

law from whence we derive a Power to interfere and afford Redress to an injured Citizen, where he is oppressed by the Military. Such a Power must be lodged somewhere, and we know of no other Jurisdiction which can, in a summary way, determine such a case between the State and the Subject, and grant immediate Relief, when a palpable Injury has been committed. The Executive have always in the last Resort superintended the Recruiting Service and exercised the Powers of discharging or retaining Recruits, according to the circumstances disclosed to them; and we conceive, the Law giving you a Power to superintend that Service, could not nor was intended to prevent our Interference in the accustomed manner. If we have assumed a Power, or exercised it improperly, we cannot be responsible to any Individual, and we are fully convinced our Interposition in this and similar cases, will not obstruct the Recruiting Service, but have a contrary Tendency. Mr. Randall's Application was not secret, but open, as other applications are made, and was openly heard and determined. We do not comprehend what you mean by an ex parte Hearing, we neither did nor do consider you or Hamilton a Party; the State alone could be interested in our Decision. We viewed you in a very different light from that in which you have been pleased to place yourself, and considered you as having a Right to Judge of Randall's Complaint, in the first Instance, such Judgment not conclusive, but subject to our Revision and Control, upon an Appeal to us. The Suits brought by Randall against Hamilton, cannot be affected by our Determination, and therefore he could not be injured by it, or considered as a Party. We communicated the Testimony in our first Letter, upon which our Request was made, and had no Doubt of your Compliance; you now say it is not conclusive, though you once thought it sufficient, or you would not have agreed to restore the Apprentice, on a Composition. You observe, Had Mr. Randall applied first to us, and we pointed out the Law that gave us a Power, you would with great Pleasure, have paid Attention to our Order; can that change Randall's Right, or does our Power depend upon the Mode in which Application for Redress is made, and will you admit that nothing but Punctilio prevents you from doing Randall Justice and restoring his Servant? As you have deemed it proper, by Way of elucidating this Case, to mention an Instance in which we have, in your Apprehension, deviated from Propriety; we wish you had preserved your Candour throughout, and recapitulated the other Instances alluded to, in which a Want of Delicacy was discovered by you. Though we feel no Propensity to augment our Power, or stretch our Authority beyond the proper Line, we allow shall without Reluctance, admit you to be a competent Judge of the Force of your own Observations. We know of no Criterion to ascertain and determine the Motives of Individuals, or public Bodies but their Actions, and this we must, and are willing to abide by, though we cannot flatter ourselves, our Conduct will, in all Instances, bear the Scrutiny of the most candid. We should not have been thus prolix but the Length of your Letter and the Variety of Matter contained therein rendered it unavoidable. We hope it will not be necessary to enter into a more ample Discussion of this Subject, but that it may be terminated by your discharging and returning Simmonds to his Master.

General Smallwood.

Sir

Enclosed 26th April 1792

1121.

A French Brig of 16 Guns, chased up the Bay a Privateer Sloop of 14 Guns, only four Days from New York, but lost Sight of her this Morning 30th Lock of Poplar Island. It is uncertain whether the Sloop continued her Course up the Bay, run into the Eastern Bay, or struck down the Bay. When the Brig came up and is now opposite to the Place where the Privateer was a Prize the Sloop had taken, was retaken by the Brig the People on Board of which gave Information that the Sloop came in with two Negroes