THE CONVENTION OF 1800

by

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Chapter One: THE MISSION

Introduction

While the colonies were keeping up a protracted and discouraging struggle against the mother country, two treaties were formed with France, one of alliance, another of amity and commerce. Each entailed certain obligations. The first provided that if war should break out between France and Great Britain, each party should aid the other as a good and faithful ally. The Alliance was definitely stated to be defensive, with its primary object, the independence of the United States, and without which, neither should conclude peace. The colonies were to guarantee all the French possessions in America, together with any she might obtain by treaty, while France, in turn, guaranteed to them their "liberty, sovereignty, and independence, absolute and unlimited." This treaty
was the one most beneficial to the colonies, for French aid alone made possible the continuance of the war to a successful close. The treaty of amity and commerce protected their merchantmen, listed articles of contraband, promised mutual adherence to the "neutral ships, neutral goods" clause, and granted each the exclusive privilege of fitting out privateers, and bringing prizes into the ports of the other. These articles seemed of little consequence at first, but later entailed considerable difficulty.

The war ended, the colonies were made independent, and for a time, relations with France were on the best of terms. But scarce had Morris been sent to Paris when the French Revolution broke out, and its excesses arrayed most of the world against that nation. In 1793, her newly established Directory declared war against England, who concluded as many as twenty-three treaties with her allies, by which they agreed to starve out the common enemy. All ports were to be closed against her; they were to harass her commerce, and to prevent all provisions from reaching her. As a means to this end, all French vessels were to be seized and all neutral vessels bound for French ports to be sent back. The commercial interests
of the United States consequently suffered severely for she had built up a prosperous and extensive trade. France, too, was in a serious predicament and naturally turned to her ally for full support, in accordance with the treaty of 1778. The natural impulse of the nation at large was to join France in her war, out of gratitude for her former aid. But the outrages of the revolution and the cold-blooded murder of their king, who was considered by the Americans as their staunch friend, surprised and shocked them. And the continued depredations on their commerce, at first veiled under the excuse of mistake, cooled their enthusiasm considerably. She said their seizures were accidental as she could not distinguish the two English-speaking nations; but finally the attacks were open and undisguised. France had originally been disappointed in not having gained the commercial advantages from American commerce, as she had anticipated, for it had reverted to British channels as before the war. Likewise, diplomatic relations were not the best. Gouverneur Morris, who had been sent as minister to France, was particularly unacceptable, for he was decidedly sympathetic to the monarchist party. Nor was the French minister, Genet, any better liked. Assuming that the United States would enter the war as the French ally, he
at once commissioned privateers and sent them to
sea, and insolently demanded cannon and firearms
to protect the French possessions in the West
Indies, under the treaty guarantee. Every
remonstrance of Washington's government brought
forth an unreasonable and defiant reply. This
attitude of Genet's, together with a thoughtful
conviction that this young nation could not
withstand the throes of war, decided Washington
to issue a proclamation of neutrality. It was
the best he could do, although it was not fulfilling
treaty obligations. The French were furiously
angry, but they needed trade and provisions as much
as they needed an ally, so no coercive measures
were used. Commercial relations, however, were
becoming constantly more strained. The French
law, granting exclusive privileges to American
commerce, was suspended. May 9th the national
convention issued a decree ordering the arrest of
any neutral vessels laden with provisions bound to
an enemy's port. It could not be denied that this
was an open and palpable violation of neutral rights.
That decree and one of November 18th, 1794, directed
the seizure of neutral vessels containing enemy's
goods, in spite of the express provision of the
Treaty of Commerce of 1798, that "free ships make
free goods).

A decree of Feb. 1797, subjected neutral vessels en route to the West Indies, to capture and confiscation; one of Jan. 1798, passed by the Directory, condemned neutral vessels carrying any British merchandise; another of Mar. 2, required a "role d'équipage" or crew list, as the sole means of escaping capture.

In the meantime our relations with England had become dangerously tense. When instructions were given British ships of war and privateers to seize all vessels loaded with corn, flour, or meal bound to any part of France, and all ships of whatever cargo, bound to a blockaded part, Washington felt the matter could no longer be delayed. Jay was sent to England to conclude some kind of a treaty, which, although decidedly favorable to that country, freed the United States from danger of war with the mother country and left her more independent with regard to France.

The situation had now become so delicate that it seemed war with France might result. Genet and Morris had both been recalled, and Monroe was sent as the latter's successor. The French looked upon the Jay negotiation with growing suspicion. Monroe had been instructed by his government to
insist upon a strict observance of the commercial treaty, but was somewhat embarrassed, since his own country refused to comply with the treaty of alliance. Matters came to the point that the Minister of Foreign Affairs, M. de la Croix, finally listed their grievances, in reply to Monroe's request. First, they complained because of the inexecution of the treaties. The treaties forbade that his government should take cognizance of the prizes they brought into port. But the United States, in spite of this provision, assumed the right to decide whether or not the captures were legal. Permitting English warships to come into American ports was still another infraction. And this was made worse by allowing Englishmen to make prizes within sight of American towns. Second, the arrest in United States waters, of the vessel upon which Fauchet, the French minister, was sailing for Europe, and the search of his baggage and papers. Monroe's reply that his government had sincerely made amends, seemed insufficient. Third, the treaty with England was a direct violation of the principles of the treaties with France. Instead of restricting contraband to provisions directly useful to the enemy, they had extended it. The treaty did not observe the "neutral ships neutral
goods" formula. Monroe truthfully replied that although the principles of armed neutrality were very dear to his country, yet it was not powerful enough to force them upon England. Because the reply was true in no wise solved the difficulty. There was, indeed, basis for the French grievances. France had been in desperate need of an ally, yet the United States refused to join her. She refused to protect the West Indies and in a month the islands of Martinique, Guadeloupe, St. Lucia, St. Vincent, Tobago, Desirade, Mariegalante, St. Pierre, Miquelon, and Granada were swept from her. The Jay treaty, everyone admitted, was extremely favorable to her enemy. And she continued to submit tamely to English impressment of her seamen, which, France said, made her an accessory to the war.

Monroe, unable to produce any political understanding, endeavored to conciliate the French by pleasant speeches and demonstrative manners. His conduct became so displeasing to Washington that he was summarily recalled and Charles Cotesworth Pinckney, a Federalist, appointed in his stead. He arrived at Bordeaux Nov. 15, 1796, and was received with distinction. But the reception was the only courtesy shown him; in fact, their treatment was intentionally discourteous. They
would not recognize him as an accredited minister; he was refused a permit to remain in Paris and consequently was subjected to the supervision of the police, who asked him to quit the territory. But, in spite of all this aggravating treatment, Adams felt that the United States could not possibly withstand a war. Even Hamilton, who was leader of the Federalists and inclined to criticize France, advised the appointment of a commission to assist Pinckney. John Marshall and Elbridge Gerry were duly appointed and joined him at Amsterdam. The story of their baffled efforts, of their humiliating experiences, and eventual failure is interesting, but of no particular importance save that it brought matters to the verge of war. Their conference with the foreign minister was constantly postponed, while secret agents approached them to sound them upon such dishonorable subjects as loans and bribes. Talleyrand disavowed the agents, but he, himself, tried to compromise them by insisting that an apology for the President's language in reference to the French government, that a loan from their government to France, and a gift to the members of the Directory were prerequisites to any negotiation. The ministers bore his duplicity as long as they could. They indignantly withdrew when he asked to treat with that one of the three whose opinions were
"presumed to be more impartial". Contrary to the advice of his colleagues, Gerry remained two more weeks, subject to the cajoling, the bald intrigue, and the effrontery of the foreign minister. His efforts are of no importance - he was merely that clever diplomat's dupe and when he realized that fact, he left the country, mortified and indignant.

Meanwhile, public opinion was anxiously awaiting news of the negotiation. The congressional session had dragged along until March, when Adams received despatches from the ministers. A hasty examination showed that they were unfavorable. At once he sent a message to Congress indicating what might be expected. The Republicans were unwilling to believe such ill reports of France and called for the correspondence. Adams complied April 3rd, withholding only the names of the secret agents who had approached the negotiators, substituting instead the letters X, Y, and Z. Everyone was astonished at Talleyrand's conduct, and at once Congress voted to publish the correspondence. The whole country flamed up in excitement and disapproval. As matters developed, the war party was increasingly strengthened. Pickering, the Secretary of State, was for declaring war at once, and he was supported by the great body of Federalist leaders. But Adams felt that though asking bribes of our representatives was an insult,
it hardly justified war. If France wanted it, let her declare it. No harm, however, could result from being prepared. Thereupon, in a short message of June 21, he recommended the enacting of defensive measures, and pledged himself never to send another minister to France without assurances that he would be "received, respected, and honored as the representative of a free, powerful, and independent nation". Congress and the whole people rallied to his support, eager to put through any vigorous policy he might recommend. With the full sympathy and enthusiasm of the country behind it, Congress somewhat lost its equilibrium and passed one war measure after another. Twenty-three were added to the statute book inside of two months. One of the most important of these created a navy department with Benjamin Stoddert of Maryland at its head; others provided for the equipping of several galleys and the purchase of twelve twenty-two-gun vessels. Their commanders were authorized to oppose search, to capture French armed vessels and all others interfering with commerce. This made possible the seizure of French privateers without a formal declaration of war.

An act destined to seriously complicate matters between the two nations was passed on the 1st of July, which provided for the abrogation of the old treaties of 1778. Congress felt that as treaties formed a part of the supreme law of the land, any hostile measures by a contracting party against the other, would be as one law contradictory to another. As we shall see, the abrogation of the treaties left the United States in an embarrassing situation, and she was eventually forced to pay dearly. During this month, Congress passed another series of acts which included provisions for the improvement of docks and harbors, for the appropriation of considerable sums of money with which arms and munitions were to be purchased. The President was authorized to secure artillery and engineer enlistments for five years and regular volunteers for three years.

For commander-in-chief all eyes turned to Washington, who accepted the position, although quite an old man.

Matters came to a disgraceful turn, due to a quarrel between Hamilton and Knox for highest rank. There was considerable intrigue and much time consumed in wrangling over details. Adams quite

properly felt that his place was usurped, and his
difference to the raising of an army became more
and more apparent. Popular enthusiasm waned, and
volunteers were slow in answering the call.

While the affairs of the army were in such
shameful condition, the little navy had been
launched and was making some creditable captures at
sea. The "Constellation" had fallen in with the
French frigate "L'Insurgente" and by out manoeuvring
her, forced a surrender. Several other engagements
followed. The same vessel met "La Vengeurice" in
battle and the "Boston captured the Beacon". The
"Delaware" triumphantly towed in a French privateer
of twenty guns which had been doing considerable
damage along the coast. The period of retaliation
lasted two and one-half years, during which eighty-
four ships and privateers of France were seized.

It seems obvious enough, that France was in no mood
for war, else she would not, so long, have withstood
these irritating depredations.

The Mission of Logan

For a time the public mind was engrossed
over a new topic. Dr. George Logan, a respectable
and well-known Quaker of Philadelphia, of a family
of some little repute, a staunch Republican and a
warm admirer of France, was sorely grieved that the two republics were on the verge of war, when a bit of tact and a few kind words, might smooth out the difficulties. Acting upon this kindly impulse, and armed with only a few certificates from Jefferson and Judge McKeen, which simply stated his citizenship, character, and circumstances, as a protection in case of his being molested, he quietly set sail for France. The manner of his going was truly unwise for it gave a clandestine appearance to his mission and afforded a point of attack to the Federalist papers. They instantly heralded it as an attempt by the Jacobins in the United States to unite with a French army, and they spread the alarming news that even then plans for an invasion were afoot. The report of Logan's arrival caused no little consternation to Vans Murray, American minister at the Hague, who immediately set an agent in motion at Amsterdam, and had an order for his detention issued. But as Logan proceeded to Paris by a different route, the order was recalled. A Leyden paper printed Harper's declations to the House that there existed a traitorous correspondence.

between the Jacobins and French Directory, that he had got hold of some threads and clues and would soon be able to develop the whole mystery. This information, together with reports that Logan declared his object to confidants only, he receiving his passport from the French political agent at Hamburg and his continued avoidance of the U.S. consul, led Murray to believe sincerely that the whole affair was a political interference between the two governments. However, letters he received from Skinner and Hinckley, Americans residing in Paris, remarked that Logan made no mystery of his mission; that he was doing all in his power to prevent a declaration of war, and to produce a better feeling. Schimmelpenick, the Dutch minister, greeted him with "If you come as an individual to prevent war, I shall respect your principles and I beg you so to tell Mr. Jefferson, from me, sir". Three other sources Murray learned that he was well received and had private interviews with Talleyrand and Merlin, and that he was insisting upon prompt redress of American grievances. Murray informed Pinckney of the vengeance of the American government if Logan were

treated with, whereupon that French minister assured him he would not be attended to, which declaration was made public in Luzac's paper of Paris.

Logan was indeed well received. Upon landing at Hamburg, he met La Fayette, who procured him the means of pursuing his journey to Paris, where he arrived the 7th of August, 1798. Upon inquiry of the consul-general of the United States, he was informed that the commissioners had left the city without having accomplished the object of their mission; that the negotiation was ended; that an embargo had been laid on all American shipping in the ports of France; and that many of our seamen were confined as prisoners. Through the kindness of a foreigner of distinguished talent, Dr. Logan was introduced to Merlin, a French minister and man of science, whom he afterwards visited on the footing of a private friend. On one of these occasions, Merlin informed him that France had no intention of interfering in the public affairs of the United States. His country, he said, had acquired great reputation in having assisted America in becoming a free republic; they would

never disgrace their revolution by attempting the destruction of the United States, he observed that, with respect to the violation of our flag, it was common not only to that of the United States but to all neutrals and was provoked by the example of England, and intended to place France on an equal with her so long as she would be permitted to avail herself of neutral resources. He added that the government itself was averse to such measures and were even then making their laws more favorable to neutrals. In confirmation of this, Logan received, while at Bordeaux, a letter from Consul-general of the United States, dated Paris, Aug. 30, informing him that the report that France was adopting a more liberal policy in regard to the flag and property of neutrals was gaining ground every hour. Logan, believing this information would be highly acceptable to his country, offered his services to Skipwith as bearer of the despatches. A duplicate was sent by another channel. He found Philadelphia, upon his return, practically deserted, a result of the ravages of yellow fever. So impatient was he,

that despite its being the Sabbath, he set out at once on horseback, for Trenton. Pickering coldly received him, stating in a curt manner, that his papers were of no importance, whereupon he returned to Philadelphia to interview Washington. The Commander-in-Chief received him with icy dignity, making advances only to Dr. Blackwell, who had accompanied Logan to the house. After a few minutes, he took his leave, whereupon Logan, still standing, and exceedingly uncomfortable in that atmosphere of chilled dignity, stated his reasons for going to France. Washington remarked that it was indeed singular that he, supposedly a private individual and unarmed with any powers, and unknown in France, should suppose he could effect what three gentlemen of the first respectability were unable to do. Logan seemed somewhat confounded, but upon recovering, offered the information that Merlin, president of the Directory, had discovered the greatest desire, that France and America be on the best of terms, to which the general replied that he was more fortunate than our envoys for they could neither be received nor heard by M. Merlin; and that if the Directory were serious in their professions,
there was a plain and effective way to accomplish that object, namely to repeal the obnoxious arrests. Logan replied that they had taken off the embargo and were making restitution of property, to which Washington observed that taking it off or continuing it was a matter of little importance since we had few vessels in French ports. After seeing his remarks availed nothing, Logan took his leave.

The Federalists were one and all against him. They firmly believed him to have gone to Paris as agent of the Republicans, with dispatches from Jefferson and Bache, and to have returned with a statement of ships and troops to be furnished in case of French invasion. Rumors were abroad of his having carried sealed papers and having been arrested; the cartoonists painted him as Noah's pet dove. Tired beyond all patience and endurance, he published a letter signed by Skinner, Fenwick, and Brown, dated Bordeaux, Sept. 6, 1798, thanking him for his "laudable endeavors" and stating their gratitude for the "convincing proof of the good intentions of this government in taking off the embargo, they had laid on all American vessels".

3. Ibid., p. 192.
He had also procured liberty for a considerable number of seamen, and had preserved much property from confiscation. The House, too, was in furor and for eight days the question of an individual usurping the President's authority was argued, with the result, that a bill was passed, Jan. 30, 1799, providing that any citizen, who without express authority of the United States, should carry on any correspondence or intercourse with any foreign government in relation to disputes and controversies with the United States, should be punished by a fine not exceeding $5,000, and imprisonment not exceeding six years.

Adams received Logan much more kindly. He called to inform him, that he had been honored with conversations with Talleyrand and was now visiting the President at the French minister's request. Talleyrand wished him to express his desire, together with the Directory's, to accommodate all disputes with America, and to forget all that was past; to request him to send a minister from America, or give credentials to someone already in Europe; and to assure him that his minister would be received in a manner satisfactory to him and his country.

2. Statutes, I. p. 618.
Meanwhile another matter of some little interest and significance had occurred. July 26, the day Gerry was preparing to leave Paris, the Dutch minister tendered him the mediation of his government, which had "authorized and instructed him on that head" and asked him, whether in that case, he would remain in Paris. Gerry declined somewhat summarily, not encouraging the idea at all. More feelers were sent out in the person of Mr. Spoores, who in a confidential interview with Van Murray suggested similar proposals. But Murray, too, was unfavorable, for as he said, the Dutch government though friendly was not in a position to be impartial. Schimmelpennick used his utmost influence at Paris to forward the proposition, and had received favorable replies. A few mornings after, Murray was given information of the transaction by Mr. Van der Goes, the Dutch minister of foreign affairs. Their minister at Paris, he said, had first made verbal application to know whether his government could not be

2. Murray's Correspondence. p. 450.
3. Idem., 452.
instrumental in acting as intermediary between the United States and France, now that all diplomatic correspondence had ended. To this Talleyrand had officially replied that the Directory had received "with satisfaction" their offer of mediation, but added that they had testified so clearly as to their conciliatory disposition that they felt sure they would not long be unrecognized at Philadelphia. These communications were received by the State Department late in January. The first of February Van Palmen, Dutch minister to the United States called upon Pickering to inquire informally whether the mediation of the Batavian Government would be acceptable to the United States, adding that if affirmatively answered, he would tender a formal offer. To this Pickering instantly replied that he was certain it would be rejected but he would refer the matter to the President, which he did. Adams, too, thought it unwise. Pickering savagely attacked the offer as an insult, intimating that it had probably originated with the French, upon whom the Dutch were to some degree dependent. But it had its effect upon the President, who was beginning to feel keenly the responsibility of continuing hostilities in the face of these and other evidences

1. Murray's Correspondence. 515.
of a conciliatory disposition on the part of France.

The Preliminaries to the New Mission

Upon learning that the Batavian offer of mediation would no longer keep Gerry in France, his ship was delayed to permit a second manoeuvre. An arret, which had passed the Directory, was transmitted to him while at La Havre, on the last day of July. In an accompanying note, Talleyrand declared that herein he would find evidence of the Directory's solicitude, which, however, would not be confined merely to this, but that "neutrals in general would have reason soon to be convinced of its firm attachment to the principles to which it is desirous that all maritime nations might agree", adding that it depended particularly upon the United States to cause these misunderstandings to disappear.

The decree itself was a rather remarkable document. Its preamble admitted that French cruisers had infringed the laws of the republic. In order to cover the abuses of the foreigners and pirates of the West Indies, it provided:

1. That no permissions to fit out cruising vessels should be issued save by special agents of the Directory.
2. That letters of marque, already issued, should be void after 30 days.

3. That agents in the neutral possessions appointed to decide on the validity of prizes, should be recalled.

4. That the special agents of Cayenne, Guadeloupe, and St. Domingo should studiously take care to respect the property of neutrals and that they should in no case bargain for their cargoes, but by mutual consent and to the full satisfaction of both parties.

The decree was full of duplicity. On its face it seemed a concession and an attempt to remove the root of the trouble. The second provision enabled the agents to "reap a new harvest" of fees for issuing new commissions. This they had done before, retaining the property for private use, if the captures had been made after the expiration of the commission, for, as they said, the captors had no title. As for the third provision - there were no agents in the neutral islands, while those in Guadeloupe and St. Domingo, which were not neutral, and who were generally the offenders, were not

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subject to recall.

But however less it was than could be desired, yet that arret was a beginning. A few days later, the embargo was raised, and orders given for the release of the prisoners.

Information of a French desire to negotiate was arriving by varied and indirect channels. Such methods are usually a fair indication of general sentiment, and sometimes more trustworthy than official notes, which are so often charged with duplicity. As early as August of 1798, Murray wrote the Secretary of State that "a man high in the confidence of the government general," had intimated to him that he should shortly receive communications respecting an amicable disposition in France, and expressed his own opinion that there was no doubt but that the French were solicitous to have a negotiation.

Upon his arrival in Boston, Oct. 1, 1798, Gerry interviewed Adams, relating in a convincing manner Talleyrand's earnestness to retain him for the sake of commencing a new negotiation; his professions of regret at his own determination to depart; his desire that he call upon the President

   Letter of August 18, 1798.
to assure him that France would receive a minister upon our terms. Although Adams had not entirely approved of Gerry's course in France, his confidence in his old friend had not abated and it is not to be denied that these first hand reports did not leave a lasting impression.

Very shortly after, in two letters a week apart, Rufus King, United States minister to England, announced to Hamilton, that this change in the French policy was certain.

But soon, came news from the continent destined to affect a permanent change. Murray, from Holland, wrote that M. Pinchon had been sent as a special agent to interview him. This information Pinchon had personally confided to him the evening of the Spanish minister's concert. The purpose of his mission was to bring about an amicable adjustment with the American government. As evidence of their sincerity he told him that the charge of American affairs had lately been put into the hands of Talleyrand; as an additional agreement, he placed in Murray's hands a manuscript copy of the arrêt withdrawing the embargo. To this Murray replied that the government must have assurances.

that the treatment accorded its ministers would be worthy of a free, independent nation. Pinchon responded that these assurances were given in Talleyrand's letters. But Murray insisted that that was a matter of inference and not the desired assurances. He pointedly inquired whether they had been considering any mode of compensation for our immense commercial losses, which he knew would be absolutely essential to any negotiation. The Secretary of the French Legation replied that great offers of West Indian commerce would be made on that head, which would be mutually useful.

September 6, he wrote that while breakfasting with two Americans, messrs. Skinner and Minceley of Boston, who had been residing at Paris, they had ventured their belief that a great alteration in the treatment of Americans there, had lately become visible. In a postscript to another letter, Murray added that when news of Adams' June speech reached the continent, Pinchon rejoiced, for, said he, the President has practically promised to treat if we give assurances, and those we have given. Shortly, a Mr. Maggiorin, French minister of Hamburg,

1. Adams' Works, IX:262.
2. Murray's Correspondence, p. 465.
3. Ibid., p. 467.
4. Ibid., p. 468; Adams' Works, IX:262.
then The Hague, called upon Murray. He carried letters of introduction from Talleyrand, with whom he had had an interview that morning; he said there was a fixed determination to accommodate the dispute fairly. Again, Sept. 28, Murray wrote that he was having difficulty in getting Pinchon to see that he had not given the desired assurances. Finally, he was handed Talleyrand's letter of 7 Vendémiaire, which he enclosed for the President only, to see. The mystery was unaccountable, save probably that Pinchon had been sent despite the presence of the charge, and second to save French pride. Interesting, too, was Lafayette's concern in the republic he had so nobly served.

He was strongly contemplating coming to the United States to attempt to reach a better understanding. This determination was so fixed that he had set his date for sailing. Murray tried to dissuade him from his purpose, and must have succeeded, for some days later Lafayette told him young Duyfont de Nemours was to go to Philadelphia, to speak in behalf of the Directory.

1. Murray's Correspondence. p. 471.
2. Idem., p. 482; for Talleyrand's letter, see Adams' Works. VIII:688.
A flood of private letters relating to French conditions, poured in upon the country as perhaps at no other time. Mr. Codman of Boston, Nathaniel Cutting, a consul by Washington's appointment, Skipwith to Jefferson were but a few examples. The strain of them all was that the French government had changed their ground and were sincerely disposed to negotiate.

Upon considering these various communications Adams could not resist the belief that there yet existed a way to avert the threatening war. He then wrote Pickering, Oct. 20, reminding him of the approach of Congress, and suggested two questions upon which he desired his and his fellow cabinet officers mature deliberation. First, would it be expedient for the President to recommend a declaration of war? Second, could any further proposal of negotiations be made in safety, or any new envoy named, ready to embark, in case assurances should be given that he would be received. This seems to have caught the cabinet members completely unawares. No reply was ever made to either question. But their determination to overrule the President, which had so admirably succeeded in the

3. Ibid., I:534.
instance of the army generalship, now became a fixed policy. In his early message of June 21, Adams had pledged himself never to send another minister to France without assurances that he would be received, in a manner due his character. To that statement, they resolved to hold him. This query came as a warning. So diligently they set to work to draw up his speech for the opening session of Congress, which he had requested in a letter of Oct. 10, in such form as would render a new negotiation impossible. To secure greater force, they called a council of not only the cabinet members, but the leading military generals as well, who had chanced to assemble at Philadelphia.

Adams had no suspicion of this newly laid determination. True, he had read by newspaper of some disposition for war, but these were merely general references. In a cabinet meeting, therefore, he formally presented his two questions. No one ventured to suggest a declaration of war, for it was clearly seen that the President was opposed. The real struggle came upon the second question, i.e., whether any circumstances would justify a renewal of negotiations. As for himself, he said, he was favorably inclined, but would require unequivocal

2. It is not certain that Washington was present. Adams' Works. I:534.
evidences of sincerity on the part of France as a preliminary requisite. A paragraph to this effect has been found among Adams' papers. It seems to not be certain whether it was offered at this cabinet meeting, but Pickering unquestionably knew of it. It is important as it clearly shows that Adams's decision to send a new embassy was not the result of a sudden flare of jealousy and fear that his authority was being usurped. This paragraph reads, "It is not my intention, however, to preclude the possibility of a negotiation, or to throw

1. It was endorsed in Pickering's handwriting. Adams' Works. IX:131 n.

2. Hamilton recorded his impressions of the meeting. He writes that it was suggested to the President that if France was so desirous for peace, the dignity of this country demanded that France should make the first overture; "The suggestion was received in a manner both indignant and intemperate. Mr. Adams declared ..... that if France should send a minister tomorrow, he would order him back the day after ..... In less than forty-eight hours from this extraordinary sally, the mind of Mr. Adams underwent a total revolution." Gibbs. II:187. The implication is made by Gibbs, too, that Adams was wholly averse to a new embassy, until quite suddenly when his decision was completely reversed, a result of his inordinate jealousy lest his ministers usurp his authority. Gibbs. II:187-8.
impediments in the way of an amicable settlement of all controversies with France. I think it proper, therefore, to declare that I shall be at all times, ready to nominate ...... and to appoint another envoy extraordinary ...... with full powers and instructions to confer, treat, and conclude, with a minister of equal grade, ...... all points in dispute," etc.

The draft of his speech, prepared in the council already mentioned, and presented to Adams by Wolcott, was generally satisfactory. But that paragraph, inserted for the purpose of rendering the institution of a mission, impossible, he would not accept. It read "But the sending another minister to France to make a new attempt at negotiation, would in my opinion, be an act of humiliation, to which the United States ought not to submit without extreme necessity. No such necessity exists." A statement followed, to the effect that if France was indeed desirous of accommodation, let her send her minister to the United States. This could mean only one thing. It would require France to send her minister as the sole means of keeping out of war. And this course

1. Adams' Works, IX:121.
2. The draft as presented by Wolcott is to be found in Gibbs, II:128-33.
was highly improbable, for the United States was suffering more from France than France from the United States. And in the face of her late victories in Europe, she would be rather inclined to ignore than to pay special attention to the "indignant little republic of the other hemisphere." The advisors, however, urged the adoption of this particular passage, with marked persistence. Adams would not yield and substituted instead: "But to send another minister without more determinate assurances that he would be received, would be an act of humiliation, to which the United States ought not to submit." He significantly added that a sincere disposition on the part of France to desist from hostilities, to make reparation for injuries, and to thereafter do justice, would remove all obstacles to friendly intercourse.

This withdrew the obligation upon France to initiate the mission, and though it declared vigorous preparation for war to be indispensable, one could easily infer that the United States, if her requisites were fulfilled, would be willing to negotiate once more.

The possible renewal of a negotiation caused the opposition to appeal to Congress, hoping that

a majority of its members could influence him. A meeting attended by many members of each House, was summoned. And, although much eloquence was expended, a small majority decided the point negatively. But, in spite of this defeat,ickering hastened to the Senate to privately rouse opposition to defeat the measure. This same spirit flamed forth in unprecedented manner, in his reports on Gerry to the Senate. To the President himself, he maintained only outward forms of civility; he disparaged both his acts and conversation among his circle of friends. Jan. 15, Adams officially requested him to prepare the draught of a project for a treaty and consular convention such as in his opinion would be acceded to by the United States, if proposed by France. No reply was forthcoming. This same unpleasant state prevailed with the other secretaries, though to a lesser degree. His unguarded remarks were reported, his wishes were noised abroad. And the President came to feel that his cabinet were his friends no longer.

Meanwhile, more news came from France. Jan. 21, 1799, Adams received the terms of the Directory's answer to the Batavian offer of mediation.

[References]
2. Idem., 540.
They declared that their desire was incontrovertibly known at Philadelphia, and the United States was responsible, should they longer refuse to adjust difficulties. This was a shrewd stroke of diplomacy. For the popular backing to the threatening war was based on a widespread feeling that France was wholly to blame. If it were learned that France was making advances, public opinion would react. Jan. 31, the President received particulars of more interviews between Murray and Pinchon. Murray had transmitted a despatch from Talleyrand of Sept. 8, in which he had used the President's very words of his June 21st speech — that an envoy, if sent, would be "undoubtedly received with the respect due to the representative of a free, powerful, and independent nation". His own requirements were fulfilled.

But as if to give him moral encouragement, the very next day, Feb. 1, Washington's note, enclosing a letter from Barlow, an American in Paris, was received. Barlow's letter bore the date of Oct. 2, 1798. Its contents urged adjustment of difficulties and an end to the disagreeable state of hostilities. Both countries, he said favored peace, and each thought the other determined on

war. The Directory were sincerely desirous of restoring harmony. Proof of this assertion were:

1. The Directory had declared it would receive any minister sent from America for that purpose.
2. It had declared there would be no request for loans, gifts, or apologies.
3. It had recalled all privateer commissions in the West Indies.
4. It had lifted the embargo.

Other facts were equally indicative. They were contemplating indemnities for spoliations; all neutrals were to be treated as international law provided; and they intended to send an agent but feared he would not be received. The Directory felt they had made assurances enough, and a refusal to recognize them would result in immediate war.

Washington kindly added that, although he was not in the habit of corresponding with Barlow, if the President thought it merited a reply, he would “with pleasure and alacrity obey his orders”. To Adams this implied that Washington himself favored a negotiation, and that he thought it could be obtained on “open, fair, and honorable ground”.

2. In Correspondence between Adams and Cunningham, by E. M. Cunningham. Boston. 1823. p. 106. Adams related the impression Washington’s note had made upon him, and that he felt sure a fair negotiation would have his approval.
The Mission

Having finally arrived at the conviction that France was sincerely desirous to adjust relations, Adams transmitted Talleyrand's letters of August and September to the Senate, and astonished its members by nominating William Vans Murray as minister plenipotentiary to France, taking care, however, to add that he should not go without "direct and unequivocal Assurances" from that government that he should be received in character, and that a minister of equal rank should be appointed to treat with him.

The nomination fell upon them like a thunderbolt, producing profound and various sensations. Pickering wrote to Lodge "friends of his country, are mortified, disgusted." Said Sedgwick, "Had the foulest heart and the ablest head been permitted to select the most embarrassing and ruinous measure, perhaps it would have been the one adopted," and Cabot "surprise, indignation, and grief followed each other in quick succession, in the breast of every true friend of his country", and Hamilton

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said the message would astonish him if anything from Adams could produce that effect.

The nomination was committed on Feb. 20, to a committee in the Senate, composed of Seagwick, Stockton, Read, Bingham, and Ross, all of whom were Federalists except Bingham. A deputation of senators, presumably this one, called upon the President a few days later, to endeavor to persuade him to withdraw the nomination. There was considerable dissatisfaction, they said, about the nomination of Murray, and inquired why he was preferred to so many others at home and abroad. Adams replied that Murray's abilities and character fitted him, but that his particular motives were: first, the invitation from the French government had been transmitted through him; second, because of his near residence. They suggested that a commission would be more satisfactory to the Senate and public. Adams, however, seemed to feel it his duty to insist upon the Senate's action in the nomination of Murray, first. Then, in case of a

rejection, he would propose a commission of three. In consequence of this, a meeting of federalist senators was held at Bingham's house Sunday evening, February 24, when they decided to reject the nomination.

Early the next morning Adams sent to the Senate the nomination of Oliver Ellsworth, Chief Justice of the Supreme Court, Patrick Henry, late governor of Virginia, and William Vans Murray, American minister at The Hague, as a new embassy, with full powers to settle by treaty, all controversies with France.

1. Hamilton's works, Hamilton's edition, VI:399, reprinted in Adams' Works, IX:250 note. This account (Sedgwick's) is probably correct. Adams (See Adams' Works, IX:240) suggests that he agreed to nominate a commission if it would be more satisfactory, of which Murray was to be a member, for he would never disgrace him by leaving him out, whereupon he sent in the nomination next morning. But Pickering wrote Murray July 10 (Gibbs. II:204) that "some of the President's real friends endeavored to persuade him to withdraw the mission. He was inflexible. They then determined to put a negative upon it. The President heard that such was to be the committee's report ---- This he thought best to anticipate."

This act was decisive. It silenced once for all the arguments against the sincerity of France, and rendered unavailable all further opposition. By this time Hamilton's reply to the Federalists' request for information as to what to do, had some, warning them that a rejection of the measure was utterly out of the question, and proposing no amendment further than an enlargement of the commission. So every objection was removed and they did the one thing left to do, with as good graces as they could. Strange as it may seem, the nomination to which they had so violently objected, was now unanimously confirmed.

This second mission was widely approved and as widely condemned. Two cabinet members definitely arraigned themselves on the side of the President. Patrick Henry applauded it, but was compelled by age and feebleness to abandon any thought of accepting his nomination. Governor Davie, of North Carolina, who was substituted in his place, was favorable. Murray accepted his promptly "with a grateful sense of the honor conferred". Ellsworth.

3. For his letter, see F. R. II:241.
rather reluctantly, and from a sense of duty - in
Pickering's words "from the necessity of preventing
a greater evil". John Marshall, a leading mind
of Virginia, and head of the rejected mission,
signified his decided approbation.

The President remained at Philadelphia just
long enough to look over the instructions to be
given the envoys, after which he committed a
"fatal error" in leaving for Quincy, his summer
home. For cabinet members, none too loyal in his
presence, would be less so, in his absence. It
presented a temptation to wield their power to
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defeat his policy.

Mar. 6, the Secretary of State had been
instructed to inform Murray that a literal execution
conditions imposed must be insisted on; that no
indirect or unofficial communications would be
permitted, and no variation of the policy be
listened to, save one - in case the Directory
should prefer to send a minister to Philadelphia.
These instructions Murray did not receive until
May. On the fifth of that month, in a note
addressed to Talleyrand, he gave their substance.

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1. Lodge's Cabot. pp. 233-34.
II: 243.
He replied on the 12th repeating the assurances and complaining of the prolonged delay. This was forwarded at once, but did not reach Pickering until July 30. The day following, he sent it to Quincy with a note, dwelling upon the offensive language it contained. But the President had received what he desired and despatched a firm and decided reply to the Secretary of State, in which he said that so long as he retained his office, the French would find candor, integrity, and a pacific and unfriendly disposition; that he intended pursuing the negotiation and expected the cooperation of the heads of the departments. In conclusion, he requested that the instructions which they had examined before he left Philadelphia, should be prepared in a draft, and that Ellsworth and Davie be immediately requested to prepare to embark. Six weeks later, Sept. 4, they were ready to be submitted for the President's approval. A few days of the delay was caused by the removal of the state offices to Trenton, a result of the ravages of yellow fever at Philadelphia. But it is quite certain that Pickering neglected giving

1. Folio State Papers. F. R. II:244.
2. Gibbs. II:249.
3. Ibid., 250.
them any attention until compelled to do so. For a hint reached the President, through a letter from Stoddert, Secretary of the Navy, suggesting that his presence was absolutely necessary at Trenton. Next came the instructions and with them a letter signed by Pickering, concurred in by all heads of the department, suggesting the propriety of suspending the mission. A letter, it seems, from Murray, had been received by the Secretary of State, announcing a new revolution in the Directory, with strong symptoms of the restoration of the Bourbons to power, and the resignation of most of the ministers, including Talleyrand himself.

A consultation had at once been held, to determine whether it could be made the basis for a joint remonstrance against the departure of the embassy. Pickering at once forwarded a copy of the instructions to Ellsworth, together with the contents of Murray's letter, which probably prompted the Chief Justice to write Adams asking for early notice in case the mission should be suspended.

Somewhat to his surprise, Adams's reply indicated

1. Adams in 1809 makes the mistake of saying "instead of the instructions, there was a letter, signed," etc. Reprinted, Gibbs II:273.
that he, too, believed conditions warranted a delay, for he observed that the change in the Directory and indications of a greater change, would certainly induce him to postpone for a longer or shorter time, the mission to France, indicating Oct. 30 or Nov. 1 as a possible sailing date.

The President, however, decided to leave for Trenton at once, and to stop at Windsor, to see Elsworth on his way. Of this interview, Adams afterwards wrote that in a conversation of perhaps two hours length, the Chief Justice had indicated that he was ready at an hour's warning, whether in the fall or spring. But nothing was said by either of any intended trip to Trenton. But when Elsworth suddenly decided to go there, also, he deferentially informed Adams of his conclusion to meet Governor Davie at Trenton, and regretted having said nothing while he had tarried at Windsor, but that, together, they would pay him "their joint respects and receive as fully as possible any communications of your views you may wish to make".

To his chagrin, Adams found at Trenton, not only his cabinet and Governor Davie, but Alexander Hamilton - and the whole thing came to a crisis.

2. Elsworth said, half an hour.
Circumstances seemed particularly favorable to the opposition. For news had first arrived of the British successes under the Duke of York in Holland and of the victorious progress of the Russians under Suwaisin in Switzerland; just a few days, they said, and Louis XVIII. would be established on the Bourbon throne. The excitement ran high. And, too, said they, it was the old Directory and not the new, which had granted the assurances asked for. Hamilton, himself, called to impress upon the President, the advisability of postponement, and it irritated him. "I transiently asked one of the heads of the departments whether Ellsworth and Hamilton had come all the way from Windsor and New York to persuade me to countermand the mission."

But, as a result of his long experience in foreign courts, Adams understood the situation better, and held to his purpose.

He invited Ellsworth and Davie to dinner where they discussed the embassy with perfect candor. Ellsworth expressed his Federalist sentiments in reply to the President's query of "Is it possible, Chief Justice, that you can seriously believe that the Bourbons are or will be soon restored to the throne of France?" when he said, "Well, it looks a

2. Ibid., IX:254; Wood's Appendix. p. 351.
good deal so." However, both envoys declared themselves ready to embark at any time.

A cabinet meeting was held that evening, where the instructions were once more carefully gone over, in a consultation, terminating about eleven o'clock. Not a word was said as to whether or not the mission ought to proceed. Early the next morning, the President ordered copies of the instructions to be sent to each of the three envoys, and that they should "take their departure for France", aboard the United States frigate, commanded by Captain Barry, then lying at a Rhode Island port, about November 1st or sooner.

This decision, like the preceding one, was made without consultation with anyone. In fact, Adams had allowed them all to remain under the impression that the mission would be postponed. The action roused the indignation of the secretaries to an unprecedented height.

Adams gave to the Secretary of the Navy, as his motive for avoiding consultation "out of respect to them, as he had deliberated on the

1. Gibbs, II:273, leaves the impression that the dinner took place after the order for embarkation had been given.
3. Letter Oct. 16, Gibbs II:265. According to Pickering, Elsworth was on his way to the President's lodgings to make a last effort for postponement, when he called with the instructions. See Murray's Correspondence, p. 611.
subject and his determination was irrevocable". This, to them, was adding insult to injury. For having trapped his officers into preparing measures of which they disapproved, he maintained he had not consulted them out of regard for their own feelings. Scores of letters were passed among them, some of which reached Washington, who discreetly concluded silence was his best policy.

This act of Adams, because it resulted so disastrously for the party, has scarce ever been fairly received from the diplomatic viewpoint. The policy of neutrality, Washington had initiated and sternly adhered to, despite the fact that the treaty with England brought no particular advantage, save peace. But this policy toward England compelled the United States to do likewise in reference to France, or abandon a neutral policy. To accept the latter course wasted all those difficult years of diplomacy. Nor was the young republic at this period any better prepared for war than during Washington's administration. Concentration of all efforts and resources were necessary to keep the infant nation going. Justice, then, to Washington's administration, to the struggling

2. Ibid.
country, and to the people at large, demanded that Adams exhaust every open and honorable means to adjust the difficulties before he resorted to war. For war with France would have meant alliance with England, likely to terminate in a sacrifice of national independence; and it would have involved Spain, and a probable entanglement with Portugal, with whom the United States especially was eager to keep the peace because of the Barbary Powers. In truth, the Directory had been insolent; but their insolence had not been expended upon the United States alone. Simultaneously with their refusal to receive Pinckney, they had dismissed Lord Malmesbury, with despicable impertinence. His diary and letters to Canning and Grenville were constantly full of complaints against the same procrastination, the secret intermediaries, the irritating suspicion and uncertainty.

Posterity has fully vindicated Adams' courageous effort, though it did result in the ruin of the Federalists as a party.

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Chapter Two: THE NEGOTIATIONS

The First Stage

Ellsworth and Davie embarked upon the frigate, United States, from Newport, Rhode Island, Nov. 3, 1799. Captain Barry was instructed to land them at whatever port they chose. They decided upon Lisbon, in order to obtain information concerning conditions in France, which place they reached Nov. 27. Learning of the revolution of 18 Brumaire, whereby Napoleon had overthrown the Directory and made himself practically supreme in France, determined them to sail for L'Orient. But a great gale, from Dec. 24 to Jan. 2, drove the frigate far out of its course, to latitude 50 west of Cape Clear; and since Captain Barry feared dire consequences if they landed on the stormy coast, they made for Corunna. From the village of Puente d'Hum they despatched a courier to Paris for passports. Meanwhile, Murray had heard of

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their landing, but had had not a word from them and was daily growing more impatient. Feb. 4, 1800, a letter from them stated that they had sent for passports. Through Mr. Simonville, Murray learned that these had been sent Jan. 31, and that his own had been forwarded.

The envoys set out from Burgos Feb. 11, where they met their returning messenger bringing their passports, and a letter from Talleyrand, who had again been placed in charge of American affairs, assuring them that they were expected with "impatience and would be received with warmth". They pushed on toward Paris, via Bayonne, arriving Mar. 2. Murray had set out Feb. 17, but had been delayed by the severity of the weather and the illness of his wife so that he had arrived but the day before.

Oliver Ellsworth, Junior, a young graduate of Yale, who accompanied his father as his private secretary, recorded in his diary some incidents of the mission. The morning following their arrival, they enjoyed their first cérémonial. In accordance with an established custom, a deputation of market

1. Murray's Correspondence, p. 641.
3. Idem., 308.
4. Excerpts of the diary are printed in Brown, pp. 282-84.
women were to wait upon them. As they had been warned by the maître d'hôtel that there would be trouble if a gift of money were not forthcoming, the envoys consented to see them. So, they solemnly sat at one end of a long hall, dressed in black, awaiting them. Two stout matrons of the sisterhood were conducted to them, where they offered congratulations, presented an extravagant nosegay, and as a fitting climax of welcome, gave each "the double embrace on each cheek" - for which honor they were given a gift of two guineas each.

Mar. 4, they had their first interview with Talleyrand, of whom they inquired when it would be convenient to meet the Premier Consul in audience. The Minister responded that it was the custom to hold the interview after negotiations were concluded, but that there would be no difficulty. The audience was held March 8, in the Hall of Ambassadors, in the Tuileries. Tradition tells us that Napoleon fairly dazzled Ellsworth, who afterwards declared, that no other man had ever given him so vivid an impression of mental power. The first Consul is said to have discharged so rapid a fire of questions, revealing a perfect comprehension of the issues.

between the two countries, that Ellsworth, rapid thinker that he was, was put to task to answer. Tradition also has it that Napoleon, upon seeing the firm, grave face of the Chief Justice, said to someone near, "We must have a treaty with this man". But whether or not mere sentimental fancies have woven these pretty stories, the interview was highly satisfactory. Murray's account reads, "The Premier Consul received us with courtly frankness, asking each of us by name, and as he was obliged to address himself, he told me, with pleasure, and spoke to me immediately of the death of Washington, of whom he spoke in praise, and passed on. But it was a splendid levee and he goes through the circle with perfect ease.

Ellsworth, with his clear intellect and long years of experience, was easily the head of the mission. The others followed where he led. But according to Davie's secretary, it was the governor

2. Murray's Correspondence, p. 644.
3. Murray wrote "myself pride cannot be excited as most of the great which contributed to each part of our progression belonged to Mr. Ellsworth who had resources when I own I was staggered. I profoundly admired the accuracy and neatness of his mind."
of fine appearance and courtly manners, with whom
Napoleon was most favorably impressed. Murray
was compelled to be spokesman as he alone understood
and spoke French. The social life of these envoys
was unlike the round of elaborate entertainments a
few of their predecessors had enjoyed. Ellsworth
was particularly ill and worn, and had little
inclination for social distractions. He did,
however, meet and discuss with eminent Frenchmen
such subjects as political societies and democracies.
But apart from a few digressions, the time of the
envoys was largely given to their duties.

Napoleon waived all objections to their
letters of credence and promptly named three
plenipotentiaries, all prominent in political life,
to negotiate with them. Charles Pierre Claret
Fleurieu had made a worthy contribution in some
works of navigation. He wrote a number of books
on the subject, including a general history, and
collected quite a series of maps and charts. In
1790, under Louis XVI, he was made Minister of
Marine. Pierre Louis Roederer had been a member

   of Davie.
2. Murray's Correspondence, p. 644.
4. Nouvelle Biographie Generale, Ferdinand Didot
of L'Academie of Paris, and produced a member of literary works. He early entered political life, and urged such reforms as the establishment of a jury, liberty of the press, and political equality. He was made counsellor of state in 1799, and was holding that position when appointed as one of the commissioners to restore harmony with the United States. He was easily the foremost member of the French commission, although Joseph Bonaparte was its president. Bonaparte was the eldest brother of the first Consul. He had successively been a member of the legislative corps and the council of state, in which capacities he exercised a real influence. That he had considerable ability as a diplomat is proved by the fact that the year following he negotiated the Treaty of Lunéville with Austria, and in 1802, the Treaty of Amiens with England.

These appointments were considered highly complimentary to the United States. The American envoys were eager to begin negotiations at once and addressed a note to that effect. No answer was forthcoming but verbally they were informed that

Joseph Bonaparte, President of the Commission, was ill. Mar. 27, they were invited to a conference at his home on April 2. Then, that afternoon, powers were exchanged, and the mode of conducting the negotiations was adjusted. Upon consideration, the powers of the French did not seem sufficiently great, as they stipulated appointment "for the purpose of negotiating with the ministers plenipotentiary ..... upon the differences existing between the two nations". Once again, Napoleon waived all objections, and in a prompt spirit of conciliation, complied by sending new powers "to sign and conclude ..... in the name of the republic, whatever seems to them necessary to effect a perfect restoration of good harmony".

The Instructions

The position of the American ministers this time differed materially from that of the previous commission. Their position had been that of bearing remonstrances from one allied nation to another, based upon existing treaties, which determined the relations of the two governments to

2. Ibid.
each other.

But now the treaties with the mutual advantages they afforded each ally, were declared void. The envoys had come, not to settle a difficulty but to get indemnity for infractions of the old treaties, and to negotiate a new one, which would not give France the privileges granted by those of 1778. The instructions were long and gave little leeway for individual judgment, which was to be expected, since Pickering’s influence was stamped throughout them. They were prefaced by a review of the general situation. The envoys were directed to demand their passports and return at once, in case of any unreasonable delay or postponement. They should try to close their negotiations before April 1, so that Congress might consider them before the close of the session. An indispensable condition in the treaty was to be an article providing full compensation for all condemnations and captures for any of the following reasons:

1. Because any part of the vessels' cargo contained British goods.

2. Because vessels did not have the role d’équipage, which were prescribed by the laws of France, and not by the treaty, as had been pretended.
3. Because sea letters were lacking after the property was proved to be American.

4. Because the owners or masters were refused a hearing, or placed in such a position as to render their presence impossible.

5. Because the vessel or property had been disposed of without trial.

Most of these captures had been clearly illegal and it was this fact that had aroused and provoked so much unfriendly feeling toward France. Then, when these matters were satisfactorily attended to, the envoys should turn to the regulation of commerce and navigation, in the future. Upon these points they were instructed to obtain entire liberty of trade with the French colonies, at least during the term of the proposed treaty, and until the stipulated compensations had been paid in full, to arrange reciprocally for the right of residence and travel for citizens and to make definite arrangements concerning debtors, pirates, and asylum to ships in distress. As for contraband, the entire additional articles, such as timber, rosin, and tar, as provided in the treaty of 1794 with England, should be added, if France demanded

them. These latter points would involve little difficulty. The one which did, and upon which the entire negotiations revolved, was embodied in the 21st article of the instructions. It was to the effect that the privileges accorded France in the old treaties, of fitting out privateers and bringing prizes into American ports, had been the cause of much contention. Because of her aggressions, the treaties were dissolved and with the exception of one provision, we were at liberty to make any future arrangements. The exception is, that by the 25th article of the Jay treaty, Great Britain was to have the rights just mentioned but they were to be inoperative so long as the French treaties existed. The dissolution of those treaties existed, in giving Great Britain priority in regard to privateers and prizes. Consequently, if it would be found necessary to renew those provisions, there must be an explicit declaration that at no time would they be construed so as to derogate from any part of the treaty with Great Britain.

2. For instructions, see Folio State Papers. F. R. II; 301-6.
In order to understand clearly the important points, it may be well to reiterate the "sine qua non":

1. That a Board be established with suitable powers to hear and determine the claims of our citizens, and to bind France to pay the sums awarded.

2. That the old treaties should not be reviewed, either wholly or partially, but that everything should be embodied in a new treaty.

3. That no guarantee of any part of the French dominions be suggested, nor any alliance be made.

4. That no aid or loan of any kind be promised.

5. That no engagement be made inconsistent with prior treaties.

6. That no stipulations be made under which any tribunals could be set up, or any special privileges could be claimed by Frenchmen, incompatible with the sovereignty of the United States. This had reference to the peculiar jurisdiction conferred on consuls in the convention of 1788, which had conferred special
privileges upon them.

The First Stage

The negotiations passed through three distinct stages and to fully comprehend these, the following points must be carefully borne in mind, viz:

1. That the United States and France had,
2. by the 11th article of the treaty of alliance, mutually guaranteed their American possessions; and by the 17th
3. and 22nd articles of the commercial treaty, had granted mutual and exclusive privileges of taking their prizes and privateers into each other's ports.

2. Treaties and Conventions, Treaty of Alliance of 1778; Art. XI; "That the two powers guarantee mutually from the present time ...... the United States to his Most Christian Majesty the present possessions of the Crown of France in America ...... and his Most Christian Majesty guarantees on his part to the United States, their liberty, sovereignty, and independence ...... and also their possessions," etc.
3. Idem., Treaty of Amity and Commerce 1778, Art. XVII. "It shall be lawful for the ships of war of either party and privateers, freely to carry whithersoever they please, the ships and goods taken from their enemies without being obliged to pay duty ...... nor shall such prizes be arrested or seized when they come into the ports of the other," etc.
4. Idem., Art. XXII. "It shall not be lawful for any foreign privateers ...... to fit their ships in the ports of either one or the other of the aforesaid parties, to sell what they have taken," etc.
2. That by the treaty of 1794 with England, the exclusive privilege had been granted to her; but because of the priority of the French treaty, it remained in abeyance, so long as the French treaty lasted.

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3. That by an act of Congress, July 7, 1798, the United States abrogated the French treaties of 1778, and thereby gave to England the priority of the exclusive privilege, previously exercised by France.

1. Ibid., Treaty of Amity and Commerce with Great Britain 1794, Articles XXIV and XXV, p. 392. XXXV. "It shall not be lawful for any foreign privateers (not being the subjects or citizens of either of the said parties) ... to arm their ships in the ports of either of said parties, nor to sell what they have taken," etc. XXV. "It shall be lawful for the ships of war and privateers belonging to either of said parties to carry whither soever they please, the ships and goods of their enemies .... Nothing in this treaty contained, shall, however, be construed or operate, however, contrary to former and existing public treaties with other sovereign or public states."

2. United States Statutes at Large I:578 (1789-99). "Be it enacted .... that the United States are of right freed and exonerated from the stipulations of the treaties and of the consular convention, heretofore concluded between the United States and France; and that the same shall not henceforth be regarded as legally obligatory on the government or citizens of the United States."
Already it was April, and time was passing rapidly. The American envoys were eager to begin, and launched at once into the prime object of their mission by addressing a note, on the 7th of that month, to the French ministers proposing, as their general plan an arrangement to ascertain and discharge the claims of the citizens of each nation. Should this view be acceptable, then they would be free to stipulate as to the reciprocity and intercourse of the two nations.

The reply of the French ministers was most favorable; they, too, were of the opinion that their first object should be to determine the rules and method of procedure for the valuation and indemnification of all injuries; and their second object should be—here was the bone of contention—to secure the execution of the treaties of friendship and commerce already existing. They cleverly added that since there were no measures existent in France which could cause any inquietude to the United States, they regard it as a preliminary to a favorable negotiation if the envoys would have these acts of Congress suspended, which were wholly in opposition to that good understanding which both nations desired.

The envoys replied with apparent cheerfulness, because the French had so readily acquiesced to the principle of compensating claims. They had not heard of the suspension of any acts of Congress but they were sure that as soon as their government could be assured that there was no longer any necessity for them, they would be repealed; and they disclosed their intention not to renew the former treaties, but to form a new one.

The French reply followed shortly. A discussion would be necessary to determine the question of the expediency of forming a new treaty or whether the old ones would suffice. But they were much concerned that the hostile acts of the United States government had not been revoked. Their own government had rescinded several regulations and published many others to restore harmony; and it had evinced a readiness to do all that justice demanded. Therefore, they felt that they had a right to expect the armed vessels of the United States should cease attacking their vessels. And pointedly they said, that to prevent an interruption of the negotiations, it was necessary for the United States ministers to give assurances that these would immediately be terminated.  

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2. Idem., 316.
The American envoys asked for copies of the recently repealed regulations and of the new ones enacted, referred to above. Though they were unauthorized to say that the unfavorable acts of their government would be repealed, yet they would be glad to send any copies of such acts on the part of the French, to Congress. To prevent any digression of the negotiations at this point, they submitted the first project of a treaty, as the frankest method of expressing their opinions and as a practical basis upon which to work. These propositions contained a general sketch of such a treaty as their instructions warranted, the principle article of which provided for a board of commissioners to decide the claims in question, "according to the original merits of the cases and according to justice, equity, and the law of nations, in all cases of complaint prior to July 7, 1798, according to the treaties and consular convention then existing between the United States and France."

This was duly despatched. But as the American envoys were extremely eager to form the board of commissioners and thereby get this irritation point into the process of dissolution, they sent a second note suggesting that the board be constituted

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1. Folio State Papers, P. R. II:316.
of two commissioners named by the Premier Consul, two by the President, and a fifth by the unanimous consent of all, or by lot.

The reply from the French ministers stated definitely that the liquidation and discharge of the damages, resulting from this misunderstanding, could be considered only as a consequence of the interpretation which should be given the ancient treaties. Since they have agreed upon the expediency of providing a suitable indemnity, the discussion was now limited to two points, viz: What principles ought to govern their political and commercial relations? and what method is best adapted, by which to liquidate the ascertained indemnities?

They are unaware, they wrote, of any reason for any distinction between the time prior to July 7, 1798, and that subsequently; that they, in recognizing the principle of compensation, intended to "exhibit unequivocal proof of the fidelity of France to her ancient engagements; all pecuniary stipulations appear to her as a result of ancient treaties, not as a preliminary to a new one."

The American ministers did not yet realize just how much trouble that little sentence would make. They held a conference to decide upon a

suitable answer, in which they would "cheerfully" explain. As this draught clearly gives their line of reasoning, it is quoted fully: "It was not until after the treaty of amity and commerce of Feb. 8, 1778, had been violated to a great extent on the part of the French Republic, nor till after explanations and an amicable adjustment sought by the United States had been refused, that they did, on the 7th day of July, 1798, by a solemn public act, declare that they were freed and exonerated from the treaties and consular convention ... nor would such a declaration, though justified by the law of nature and of nations, have even then been made, if it had been possible for the United States, while continuing the treaties and convention as a rule of their conduct, to guard against injuries, which daily increased, and threatened their commerce with total destruction. That declaration cannot be recalled; and the United States must abide its effects, with respect to the priority of treaties, whatever inconveniences may result to themselves. Their government ... could not, with good faith, give to the undersigned, powers to change or effect such priorities, and they do not possess them."

No answer was forthcoming for some days.

Meanwhile, they despatched a resume of their proceedings to the Secretary of State. Their work had been delayed by the illness of Talleyrand, but despite this, they had kept on. The French government was unshaken; there was no evidence of any early downfall. There had been successes along the Rhine, but the situation in Italy was precarious. In France, capture of vessels were less common since their arrival, and prisoners, generally, had been released on condition that the same number of French prisoners in the United States would be discharged. As for their negotiation, success was doubtful, for in their own words, the French found it difficult to "indemnify for violating engagements, unless thereby, they can be restored to the benefits of them." The envoys were a little discouraged but yet hoped to succeed in their contentions. There had been a number of conferences. The French had repeatedly mentioned that their government hesitated to yield its claim to anteriority; they said it was incompatible with her dignity to allow that right to be taken away, especially since it was reestablished in favor of their bitterest enemy; and it was impossible for a party to a treaty, to annul that treaty by a single

2. Murray's Correspondence, Letter of May 11, 1800, p. 646.
legislative act.

The envoys had indirectly heard that some difficulties were the result of the limited instructions of the French. On the 23rd of May, they were officially informed at an interview, that the negotiation was at a stand; no further progress could be made until instructions were received from the Premier Consul; that their basis for compensation and negotiation had been the acknowledgment of former treaties, that the French commission was then working on a report, to be forwarded to the Premier Consul, who had left for Italy May 6, and was probably then in Switzerland or Italy. The envoys pressed for a reply and eventually learned that the report had been submitted to Talleyrand and that even he, deemed it necessary to seek the direction of the first consul. They were subsequently officially informed that this had been done, and that Joseph Bonaparte had also set out for army headquarters, for unknown reasons.

The battle of Marengo took place July 14. No longer could the Federalists expect the downfall of the Consulate and the establishment of the Bourbons.

2. Ibid.
Instead, impressed by the ever increasing prestige of France and the extraordinary genius of Napoleon, they became more convinced that any arrangement not inconsistent with the honor of the country, would be preferable to war; in fact, they, as well as the envoys, became daily, more desirous for peace.

Napoleon returned to Paris July 3rd and Joseph a few days later. On the 7th the American ministers accepted an invitation to dinner on the 11th with the President of the French commission. They decided that this would be an opportune time to ascertain precisely what differences existed and if possible, to adopt some arrangement to accelerate the negotiations. That day, before dinner, Bonaparte informed them the whole treaty proposition was under consideration by the Premier Consul and that an answer and new instructions were expected shortly. The American envoys asked for a conference that evening, to which the French readily consented. At this conference they said, that although they had no late instructions, they were certain as to what the Premier Consul would demand. He believed the ancient treaties should be the basis of any negotiation; that compensation could only be a result of existence of these treaties, and the

reestablishment of the rights and privileges they afforded. The First Consul would never make any agreement which would consign France's exclusive privileges to her enemy - such a treaty would not even place them on an equal footing.

At this point, the negotiations reached their first impasse. Neither would yield, and nothing could be done until one or the other did.

It may be useful to review the exact position each was taking. The American ministers argued that:

1. A treaty was a mutual compact: if one violates it, the other could abrogate it.

2. The French depredations had proved ruinous to American commerce. Since treaties were held at the supreme law of the land, they were compelled to observe those treaties. In order to save their commerce, they denounced the treaties, and that denunciation resulted in a priority of right in regard to, exclusive asylum for privateers and prizes, to the British.

To these arguments the French rejoined:

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1. That when, on one side, Congress declared that France has contravened the treaties, and the United States is therefore freed from them, and on the other, France declares that she has conformed to them and the United States has infringed them, what law or tribunal can enforce one against the other?

2. That, so long as the two parties disagree as to whether the treaties are in existence, or are abrogated, a third cannot accede to any rights until the point is decided.

3. That if one of two contracting parties is free to cancel his obligations, whenever he deems it desirable, what binding force is there in a treaty?

One is forced to admit that the position of the American ministers was untenable. Such a policy applied to treaties which had for a long period been adhered to, would make much of international law loose and unstable. These treaties had for twenty years, regulated the relative conduct of the two nations toward each other. When the Republic was formed, and the Monarchy, under which the treaties had been made, ...

dissolved, the United States had then had a right to abandon the treaties. But she did no such thing. Now, having held to them, and in view of the tremendous advantages they had received as a result of adhering to them, they could not claim sole right to annul them.

The American ministers were placed in a bewildering dilemma. Annulling the treaties had given England priority rights respecting privateers and prizes. She was at that time taking advantage of those rights and the United States could not withdraw them. Nor could she yield similar rights to France. The French recognized the difficulty and took full advantage of their dilemma. In a note of Aug. 11, they again insisted that the treaties were not annulled; that one government could not have annulled them. If the United States continued to insist that yielding these exclusive privileges to France was an avridgment of their independence, they would forego that. But nullification of the treaties was an unequivocal provocation to war, and the hostile acts following were no less than war. If a new treaty were made, it should be preceded by a declaration of peace; and such a declaration would absolve both parties

1. Trescott, p. 214.
from obligations to indemnify the other's losses. In a new treaty, she would consent to renounce the special privileges but she would never accept a footing inferior to any other country. If the United States was honest in her wish to be freed from "engagements which weigh, perhaps, too heavily on their national independence, they ought to desire a loosening of their fetters, in order to assume a more erect and imposing attitude, and not for the purpose of being bent with equal force in the opposite direction". Their second proposition would therefore be, the abrogation of former treaties and the formation of a new one, in which France would forego these privileges so embarrassing to the United States, and accept instead, an equal footing with the most favored nation, with no stipulation at all, concerning indemnities.

The Second Stage

The American envoys were nonplussed. The object of their mission could not be obtained. But to terminate their efforts at this point would unquestionably result in war. The other alternative was that of deviating from their instructions, and

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upon this wise course, they finally resolved, and at once informed the Secretary of State to that effect. This second period of the negotiations is marked by series of proposals and counter-proposals, offered both French and Americans. Figuratively speaking, they wandered around in a circle, and gained nothing. It was a most discouraging effort, and defeat constantly seemed inevitable. Having resolved to come to some agreement, the American envoys submitted a note calling for an interview. Both the French were so reserved and cautious that the meeting was decidedly unsatisfactory. Illsworth and his colleagues were obliged to change tactics. Could they, by reviving the old treaties, so modify them as to extinguish the exclusive privileges France had enjoyed, and possibly use the indemnities as a means to obtain that end?

This is the keynote to the entire second period of their efforts at adjustment. Their first attempt, upon this basis, was made, in a proposal of Aug. 30, wherein they said that since the 17th article was but nominally reciprocal, and since the real advantages to their country lay

2. Ldem., 333.
3. Respecting the right to fit out privateers in the ports of the other.
in the article which stipulated "free ships, free goods", the United States would be willing to 
sacrifice this great benefit as a full equivalent 
to France for abandoning her privileges. In 
addition, they offered the following:

1. The renewal of former treaties.

2. An option on the part of either to pay 
within seven years, 3 million francs, 
which may be issued for indemnities, 
thereby reducing the rights of the other 
to those of the most favored nation.

3. To limit the mutual guarantee in such a 
manner that when the United States is 
attacked, France should furnish and 
deliver at her own ports, military 
stores amounting to 1 million francs; 
if a French possession is attacked, the 
United States should furnish and deliver 
at her own ports, a like amount in 
provisions. Either may, if she desires, 
relieve herself from these obligations by 
paying within seven years, 5 million 
francs to the other.

4. The treaty of commerce, with the exception 
of the 17th article, should be so modified 
as to give an equal footing with the most 
favored nation.
5. Public ships taken by either should be restored. Individual claims for damages should be provided for.

6. All property, except contraband, seized by either, and not condemned before ratification, should be restored.

These proposals were extremely distasteful to the French, and sent a sharp rejoinder to the effect that they had agreed only to an unmodified renewal of the treaties. This proposal of theirs would justify them in demanding a new treaty without indemnities. But as proof of their "undoubted desire to effect a speedy and complete conciliation", they, in turn, proposed the following:

1. The former treaties should be continued and executed as if no misunderstanding had occurred.

2. A Board of Commissioners should be established to liquidate respective damages.

3. The 17th article of the commercial treaty should be preserved inviolate, except to insert "except in virtue of treaties known at the time of the signature of the present treaty and subsequent to 1778".

2. Respecting privateers and prizes.
3. This referred to Jay's treaty of 1794, and the priority of rights respecting privateers and prizes.
4. But if the 17th and 22nd articles should not be fully and wholly accepted within seven years, the commissioners' award need not be paid.

5. The guarantee should be changed to a promise of succor to the amount of 2 million francs, and irredeemable save by a capital of 10 million francs.

That day the French commissioners dined with Ellsworth and Davie, after which they were requested to attend a conference for the purpose of explaining some portions of their note. Messrs. Bonaparte and Fleuriot, having excused themselves to attend to urgent business elsewhere, left Roederer to explain. When he learned how thoroughly the Americans disliked their proposals, he suggested that their option should be made reciprocal, so as to bind both. The next day this was reduced to writing - if the 17th and 22nd articles were not fully renewed within seven years, the commissioners' award should not be paid; if they were, France should have the option to accept or to pay 8 million francs indemnity. Talleyrand subjoined a note

************ Folio State Papers. F.R. II: 335.  
suggesting that when once this privilege respecting prizes should be abolished, it should never again be conceded by either Power, to any other.

The envoys desired another conference, but as Joseph Bonaparte and Roederer had gone into the country, they wrote a note, instead, in which they stated their specific objections to the French proposals. By its provisions, it would be possible to secure the treaty of commerce, and reject indemnities, too. The treaties would be confirmed and indemnities could be sacrificed. This, they complained, was not according to their promises. In conformity with Roederer's unofficial suggestion they offered this, viz: that if, any time within seven years, their government should offer 8 million francs, they would forever be relieved from their obligation to furnish aid under the 11th article of the treaty of alliance; and the rights accruing to France under articles 17 and 22 of the treaty of amity and commerce should be limited to those of the most favored nation; if at any time such an article was offered, it would have to be accepted.

But these suggestions were as unsatisfactory to the French as theirs had been to the Americans.

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Roederer called to submit anew a proposal for possible adjustment.

1. France should have the right to carry privateers and prizes into port.
2. A Board should act upon the indemnities due each.
3. The United States should discharge the indemnities due her own citizens, by France, and as an equivalent, France would abandon her former exclusive privileges.

Roederer sharply refuted the charge made in their note of Aug. 29, that they were not adhering to their agreement; they never intended, he said, to accept the old treaties without indemnities. However, he left the American envoys still dissatisfied. September 6, they sent their final proposal. They would never consent to that of the French, but they would accept:

1. A renewal of the former treaties.
2. A limitation of the obligations of the guarantee as indicated in paragraph 2 of their note of Aug. 20.

1. Providing a guarantee of the French possessions.
2. See page 65.
3. A payment of indemnities, and neutral restoration of property.

4. If, at the exchange of ratifications, their government should propose a mutual relinquishment of indemnities, the French republic would agree; in which case the former treaties would not be obligatory, except that each should enjoy in the ports of the other, the privileges enjoyed by the most favored nation.

This offer was in strict accordance with that principle upon which the envoys had decided to base their renewed efforts — to buy the exclusive privileges with the relinquishment of indemnities. But this, too, was unsatisfactory. Matters were most discouraging. An attempt to secure an interview for Sept. 8 failed, owing to the absence of the President of the French commission. But the afternoon of Sept. 12, they met, and the negotiations came to a second crisis. This conference disclosed the real cause of the delay. They stated, as a final answer, that they would not accept the articles proposed by the Americans unless an option was included which would permit them to

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2. Idem., 337.
get rid of indemnities. They frankly said that their object was by any and every means, to escape the payment of indemnities, for after the present war, France would be wholly incapable of paying them. This avowal, Allsworth afterwards dryly termed as "quite unnecessary". Joseph Bonaparte, during the discussion, became so emphatic as to say that they had no power to assent to a treaty on the basis of indemnities and a modified renewal of old treaties. He would resign at once, if they did. The question was so obviously in their favor, that there was no doubt but that a disinterested nation would say a state of war existed and therefore no indemnities could be claimed. This expostulation ended the conference, and likewise the second stage of their attempts to adjust relations.

The Close of the Negotiations

Clearly, the real object of their mission could not be attained. Again the envoys wondered whether it would be wiser to go home, and receive at least, an honorable discharge. But such procedure would render all these tedious, tiresome attempts of no avail; depredations would continue;

and irritations would provoke war. There was a possibility to temporize, and certainly, if it were impossible to obtain reparation for past offenses, it would be better to prevent the occurrence of new ones, than to do nothing. Upon mature and serious deliberation, they decided to suggest a temporary arrangement. Accordingly, the following day, Sept. 13, they proposed an overture to the effect that since the subject of treaties and indemnities was closed, the following principles might suffice as a possible working basis:

1. As the ministers have been unable to agree respecting former treaties and the payment of indemnities, that matter will be postponed to some future date for adjustment, and until that time the ancient treaties will be inoperative.

2. Meanwhile, both parties agree to abstain from unfriendly acts; all commercial intercourse will be free; debts are recoverable.

3. All property captured but not condemned shall be restored.

4. Some provisional regulation shall be made to prevent abuses and disputes which may arise out of future cases of capture.
At a conference held Sept. 19, the French submitted a counter-proposal, asking for confirmation of the old treaties except the disputed articles; for restoration of public ships; and the privileges of the most favored nation. These articles were discussed and the commissioners agreed to meet from day to day until settlement was arrived at. Sept. 21, Secretary Pinchon, of the French Legation, requested them to communicate what they proposed further on the fourth principle of the note. At once they complied, and as there were now few points of difference, the negotiation progressed rapidly. Having escaped, at least temporarily, the payment of damages, the French consented to leave the old treaties in abeyance. Likewise, they accepted the American contention in many important points of the controversy, and the convention took shape. It secured more for America than had Jay's treaty. It rescued all property and ships taken but not definitely condemned. It put an end to the irritating difficulty of role d'équipage by providing a uniform passport. It guaranteed all debts owed by the government of individuals of either republic to the government or individuals of the other. It secured freedom of trade between France and America, in addition to freeing that with Great Britain from those irregular
restraints France had heretofore placed upon it. It stipulated that only arms, ammunition, or implements for the use of troops should be considered contraband, and that in the case of all other cargoes, free ships should mean free goods. And it regulated in detail the capture of property so as to prevent undue destruction in the future.

Sept. 29, the French ministers addressed a note to the envoys insisting that the treaty should be signed in French only, without reservation; or, in French only, with a separate article, stipulating that that mode should not constitute a precedent; or, that it be signed in both languages with a declaration that it was originally written and concluded in French. The last named method was reluctantly accepted, as it followed the precedent of the treaties of 1778.

The morning of Oct. 2 the French ministers called to correct several mistakes - their government had been termed "republic" instead of "premier consul", and they desired to change the title from "provisional treaty" to "convention".

1. For Treaty, see Folio State Papers, II:295-301.
2. Idem., 341-42.
3. Napoleon himself had insisted upon this change, saying to Roederer that there were times to disregard forms but that this was a time to pay strict attention to them. Reprinted from Oeuvres de Roederer, III:336, in Brown, p. 299.
These alterations were to be made at a fete the next day at Morfontaine, the country home of Joseph Bonaparte, some eighteen miles north of Paris. The First Consul appeared about 4 o'clock amid cannon firing, and martial music. In the evening, after the final signature of the treaty, it was presented to Napoleon for ratification. About nine, the company of one hundred fifty guests, including the ministers of state, members of the senate, and tribunal, the secretary of state, and generals were conducted to three halls, each of which were superbly decorated with wreaths, inscriptions, busts, and portraits commemorating celebrated periods and places of American history, as did also the entire dinner, the toasts, and the program following.

Napoleon was determined to treat the envoys royally. He proposed, it is said, to raise a marble monument in the garden at Morfontaine, in commemoration of the signing of the treaty. Roederer's memoirs add still another incident. Napoleon had directed the minister of foreign affairs to give each of the American envoys a

1. For description of the fete, see Vans Murray's Correspondence, p. 654; also Brown, pp. 306-7.
costly gift. The Prefect of L'oise had brought to the fête a basket of gold medals, significant of various periods of the Roman Republic. The First Consul remarked that the best possible disposition of them would be to present them to the citizens of America. So, he gave a handful to each of the three. A few minutes later, Roederer observes, the envoys had retired to the recess of a window where they engaged in an animated conversation with their secretary, who reminded them that American diplomatic officers were forbidden to accept gifts from foreign governments. He added, that as the secretary had been overlooked in the distribution, he probably mixed a bit of "personal pique with his constitutional scruples". Napoleon, however, persuaded them to retain this gift as it was not meant as a diplomatic compliment, but as a memento; but Talleyrand refrained from offering them the others.

The next day at noon, when Talleyrand presented them to the First Consul, to take their leave, Ellsworth observed that, "The convention which we have had the honor to sign, will indissolubly reunite the two nations", whereupon Napoleon

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declared that the misunderstanding between the two nations would leave no more traces than a family quarrel, and predicted that the American people would soon learn "from what was coming to pass in the North, the value of a union founded on liberal principles".

The envoys, departing in the afternoon of Oct. 3, proceeded at once to Havre de Grace, from which they were to sail. They were detained some two weeks by the tides, after which Governor Davie and Oliver Ellsworth, Jr., sailed for America, bearing with them the convention and Ellsworth's resignation from the Chief Justiceship. The elder Ellsworth passed over to England, intending to return to southern France for the winter, not daring to risk an ocean voyage in midwinter because of his extreme ill-health.

Although the convention was published in France in October and shortly afterward in England, it did not reach the United States until December. Its reception by the Federalists can be easily understood but not so easily justified. Obviously peace with France they did not want, and they had confidently hoped that a treaty of any sort would be outside the bounds of possibility. Their

1. From the Œuvres de Roederer, VI:420, reprinted Brown, p. 310.
confidence in Ellsworth's sincerity and integrity remained unshaken, so they attributed the calamitous result to his illness, mournfully concluding that his intelligence must have been impaired. Wolcott wrote Pickering, "You will read the treaty which was signed by France with astonishment. I can account for it only on the supposition that the vigor of Mr. Ellsworth's mind has been enfeebled by sickness", and Pickering replied "my regret equalled my astonishment. The fact can be solved only on the ground which you have suggested."

Sedgwick also concluded that "the mind as well as the body of Mr. Ellsworth is rendered feeble by disease".

The Ratifications

The convention was generally unsatisfactory and widely criticized. The former Secretary of State wrote that the envoys should not have even "countenanced" the idea that the revival of the treaties and indemnity for spoliations were dependent on each other. The sixth article which

2. Idem, 463.
granted the privateers and prizes of France the privileges of the most favored nation in American ports, he pronounced a direct violation of the Jay treaty. By promising to surrender captured ships, we admitted that naval hostilities were unwarrantable and commerce with their colonies had been denied us. Hamilton thought the convention played into the hands of France by conceding principles of navigation on which she wished to build up a league of the northern powers against England. He regretted the free ships, free goods provision, because England might object. But publicly he pronounced it "an honorable accommodation" and advised his friends in the Senate to ratify it. Gouverneur Morris, who had had long experience in France, termed it "no bad bargain;" and John Marshall, who had endured such bitter humiliation, at the hands of that country, advised its ratification. President Adams alone seemed to have been wholly satisfied. He wished it ratified unconditionally. "Had it betrayed a single point of essential honor or interest, I would have sent it back as Mr. Jefferson did the treaty with England, without laying it before the Senate."

The convention was transmitted to that body Dec. 16, 1800, by the President, together with the journal of the envoys. The majority in the Senate, although not wholly favorable to the President's policy, did not wish war. The southern wing of the Federalist party itself, had been out of sympathy with the proceedings of their radical leaders. And Marshall, the foremost southern Federalist leader, exercised considerable influence at his party's councils and in Congress. Nevertheless, the convention encountered serious opposition. The Senate requested that the instructions to the envoys be submitted, to which request the President complied, asking that they be considered in strictest confidence. That day a resolution passed which provided that not only that but all treaties thereafter should be kept secret while under consideration,

2. George Cabot to Gore, Jan. 21, 1800. Lodge's Cabot, pp. 267-9. "Unhappily the Federalists of the United States do not agree with those at the South. The former have pretty generally expressed an open disapprobation; while the latter have as openly vindicated the mission to France.
3. Idem., 268. "In order to satisfy Mr. Marshall and the Southern Federalists, it was necessary to appear satisfied with the mission; and in order to please others, perhaps all three Federalists, it was necessary to withhold all praise of the measure ... You see General Marshall leads in Congress."
until the injunction should be removed by the Senate. A few days after, they decided upon the mode of procedure in regard to the consideration of treaties, which was to remain a standing rule. There probably was much discussion upon the convention, though the journal is silent. The second article, which provided for the postponement to some convenient date of negotiations upon the subject of treaties and indemnities, and the third article which provided for the restoration of public ships, were expunged by votes of small majorities, in Committee of the Whole, and concerned in, in formal session, all amendments failing. Jan. 21, Adams laid before the Senate the two letters of King, which, he said, he was sure would be read with satisfaction. Whether this was the case, is doubtful but certainly one faction of the opposition was forever silenced. Their cry had been that good faith with England required the rejection of the convention. At once, upon its publication, King had interviewed the Lord Chancellor, some important ministers, the King and Grenville, to learn what their general attitude toward it might be. There were no

1. Jan. 5, 1801.
objections. Grenville himself said he did not consider it inconsistent with their treaty, nor was there anything objectionable in it, save possibly the article providing for convoys, and that was not antagonistic to them.

This information melted the opposition. There was no alternative, but to ratify. Feb. 3, the Senate reconsidered the expunging of that article, providing for the restoration of public ships, and reversed then 'former decision'. The final motion provided that the Senate "do consent and advise the ratification of the convention ... provided the second article be expunged", and that it be in force for eight years. The vote stood 22 affirmative to 9 negative.

To this amendment Adams rather reluctantly acquiesced. He would have preferred it unconditionally ratified. Feb. 17, he nominated James A. Bayard, minister plenipotentiary from the United States to France, to exchange ratifications. Bayard, however, declined the nomination, so Adams decided to leave the entire affair for the incoming President to deal with as he saw fit.

1. Annals. 6th Cong. 1st and 2nd sessions, p. 777.
2. Idem., 778.
Upon Jefferson's coming into office, the convention was accordingly sent forward. Napoleon confirmed and ratified it, but seeing his opportunity, cleverly took advantage of it by adding a proviso "that by this retrenchment of the second article, the two states renounce their respective pretensions which are the objects of the said article." The proposed ratifications were introduced into the French "Corps Legislatif" for its sanction by Roederer. His short speech was highly favorable to their confirmation of the convention, since, he said, it established peace and harmony between the two nations. The "project" for making it law, together with Roederer's speech, were transmitted to the Tribunal by Adet. He summarized the contentions of each of the contracting parties, the problems of indemnities, privileges, and ancient treaties, particularly vindicating the French. The most important article, he said, was that regulating the relations of the two nations since one was at war and one at peace. The provisions of Article 12, which accorded a neutral the right to carry all goods save contraband, was in accordance with international law; the list of contraband was

limited directly to that which serves in war, and
did not extend to all the articles of the English
treaty of 1794, timber, rosin, and tar, specifical-
ly. Although this was a distinct disadvantage,
yet, he added, American wood was of inferior
quality and that of the North was much preferred.
Beajour and Leconidae, in their presentations,
took much the same views. Leconidae harped upon
England's contraband privileges, but nevertheless
advised voting for ratification for the following
reasons:

a. Because of its limited duration,
b. because it would end the existing state of
war.
c. because the very nature of things placed
the United States and France together.

The Tribunate voted for its adoption unanimously
and appointed three of its members to submit their
views to the Legislative Corps. Before that body
the projet was briefly discussed, and passed by a
vote of 230 to 10.

The ratifications with this additional French
provision, were exchanged between Murray and the

   III: P4-28.
3. Idem., 47.
French commissioners. Jefferson submitted the convention anew to the Senate, which declared by resolution, Dec. 19, 1801, that they considered the ratification as already perfected, and returned it to the President for the usual promulgation.

Such was the convention of 1800, and as such it could not be considered a diplomatic triumph. But in many respects it brought us distinct advantages. The United States had openly carried on hostilities; they had declared this their last effort to keep the peace. If it had failed there would unquestionably have been war. Although the convention was scarcely more than temporizing, it was temporizing wisely. In truth, its effects were far reaching, for France was not mistress of Europe, powerful enough to wrest from Spain the great province of Louisiana; and the United States, because of the convention, was at peace with her and in a position to buy that territory, which we could never have wrested from her.

1. Archives Parlementaires. 2 Series. III:47.
3. The House appropriated the sum of $318,000, to provide for the expenses of negotiation, and for those resulting from putting the convention into effect, Annals. 7th Congress. 1 Session. p. 1074.
History's verdict has sanctioned the courageous and farseeing leaders, who in the face of so much opposition would not be deterred from the right. The modest hope the three ministers expressed at the close of their Journal may be regarded as fulfilled:

"If, with the simple plea of right, unaccompanied with the menaces of power and unaided by events either in Europe or America, less is at present obtained than justice requires, or than the policy of France should have granted the undersigned trust that the sincerity and patience of their efforts to obtain all that their country had a right to demand, will not be drawn into question."

Secondary Works


For general accounts, see John Spencer Bassett's The Federalist System (A. N. S. vol. 11) New York, 1906, a readable sketch; James Schouler's History of the United States under the Constitution, (6 vol.) New York, 1894, good; J. B. McMaster's
A History of the People of the United States (6 vol.) full of incident; Richard Hildreth's History of the United States (6 vol.) New York, 1877, pro-federalist; J. T. Morse's John Adams, Boston, 1885, a short resume; and John Woods' Suppressed History of the Administration of John Adams, 1802, reprinted Philadelphia, 1846, but now out of date.