, and the most perfect confidence in your sincerity, an insuperable objection manifestly lies, in the acceptance of a personal and unexplained opinion, in place of a disclosure, which would enable this government to exercise its own judgment, in a case affecting so essentially its honour and its rights. Such a course of proceeding would be without example; and there can be no hazard in saying that one will never be afforded by a government which respects itself as much as yours justly does; and therefore can never be reasonably expected from one which respects itself as much as this has a right to do.

I forbear, sir, to enlarge on the intrinsic incongruity of the expedient proposed. But I must be allowed to remark, as an additional objection, the singular and mortifying perplexity in which a compliance might involve the president, that there are in the letter of Mr. Canning, communicated to Mr. Munroe the special mission to the United States, pregnant indications that other questions and conditions may have been contemplated, which would be found utterly irreconcilable with the sentiments of this nation.

If neither any nor all of these considerations can sustain the preliminary demand made in your communication, it remains to be seen whether such a demand rests with greater advantage on the more precise ground on which you finally seem to place it.

The proclamation is considered as a hostile measure, and a discontinuance of it, as due to the discontinuance of the aggression which led to it.

It has been sufficiently shewn that the proclamation, as appears on the face of it, was produced by a train of occurrences terminating in the attack on the American frigate, and not by this last alone. To a demand, therefore, that the proclamation be revoked, it would be perfectly fair to oppose a demand that redress be first given for the numerous irregularities which preceded the aggression on the American frigate, as well as for this particular aggression, and that effectual control be interposed against repetitions of them. And as no such redress has been given for the past, notwithstanding the lapse of time which has taken place, nor any such security for the future, notwithstanding the undiminished reasonableness of it, it follows, that a continuance of the proclamation would be consistent with an entire discontinuance of one only of the occurrences from which it proceeded.

But it is not necessary to avail the argument of this view of the case, although of itself entirely conclusive. Had the proclamation been founded on the single aggression committed on the Chesapeake, and were it admitted that the discontinuance of that aggression merely, gave a claim to the discontinuance of the proclamation, the claim would be defeated by the incontestable fact, that that aggression has not been discontinued. It has never ceased to exist; and is in existence at this moment. Need I remind you, sir, that the seizure and asportation of the seamen belonging to the crew of the Chesapeake entered into the very essence of that aggression; that with an exception of the victim to a trial, forbidden by the most solemn considerations, and greatly aggravating the guilt of its author, the seamen in question are still retained, and consequently that the aggression, if in no other respect, is by that act alone continued and in force?

If the views which have been taken of the subject have the justness which they claim, they will have shewn that on no ground whatever can an annulment of the proclamation of July 2d, be reasonably required, as a preliminary to the negotiation with which you are charged. On the contrary, it clearly results from a recurrence to the causes and object of the proclamation, that as was at first intimated, the strong sanctions of Great-Britain herself, would support the demand, that previous to a discussion of the proclamation due satisfaction should be made to the United States; that this satisfaction ought to extend to all the wrongs which preceded and produced that act; and that even limiting the merits of the question to the single relation of the proclamation to the wrong committed in the attack on the American frigate, and deciding the question on the principle that a discontinuance of the former, nothing appears that does not leave such a preliminary requisite of every foundation which could be afforded for it.