

ORDER OF LORDS OF TREASURY FOR RELEASE OF THE MONTEZUMA.<sup>a</sup>


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 HAMILTON TO LORDS OF TREASURY.<sup>b</sup>


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WAPLES TO ELLIOT.

 DEPARTMENT OF STATE TEXAS,  
 HOUSTON 14th Sept 1842

Honl. CHARLES ELLIOT

*Her Britanic Majesty's Chargé d'affaires to the Republic of  
 Texas,*

SIR,

I have the honor to acknowledge the receipt of your note of 10th Inst, on the subject of the Blockade of the eastern ports of Mexico by the Republic of Texas, and to enclose herewith a copy (signed by himself) of a proclamation of Revocation of Blockade of the said Eastern ports of Mexico issued by the President on the 12th Inst,<sup>c</sup> of which, the President desires you to give notice to your Government at your earliest convenience.

The President ever desires to facilitate the interests of friendly nations, and more especially when that of his own is not prejudiced, and being desirous to cultivate, increase and place upon a more firm footing the friendship and mutual interests of England and Texas, has, upon the representation of yourself and the Honl. Mr Eve of the desire of your Governments, that the commerce between them and Mexico should not be disturbed by Texas, has deemed it proper to issue this proclamation, and hopes it may prove satisfactory to your Governments, and have a salutary influence upon the mediation now employed in Mexico for the recognition of Texas by that Government.

The President desires you to accept his highest regards,—and receive sir, the assurances with which I have the honor to be

Your most obedient servant

 JOSEPH WAPLES  
*Acting Secretary of State*


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 SMITH TO ABERDEEN.<sup>d</sup>

<sup>a</sup> September 13, 1842. See Smith to Jones, October 19, 1842.

<sup>b</sup> September 13, 1842. See Hamilton to Jones, November 25, 1842. For the date of the letter to the Lords of the Treasury, see Addington to Hamilton in Hamilton to Jones, November 25, 1842.

<sup>c</sup> See *Telegraph and Texas Register*, September 14, 1842.

<sup>d</sup> September 14, 1842. See Smith to Jones, September 19, 1842.

SMITH TO ADDINGTON.<sup>a</sup>CIRCULAR LETTER TO TEXIAN CONSULS.<sup>b</sup>SMITH TO JONES.<sup>c</sup>

No. 20.

LEGATION OF TEXAS, LONDON

*September 19th.<sup>d</sup> 1842*

HON ANSON JONES

*Secretary of State*

SIR,

The Mexican Steam Frigate *Montezuma*, whose detention I have communicated in former despatches, was released by an order from the Lords of the Treasury, dated the 13th Instant. This order stated that the Lords of the Treasury were pleased "to allow the vessel to proceed on the voyage, after the great guns and carriages now on board and the military stores connected with them shall have been relanded and the crew reduced to such a number as may be sufficient for the proper navigation of a vessel of such a size and character if engaged in peaceful commerce."

Immediately on being informed of the issue of such an order, I addressed a strong remonstrance to the Earl of Aberdeen; and in view of his absence from town, I requested in a separate note, Mr Addington Under Secretary of State for Foreign Affairs, to open my communication to Lord Aberdeen, for the purpose of taking such action as the importance of the matters treated of might render proper. Copies of my remonstrance, and note to Mr Addington are hereto annexed. I have received no answer to my remonstrance; the *Montezuma* is preparing to sail, and will probably leave in two or three days. She will undoubtedly be followed by another vessel containing her armament and military stores; these will be reshipped on board the *Montezuma*, and thus the order to disarm her can be regarded in no other light than a mere farce.

On reference to my Despatch of the 2d Instant, you will discover that I clearly foresaw the release of the *Montezuma* by a "*Ministerial* order", and in anticipation of it, that I wrote to Lord Aberdeen "requesting that the *Montezuma* shall be brought for trial before the courts of Justice of the Country, where her acquittal or condemnation shall be decided *judicially* according to the testimony." No answer

<sup>a</sup> September 14, 1842. See Smith to Jones, September 19, 1842.

<sup>b</sup> Undated. See Smith to Jones, September 19, 1842.

<sup>c</sup> A. L. S.

<sup>d</sup> Possibly this should be the 18th; at any rate, it seems there should be one day's difference between the dates of Nos. 20 and 21. See the latter, which is dated the 19th and inadvertently numbered 22.

to my request has yet been received—the order of release is a refusal to my application.

My unremitting attention will be given to obstruct or delay the sailing of the *Montezuma*. The disposition so clearly manifested by this Government does not warrant me in being sanguine of success. Your department shall be kept promptly informed by me, as heretofore, of the progress of events here which may concern Texas.

Although the British Government, in my opinion has inclined very decidedly in favor of Mexico, I am persuaded it sincerely desires the establishment of peace between Texas and Mexico; and that its good offices are actively exerted in this behalf. I have frequent evidences too, that the cause of Texas is viewed with increasing favor here. A large and very respectable portion of this people clearly perceive the present and future importance of Texas.

Early in July last as stated in my dispatches of that time,<sup>a</sup> instructions were transmitted to the British Minister at Mexico to urge on the acceptance of that country the mediation of England. I presume the result of the proffered mediation has not been received in this country. I have not been informed whether the United States Government will unite in the "triple representation"

In consequence of complaints concerning spurious titles to lands in Texas, offered for sale in England I have addressed a circular letter to our Consular Agents in Great Britain, a copy of which is hereto annexed. I have also annexed a copy of my letter to His Excellency Washington Irving, American Minister at Madrid, covering a copy to him of my note to General Sancho, the Spanish Minister.

A private letter from Hamburg, to me states that the Hanse Towns would willingly form a treaty with Texas.

In a former Despatch to your Department I stated that Messrs Morrisons Sons, & Co held Bonds of Texas to the amount of £132,126 13s 4d. This was the amount as stated to me by Mr Shaw a partner of that house. I learned yesterday on an examination made at their counting house, in company with General Hamilton and Mr Burnley, that Mr Shaw had committed an error of twenty seven thousand five hundred pounds sterling—£27,500—whereby the amount held by them is reduced to one hundred and four thousand, six hundred and twenty six pounds thirteen shillings and four pence.—£104,626.13.4.—sterling.

I have the honor to be  
with great respect  
Your obedient servant

ASHBEL SMITH.

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<sup>a</sup> See Smith to Jones, July 3, 1842.

(Copy)

## LEGATION OF TEXAS, LONDON

*September 14th 1842*

The Undersigned, Charge 'd Affaires of the Republic of Texas has the honor to state to the Earl of Aberdeen, that he is informed, the Mexican Frigate Montezuma has been ordered to be released by the Lords of the Treasury; and that she will be permitted to sail for Mexico, after having removed from on board, her armament and warlike stores and reduced her crew to the number of men usually employed in merchants vessels of like size.

The Undersigned confesses that this compromise has created in him some surprise.

The character and destined employment of the Montezuma have been notorious; and they were in fact avowed to Her Majesty's Government by the Mexican Agents themselves in the application they made for permission to arm her and another Mexican Frigate, the Guadalupe, in British Ports. Notwithstanding this "application was refused", the Mexican Agents proceeded to "equip, furnish, fit out and arm" the Frigate Montezuma in the Port of London, not only "without the leave or license of Her Majesty's Government first had and obtained", but in contempt of it;—and these Agents further proceeded to enlist and take on board of the Montezuma subjects of Her Majesty, entered in the service of Mexico against Texas. All which acts have been done in violation of the Laws of this Realm as contained in the 59 George III. Cap. 69. Full proof of those facts was presented to Her Majesty's Government. And the Undersigned further submits that the discharging or transfer of the armament and ammunition of the Frigate Montezuma, and the reduction of the number of her crew, as proposed, are most clearly a confession of overt acts of guilt and of a violation of the Law in question.

The Undersigned further states, that in his opinion, the Foreign Enlistment Act would be again violated, and the impartiality of the British Government departed from, by the sailing of the Montezuma, even after the transfer of her armament and ammunition and the reduction of her crew. She has been avowedly built and is fitted up as a vessel of war, from her keel to her truck, and on her excellence in these respects, her warlike efficiency essentially depends. Her ammunition, armament and crew may within sight of the British Coast be reshipped on board of her, and thus the Montezuma may be employed in the service of Mexico against Texas as effectually as if her armament had been mounted in a British Port, contrary to the intent of Her Majesty's Government.

In view of these matters and of other information laid before Her Majesty's Government, the Undersigned in the name of His Govern-

ment most solemnly protests against any compromise, whereby the Frigate Montezuma shall be permitted, after having once violated the British Laws, to evade those Laws and be employed in the service of Mexico against Texas. Such a course the Undersigned respectfully submits, would have the appearance of departing from that impartiality which the British Government has maintained between the two countries.

All that the Undersigned asks for his Government is, that, the Montezuma having been detained for a violation of British Laws, her case may be disposed of in the same way as other violations of the Laws of the country—that it be sent to the Courts of Justice for final adjudication according to the evidence produced.

The Undersigned avails himself of this occasion to renew to His Excellency the Earl of Aberdeen etc.

signed ASHBEL SMITH

His Excellency  
The EARL OF ABERDEEN.

(Copy.)

Mr Ashbel Smith to Mr H. U. Addington

Mr Ashbel Smith presents his compliments to Mr Addington and requests that in view of the absence of the Earl of Aberdeen from London, Mr Addington would open a Note this day addressed by Mr Smith to His Lordship, for the purpose of taking such action as the importance of the matters treated of in the Note may render proper.

September 14. 1842  
3 St James's Street.

Circular Letter to the Texian Consuls.

LEGATION OF TEXAS, LONDON

SIR,

The sale of spurious titles to land in Texas by persons in Europe, having become a subject of frequent complaint, I would recommend the following rule for your official guidance, until the Government of the Republic shall have organised a system under which foreign purchasers of Texian Lands may receive accurate information and obtain satisfactory guarantees.

Intimate to all parties who may consult you respecting the purchase of lands in Texas, that they will not be justified in buying

unless the person with whom they propose to deal is prepared to give them a reference to some individual of known credit resident in Great Britain, on whose assurances they feel they may rely.

I am

very respectfully

Your obedient servant

A. S.

To Mr \_\_\_\_\_

*Consul of Texas*

at \_\_\_\_\_

[There was also inclosed a copy of Smith to Irving, September,<sup>a</sup> 1842, with the original of which had been transmitted a copy of Smith to Sancho, September 7, 1842.<sup>b</sup>]

SMITH TO ABERDEEN.<sup>c</sup>

SMITH TO JONES.<sup>d</sup>

LEGATION OF TEXAS, LONDON

*September 19, 1842*

HON ANSON JONES

*Secretary of State*

SIR,

I had the honor to transmit yesterday by General James Hamilton an important dispatch, No. 20, informing you that the Mexican Steam Frigate Montezuma has been released by order of the Lords of the Treasury. This I had clearly foreseen, as stated in my former communications.

Having obtained today a copy of the Order of the Lords of the Treasury, I have deemed it a proper occasion to make another remonstrance to the Secretary of State for Foreign Affairs, a copy of which is hereto annexed.

I learn that the parties are relanding the armament of the Montezuma, and expect to sail on Wednesday—the 21st Instant.

I have the honor to be

Very resy.

yr obed servt

ASHBEL SMITH

<sup>a</sup> The day of the month should be the 7th or 8th.

<sup>b</sup> For both, see Correspondence with Spain.

<sup>c</sup> September 19, 1842. See Smith to Jones, September 19, 1842 (Dispatch No. 21, marked "22").

<sup>d</sup> A. I. S.

<sup>e</sup> Should be 21. See Smith to Jones, October 3, 1842.

(Copy.)

LEGATION OF TEXAS,  
*September 19, 1842*

MY LORD,

The importance of the interests involved in the sailing of the Mexican Frigate Montezuma, and the gross deception practiced upon Her Majesty's Government by the Individuals who have built and armed this vessel and the Guadalupe, induce me again to address your Lordship on this subject.

In your Note to me of the 16th July in reply to my Protest of the 14th June and 1st July concerning the Gaudalupe and Montezuma, your Lordship was pleased to say:—"The Undersigned has the honor to state to Mr Ashbel Smith in reply, that an application was made to Her Majesty's Government, by the Individuals to whom the vessels belong for permission to arm these vessels in British Ports, and that the application was refused. He has also to state that having caused an inquiry to be made upon the subject he has received the assurance that one of these vessels the Guadalupe has just left the Port of Liverpool unarmed, and that the other is preparing to sail also "a unarmed".

Notwithstanding this assurance made to your Lordship, the Guadalupe did sail from Liverpool "armed to the teeth," manned chiefly with British subjects, officered and commanded by persons then or very recently holding commissions in the British Navy. In proof of the armament of the Guadalupe, and consequently of what credit is due to the Individuals making the assurance to your Lordship, I have the honor to annex a copy of Mr Francis B. Ogden's affidavit, the original of which was communicated to Her Majesty's Government sometime since. I have in my possession ample documentary proof of all the facts stated, but its production at this time would be attended with no obvious advantage to my country.<sup>b</sup>

Your Lordship is undoubtedly aware that the order for the release of the Montezuma was given by the Lords of the Treasury, inasmuch as their Lordships were induced to believe that the parties had been led unintentionally, as they alleged, into a violation of the Law; and as they have declared their readiness to abandon her armament, the vessel will be allowed to proceed on her voyage, after the great guns and carriages now on board and the military stores connected with them, shall have been relanded and the crew reduced to

<sup>a</sup> This surplus quotation mark may not have been in the original letter; but, at any rate, it serves to show in what frame of mind Smith was writing.

<sup>b</sup> In a copy of this letter belonging to a series inclosed with Smith to Jones, October 19, 1842, instead of this clause beginning with "but its" occur the words: "But I do not deem its production necessary, as the Guadalupe has been declared to be beyond the reach of British Law."

such a number as may be sufficient for the proper navigation of a vessel of such size and character if engaged in peaceful commerce.<sup>a</sup>

Your Lordship will perceive two very important points in the order of release:—First, the violation of the British Law by the Parties is expressly admitted and declared:—Secondly, this violation of the Law taken in connection with the application made to Her Majesty's Government for permission to arm these vessels, together with the assurance given that the Montezuma was preparing to sail also unarmed, was neither *unintentional* as alleged, nor ignorantly done. I conceive it must be clear to your Lordship that this violation of Law was wilful, deliberate and known on the part of the Individuals who armed and fitted out these vessels, and that an atrocious attempt has been made by them to deceive and mislead Her Majesty's Government, and to compass its departure from its friendly relations with Texas and from its impartiality in the contest between Texas and Mexico.

The application made to Her Majesty's Government by the Mexican Agent, for permission to arm these vessels, and other facts which have rendered their destination notorious, can have left, I presume, no doubt in your Lordship's mind that they are to be employed in the service of Mexico against Texas.

Should the Montezuma be permitted under these circumstances to sail and with the Guadalupe to ravage the Texian Coast—strong as is the regard of the Citizens of Texas for Her Majesty's Government and confident as is their reliance on its justice and impartiality, they will I fear be drawn to the conclusion that her Majesty's Govt. is disposed indirectly to aid Mexico in its endeavors to subjugate Texas.<sup>b</sup>

I take pleasure My Lord in renewing etc. etc.

signed ASHBEL SMITH

P. S. Some *verbal* errors in this copy—a correct one will be sent by next opportunity.

<sup>a</sup>In the copy referred to in the above note that part of this paragraph from "inasmuch" to "commerce" is inclosed in quotation marks.

<sup>b</sup>In the copy referred to in the last two notes, instead of this paragraph is the following:

"I have reason to know, my Lord, that the Citizens of Texas, entertain an especial regard for Her Majesty's Government, and repose entire confidence in their justice and impartiality. If however, the Montezuma shall be allowed to sail, under present circumstances, and, with the Guadalupe, to ravage the Texian Coast, the presence of these vessels will create much surprise there, and seem to justify the conclusion, that Her Majesty's Government, is disposed indirectly to aid Mexico in its contest with Texas.

The high confidence inspired by my intercourse with Her Majesty's Government, leaves me in no doubt, as to their very friendly feelings toward Texas, and their strict impartiality between Texas and Mexico.

I avail myself of this occasion to renew to your Lordship, the assurance of the high consideration, with which I have the honor to be,

very respectfully,

Your Lordships obedient servant

(signed) ASHBEL SMITH.



ABERDEEN TO SMITH.<sup>a</sup>ELLIOT TO JONES.<sup>b</sup>GALVESTON *September 26th. 1842.*

The Undersigned Her Britannic Majesty's Chargé d'affaires to the Republic of Texas has the honor to acquaint Mr. Jones that He has been instructed by Her Majesty's Government to press the settlement of certain losses sustained by British Subjects, arising,

Firstly, out of the illegal detention of the British Barque "Eliza Russell" by a Texian naval force in the year 1837, and, secondly, out of the condemnation of certain British property, captured in the Mexican Schooner "Abispa" by the Texian armed vessels "Brutus" and "Invincible" on the 30th. June 1837, or thereabouts, whilst in the act of leaving the British Schooner "Little Pen" then lying cast away on the Alacranes Shoal; and for the further loss sustained by the carrying off from the "Little Pen" of the property still left on board, when the "Abispa" had quitted the wreck to proceed to Campeché.

The Undersigned has learnt with pleasure since his arrival here, that the claim on account of the "Eliza Russell" has already been disposed of by a joint resolution of both Houses of Congress (January 25th. 1840<sup>c</sup>) appropriating the sum of \$3840 in satisfaction of it, and He has therefore only to request upon that subject that the Government will be pleased to order the immediate payment into his hands, for remittance to England on account of the sufferers.

With respect to the other claim, the Undersigned is well aware that the course in accordance with the spirit of this Government would have been the protection of friendly property in the condition of the cargo of the "Little Pen" whether already on board of the captured Schooner "Abispa" (and it will readily be admitted that the property on board of the "Abispa" did form part of the Cargo of the "Little Pen") or taken from the wreck itself, by the boats of the Texian Schooners.

Conscious of such dispositions on the part of this Government, and considering the length of time which has elapsed since these transactions, without redress (no doubt from unavoidable circumstances) The Undersigned entertains the confidence that the President will now enable him to report to Her Majesty's Government the satisfaction of its just and earnest expectations on the subject.

The claim on account of the loss sustained by the seizure of the property out of the "Little Pen" amounts to the sum of £2636. 14s. 3d.

<sup>a</sup> September 21, 1842. See Smith to Jones, October 19, 1842.

<sup>b</sup> A. L. S.

<sup>c</sup> See Gammel, *Laws of Texas*, II, 420-421.

and the Undersigned will beg to add that it has been reduced through the interposition of Her Majesty's Government to the lowest sum to which the parties appear in justice to be entitled.

The Undersigned avails himself of this occasion to offer Mr. Jones the assurances of highest consideration with which He has the honor to remain

His most obedient  
Humble Servant

CHARLES ELLIOT

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ABERDEEN TO SMITH.<sup>a</sup>

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ELLIOT TO JONES.<sup>b</sup>

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SMITH TO JONES.<sup>c</sup>

No 22.

LEGATION OF TEXAS

LONDON, *October 3, 1842*

HON ANSON JONES  
*Secretary of State*  
*Texas.*

SIR,

My preceding Despatches nos. 20 and 21 communicated to your Department the information that the Steamer Montezuma after having been detained for some days by the British Government was released by an order of the Lords of the Treasury, on condition of withdrawing her large guns and carriages and the military stores connected therewith. This was in part done, and the Montezuma sailed from Gravesend on thursday last, the 27th of September, bound for Vera Cruz. She still had concealed on board a considerable quantity of ammunition and small arms. Her heavy armament and the rest of her military stores will undoubtedly be sent after her and reshipped on the way, or meet her at the Havanna and [be] taken on board there. The Guadalupe, Mexican Steamer is probably ere this, arrived in the Gulf of Mexico.

I have received a Note from the Earl of Aberdeen<sup>a</sup> stating the detention of the Montezuma and the grounds of her release, in reply to my protests on this subject.

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<sup>a</sup> September 27, 1842. See Smith to Jones, October 19, 1842.

<sup>b</sup> A. L. S., September 30, 1842. See Calendar.

<sup>c</sup> A. L. S.; indorsed "Recd 4th. Decr 42."

My reply to the Earl of Aberdeen's last Note,<sup>a</sup> as well as the whole correspondence in regard to these vessels will be handed to Mr S. Converse who leaves London this day on his way to Texas.

The Earl of Aberdeen has also addressed me a Note stating that Her Majesty's Government will hold the Blockade by Texas of the Mexican Coast, as null—inasmuch as Texas has failed to maintain this Blockade with an efficient force. Mr Converse will carry out a copy of Lord Aberdeen's Note.<sup>b</sup>

After closing the correspondence concerning the Mexican Steamers with the Earl of Aberdeen, I shall repair to Paris to attend to my duties at that Court.

I have the honor to be

Very respectfully

Your obedient Servant

ASHBEL SMITH.

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SMITH TO JONES.

3 ST JAMES' STREET

LONDON Oct 3, 1842

SIR,

Permit me to introduce to your favorable regards S. Converse Esqr.

Several gentleman in this country of great wealth and respectability propose to introduce emigrants into Texas, within the limits of the Colony said to be established near the Red River in compliance with the terms of a contract made under a Law of Texas in which the name of Daniel J. Carroll is mentioned.<sup>c</sup> As I am unable to give them any information either as to the interest or share of Dr. Carroll in the contract or as to what progress has been made in complying with its conditions they have deemed it best to dispatch a special Agent for the purpose of obtaining the requisite information in Texas.

Mr A. T. Burnley now in London as well as other gentlemen connected with Texas, have informed me that considerable progress has been made in the settlement of the Colony under the contract above alluded to. I have deemed it within the line of my official duty to state to the Gentlemen here, that Dr Carroll not being present in Texas at the time of concluding the contract, it is probable enough that his name may not be embraced in it; and, moreover, that I am unable to inform them what rights or interest Dr Carroll may claim in the s[ai]d contract.

The wealth and highly respectable standing of the parties in London, as well as my personal acquaintance with some of the gentlemen,

<sup>a</sup> October 10, 1842. See Smith to Jones, October 19, 1842.

<sup>b</sup> September 21, 1842. See Smith to Jones, October 19, 1842.

<sup>c</sup> Act approved January 4, 1841. See Gammel, *Laws of Texas*, II, 554-557.

offer in my opinion a sufficient guaranty for the efficient and faithful performance of whatever they shall undertake, and justify me in recommending Mr Converse to the favorable notice of the Texian Government. I may also add that the Hon Charles Fenton Mercer has united in wishing me to present Mr Converse to your favorable attention.

I have the honor to remain with sentiments of great respect

Your very obedient servant

ASHBEL SMITH.

Hon. ANSON JONES

*etc. etc. etc.*

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HAMILTON TO JONES.<sup>a</sup>

(Private.)

BOSTON, *Oct. 5th. 1842.*

DEAR SIR,

I beg leave to announce to you my arrival in this place pr. Columbia Steamer, having sailed from Liverpool on the 20th. of September.

Your Chargé Mr. Smith will have apprized you of the release of the Steamer Montezuma on the condition of her being disarmed, a decision made by the Lords of the Treasury, about a week previous to my embarking.

The imminent probability that both of these steamers will be down on the coast of Texas in the course of a few weeks, makes me feel anxious both for the safety of your fleet and Galveston. I have written to Mr Reiley to meet me in New York, to ascertain whether any Paixhan guns have been sent to your Government from the United States and generally the condition of your munitions of war, as you may be satisfied that you are likely to have warm work before many months are over your heads.

I may publish an account of the building, equipment and seizure of the steamer, to arouse public feeling in the United States, and will write Genl. Houston fully on my arrival in New York. I will be in Texas during the session of Congress.

I remain

Very Respectfully,  
Your obt. Servt.

J. HAMILTON

The Honble.

ANSON JONES

*Secty. of State Texas.*

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<sup>a</sup> L. S. ; indorsed " Recd 4th Nov. 42 ".

P. S. Mr. Ashbell Smith informed me that, on the 18th. Sept. he had addressed you a letter correcting an error of £27,500, in the amount of Texian Bonds held by the Bank of the United States. On examination the Report which Mr. Burnley and myself made to the Texian Government was found in all respects correct. Be so good as to communicate Mr. Smith's letter to yourself to the Secretary of the Treasury, to whom I write by this days mail.

respec'y,

J II

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SMITH TO ABERDEEN.<sup>a</sup>

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TERRELL TO SMITH.<sup>b</sup>

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TERRELL TO ELLIOT.<sup>b</sup>

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SMITH TO JONES.<sup>c</sup>

No. 23.

LEGATION OF TEXAS, LONDON

*October 17. 1842.*

The Hon ANSON JONES

*Secretary of State*

SIR,

Mr Addington Under Secretary of State addressed me a Note, by desire of the Earl of Aberdeen, inviting me to call this day at the Foreign Office. The following documents were then submitted to my perusal:—a Despatch of the Earl of Aberdeen dated July 1st communicating to Mr Packenham British Minister at Mexico, copies of the ratified Treaties between Texas and Great Britain, and instructions to present to the acceptance of Mexico the mediation of Great Britain between Texas and that country:—Mr Packenham's Despatch dated August 30th communicating the rejection by the Mexican Government of the proffered Mediation:—and, a Despatch from the Earl of Aberdeen to Lord Cowley the British Ambassador at Paris on the proposed triple Interposition of the United States, France and Great Britain in the affairs of Texas and Mexico.

The reasons which Lord Aberdeen instructs Mr Packenham to present to the consideration of the Mexican Government in favor of

<sup>a</sup> October 10, 1842. See Smith to Jones, October 19, 1842.

<sup>b</sup> October 15, 1842. See Terrell to Eve of the same date in Calendar of Correspondence with the United States in Part I.

<sup>c</sup> A. L. S.; indorsed "Rec'd Dec. 4th 1842."

their accepting the Mediation of Gt. Britain on the basis of the Independence of Texas, may be generally ranged under the following heads:—In view of the resources which Texas can, and in the event of a continuance of hostilities, will derive from the people—not the Govt. of the U. States—Mexico must eventually be overcome, notwithstanding her early efforts should prove successful:—The importance to Mexico of having an Independent State like Texas intervene between that country and the American Union:—The advantages of friendly intercourse between Texas and Mexico after the hostile feelings between the two countries shall have subsided:—and, The danger of the annexation of Texas to the American Union.

Such was the general scope of the Earl of Aberdeen's communication to Mr Packenham as well as I can remember it.

Mr. Packenham's Despatch states that the mediation of Gt Britain was refused in the most explicit and decided manner by the Mexican Government.

Mr Packenham mentioned that his communication of the proffered mediation was listened to by Mr de Bocanegra with studied caution and without remark, that he was not however thereby inspired with any favorable anticipation; and further, that a conversation with Mr. Tornel the most influential member of the Govt. confirmed his apprehension of the "*utter hopelessness*" of Mexico's accepting the Mediation. He also stated, that General Santa Anna's Government was purely military—that the war against Texas furnished a good pretext for keeping up a large army on which Santa Anna's power rested, and that he would not willingly deprive himself of this 'device;'—that nearly all the Mexicans felt very sore on the subject of Texas, and that no man at the head of affairs however disinterested or enlightened could entertain the question of recognizing the Independence of Texas, and maintain himself in power. He added that the financial embarrassments of Texas and the difficulties about the Volunteers from the United States were known in Mexico, and the Mexicans believed the present to be a favorable opportunity to reconquer the country; and, finally, that the Mexicans were determined to prosecute the war efficiently and to commence hostilities early the ensuing spring.

From the Despatch of the Earl of Aberdeen to Lord Cowley, it appears that the French Government have proffered with alacrity to unite their good offices with the other Powers in the proposed interposition. The British Government however declines acting in conjunction with the American Government for the alleged reason of the unfriendly relations subsisting between the United States and Mexico. They would however be pleased to be aided by the good offices of the French Govt. in the affairs of Texas and Mexico.

The fact undoubtedly is, as Mr Addington distinctly intimated to me in conversation, that the British Government would prefer to act solely in this matter and not conjointly either with France or the United States.

It is not perhaps unworthy of note that in the instructions of Lord Aberdeen to Mr. Packenham touching the "Mediation," the British Minister is also instructed to say to the Mexican Govt. that the good offices of the British Government would be tendered to Mexico to mediate between that power and the United States.

Mr Addington stated that the British Government would continue to urge their mediation on the acceptance of Mexico. To my inquiry whether the Mexican Steamers, the "Guadalupe" and "Montezuma" would be recalled, he replied his own confident opinion was that nothing would be done by the British Government to prevent their continuing in the Mexican Service; but, that the officers would be recalled, and if they should refuse to leave the Mexican Service, they would be deprived of their commissions in the Royal Navy. I remarked that such a course appeared to me to fall far short of maintaining a strict neutrality; and that as for the recal of the officers, when British Officers had been deprived of their commissions under similar circumstances, they had in most instances, been subsequently restored and sometimes promoted.

From a careful observation of the tone of Mr Packenham's Despatches as well as from his very positive statements, I am authorized to assure you that the British Minister in Mexico believes the "Mediation" of England to be 'utterly hopeless'; and that early in the ensuing spring, Mexico will endeavor to make a great and decisive effort to conquer Texas.

Great Britain declines to join with the United States in a triple Interposition.

The Frigates Guadalupe and Montezuma which were built, equipt, armed and manned in violation of the neutral relations of England towards Texas will be allowed to cruise against Texas without restraint.

Mr Addington mentioned to me that Despatches had been received from Capt Elliott since his arrival in Texas, which were very satisfactory.

The present Despatch will be sent out by the Steamer of the 19th Instant from Liverpool. By the Great Western Steamer which will leave on the 22d Instant, I shall send out a Copy of all the correspondence on the Mexican Steamers, and important Dispatches on other matters.

I omitted to mention in its proper place, that it appears from the Despatches of Mr Packenham submitted to my perusal, that the

Mexicans are expecting active aid from Old Spain—but he does not intimate whether he regards this expectation as well founded or not.

Has His Excellency decided on the propriety of transmitting to me authority to grant letters of Marque?

I am still without Despatches from your Department.

I propose to leave London for Paris immediately after the sailing of the Great Western on the 22d Instant.

I have the honor to be  
very respectfully

Your obedient servant

ASHBEL SMITH.

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SMITH TO JONES.\*

No 24

LEGATION OF TEXAS  
LONDON, 3 ST JAMES'S STREET

Oct 19. 1842

The Hon ANSON JONES

*Secretary of State,*

SIR,

In my Despatch numbered 23d and dated the 17th Instant, I had the honor to state that Mr Addington one of Her Majesty's Under Secretaries of State for Foreign Affairs, informed me his confident opinion is, that the British Govt. will not recall the Mexican Steamers, the Guadalupe and Montezuma, nor take any steps whatever to prevent their being employed in the service of Mexico against Texas. A written reply to my last communication on this subject to the Earl of Aberdeen, will according to the usual form be made to me; but as Mr Addington's answer may be regarded as the decision of the Cabinet, it has seemed to me proper and not premature to transmit to your Department a connected account of what has been done in reference to these steamers, and copies of my correspondence concerning the same with the British Secretary of State for Foreign Affairs.

On reaching England in May last, I was informed that two Steam Frigates to be called the Guadalupe and Montezuma, were fitting out in the Ports of Liverpool and London respectively, for the service of Mexico against Texas. I instituted immediately careful inquiries to assure myself of the facts, and for this purpose, I went on board the Montezuma then lying in one of the India Docks near London.

On the 30th May, at an interview with the Earl of Aberdeen, I made a statement of these facts and remonstrated with him verbally against these Frigates being permitted to arm and equip in British Ports for the purpose of committing hostilities against Texas.

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\* A. L. S. ; indorsed " Recvd 4th Decr 42."



His Lordship at that time affected not to know whether any such hostile armaments were preparing or not, and gave me general, hypothetical answers which were duly communicated to your Department.

On the 14th of June I presented a written Protest, in the name of the Government of Texas, concerning these steamers.

In a conversation I held on this subject with Lord Aberdeen shortly after the date of my Protest, he admitted himself to be informed on all the circumstances connected with the building, arming and destined employment of these vessels.

Not long subsequently I learned with certainty the names of the officers, Captains Cleveland and Charlewood who were to command these steamers; and I was moreover assured by a gentleman of very high respectability, who derived his information from the Admiralty, that these vessels had been built under the direction of the British Admiralty who had supplied the models and plans for building and arming them, and that they had been built and constructed expressly to act against Texas.

This information came to me on such high authority that I communicated it, in a Note, to the Earl of Aberdeen dated July 1st, wherein I renewed my Protest. I also stated to Lord Aberdeen that the Guadalupe was expected to sail from Liverpool on the 3d instant—(July). She sailed on the 4th of July.

On the 16th of July, the Earl of Aberdeen addressed me a Note in reply to my Protests above mentioned. He stated that he had received the assurance that the Guadalupe had sailed from Liverpool unarmed and that the Montezuma was preparing to sail also unarmed. His Lordship was grossly practiced on by this assurance.

Inasmuch as Lord Aberdeen admitted to me in our conversation, his full knowledge that these Steam Frigates were built by the Mexican Consul, Mr Lizardi and avowedly for the Mexican service against Texas, which facts are distinctly implied in his Lordship's subsequent notes, and as these facts on which my Protests were based, were not attempted to be traversed, there seemed no good reason for my again inviting his attention to this subject.

I then took advice of two distinguished legal gentlemen, whether under the Foreign Enlistment Act, I could arrest the sailing of the Mexican steamers.<sup>a</sup>

They were clearly of opinion that as the Foreign Enlistment Act confers a discretionary Power on the Crown to enforce its provisions or not, according to the pleasure of the Govt., no advantage could be expected by an appeal to the law in question, in opposition to the wishes of the Ministry. I also reflected that my only medium of

<sup>a</sup> See correspondence of Smith with Pringle inclosed with Smith to Jones, August 13, 1842.

communication with this Government or the Powers of this Country is through the Foreign Secretary; and, that after having made to him a representation of facts showing that the neutral relations of England towards Texas had been violated, if the Government should refuse to enforce the observance of their neutrality, any attempt on my part to seek redress through another channel, would be fruitless and improper.

Being fully persuaded that the British Government would interpose no real obstacle to the sailing of these vessels, I determined to repair to France, to see if any aid could peradventure be obtained there. Previously to leaving London, I communicated the facts connected with the steamers and the course of the Govt. in relation to them, to some friends of Texas, possessing considerable influence and to some members of Parliament.

The subject was afterwards brought up in the House of Commons, and the debate which occurred, seemed to have rather a favorable effect on the aspect of our affairs. A copy of that Debate as reported was duly transmitted by me to your Department.<sup>a</sup>

The public attention was thus directed to the Mexican Steamers and it seemed that the Ministry however unwilling, would be compelled to take some notice of their armament.

On leaving London I authorized some gentlemen, including our Consular Agent to take such steps in regard to the steamers as might be deemed advisable. Mr. Rate accordingly in my absence addressed a note to Lord Aberdeen which has been communicated to your Department.<sup>b</sup>

On reaching Paris I found public attention wholly engrossed by the lamentable death of the Duke of Orleans, which occurred only the day before my arrival. The Legislative Chambers were convoked to settle the Regency; and it appeared indelicate as well as impolitic for me arriving at such a conjuncture, to press the affairs of Texas on the consideration of the French Government, however favorably they might be disposed in general to regard them.

As soon as it appeared proper, I submitted to the French Government the proposed triple Mediation by France the United States and England, in the affairs of Texas and Mexico. The French Government acted promptly, and have I believe, urged the subject with friendly Zeal.

I then returned to London.

During my absence at Paris, General J. Hamilton arrived in London and laid an affidavit before the custom House officers in regard to the Montezuma. This vessel was detained some days by the Government. And were it not for some incorrect statements that have

<sup>a</sup> See Smith to Jones, August 13, 1842.

<sup>b</sup> This letter has not been found.

appeared in regard to this matter, I should deem it quite unnecessary to add that I am authorized to say that the detention of the *Montezuma* was not occasioned wholly by that affidavit. The Government was previously in possession, officially, of all the facts relating to this Frigate by my communications.

General Hamilton was, himself, I am aware, animated by a very sincere zeal for the good of Texas. It was however a cause of mortification to me afterwards, that the individuals who had acted under him in making inquiries, subsequently urged with a most indelicate importunity the condemnation of the *Montezuma* for the avowed purpose of sharing in the forfeiture. This course was liable to remove the cause, in appearance, from the high ground of the right of a neutral Power claimed under International Law, and to present it for the consideration of the Lords of the Treasury under a very mercenary aspect as the cause of a common informer. I am quite aware that the cause of Texas was not benefitted by the manner in which these parties proceeded; nor perhaps without their interference would the British Govt. have done less than was done.

In order that an opportunity might be afforded for the production of evidence concerning the armament of the *Montezuma*, I addressed to the Earl of Aberdeen a brief Note on the 31st August.<sup>a</sup> For a like reason and that the case might be placed on record, I addressed another note and a Letter to Lord Aberdeen dated the 14th September and 19th Septr. respectively.

By an order dated September 13th the Lords of the Treasury directed the *Montezuma* to be released from detention on condition of relanding her large guns and carriages and the military stores connected therewith, and the reduction of the number of her crew. It is to be observed that this order of release expressly declares the British Laws to have been violated in the case of the *Montezuma*. She sailed from Gravesend for Vera Cruz on the 29th of the same month.

On the 27th of September, Lord Aberdeen addressed me a Note setting forth the reasons which induced the release of this vessel and presenting some views and general considerations connected with the fitting out of the hostile Mexican armaments in British Ports.

On the 10th Instant I transmitted to the Earl of Aberdeen a note in reply to his of the 27th Ultimo, in which the subject is argued at some length, chiefly in reference to the neutral relations of England towards Texas.

On the 17th Instant, various Despatches connected with the mediation of England in the affairs of Texas and Mexico, were submitted to my perusal at the Foreign Office, and some conversation was held

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<sup>a</sup> No copy of this note has been found.

with Mr Addington concerning the Steam Frigates. A full account of that interview is contained in my preceding Despatch numbered 23.

I take the liberty of subjoining the following brief statement relative to the vessels in question.

The two Steam Frigates, Guadalupe and Montezuma were built in the Ports of Liverpool and London respectively, under contract with Mr Lizardi, the Mexican Consul, and avowedly for the Mexican Service against Texas.

I have good reason to believe from high authority the British Admiralty furnished the models and plan for building and arming these vessels, knowing their destination.

The Guadalupe was fully armed and equipped as a vessel of war, manned with a war complement of British Seamen, commanded by Capt Charlewood of the British Navy, her Master and Gunner being also of the British Navy. She sailed from Liverpool for Vera Cruz on the 4th of July 1842.

The Montezuma was also a vessel of War; she was manned with upwards of sixty British seamen, had on board a thousand stand of small arms and munitions of war. She was commanded by Capt Cleveland of the Royal Navy. She sailed on the 29th Ultimo from Gravesend for Vera Cruz.

The seamen of both the Frigates were enlisted for the service of Mexico against Texas.

The two vessels sailed without cargoes, except, that their stores and munitions were extended into cargoes

I have the honor to communicate to your Department the following copies of Protests addressed to and of correspondence held with the British Government concerning these Mexican Frigates.

I have also had a voluminous correspondence with different persons on this subject which will at some future time be presented to your Department.

I have the honor to be  
very respectfully  
your obedient servant

ASHBEL SMITH.

[Inclosed is a series of transcripts, the first two of which are Smith to Aberdeen of June 14 and of July 1, 1842. Then follows:]

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The Earl of Aberdeen to Ashbel Smith.

The undersigned, Her Majesty's Principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of the notes of the 14th. Ultimo, and 1st Instant, from Mr Ashbel Smith, Chargé d'Affaires of the Republic of Texas, relative to the equip-

ment and armament, in British Ports, of two Steamers, the "Gaudalupe" and "Montezuma", which are stated by Mr. Smith to be under command of officers in the British Navy, and destined to be hostilely employed in the service of Mexico against Texas.

The Undersigned has the honor to state to Mr. Ashbel Smith in reply, that an application was made to Her Majesty's Government by the Individuals to whom the Vessels belong, for permission to arm these vessels in British Ports, and that the application was refused. He has also to state, that having caused an enquiry to be made upon the subject, he has received the assurance, that one of these Vessels the "Gaudalupe" has just left the Port of Liverpool, unarmed, and that the other is preparing to sail, also unarmed. The Undersigned feels bound to consider this assurance as sufficient, inasmuch as, provided the vessels in question be not armed, in English Ports, the English Law is satisfied, and the British Government, have no further power to interfere with them.

The same rule however which applies to Mexico, would also equally apply to Texas. The British Government are determined to maintain a strict neutrality in the contest between the two Powers, and not to give to the one a facility or advantage, which is not equally conceded to the other.

The Undersigned thinks it right to add, that no English officer holding the Queen's Commission will be allowed to serve in the Mexican Navy against Texas.

The Undersigned avails himself of this opportunity, to renew to Mr. Ashbel Smith, the assurances of his high consideration.

(Signed) ABERDEEN

FOREIGN OFFICE

*July 16. 1842.*

[Next comes transcripts of Smith to Aberdeen, September 14, 1842; Smith to Addington of the same date; Smith to Aberdeen, September 19, 1842; and then the following:]

The Earl of Aberdeen, to Ashbel Smith.

FOREIGN OFFICE,  
*September 21st. 1842.*

SIR,

I have the honor to inform you that I have received a despatch dated the 21st. of June last, from Her Majesty's Minister in Mexico, stating, that according to the latest advices from Tampico, and Vera Cruz respectively, of the 10th. and 16th. of that month, no vessel had appeared at either of those ports, to enforce the blockade, proclaimed by the President of Texas, on the 26th. of March preceeding; and that I have also received a further despatch, dated the 26th.

July last, from the same Minister, stating that the latest accounts from the Mexican Ports, do not mention the appearance of a blockading force, on any part of the Coast. Hence it appears, that down to the 21st. of July, no real blockade had been established by the Government of Texas, in pursuance of the declaration, made by them, on the 26th. March; and, it therefore becomes the duty of Her Majestys Government, to notify to Her Majesty's subjects, that the blockade so declared, on the 26th. March, is held by Her Majestys Government, to be null, and of no effect.

A notice of this purport will accordingly be published in the London Gazette, of Friday next, of which, I think it right, thus to apprise you, for the information of your Government.

I have the honor to be, with high consideration

Sir, your most obedient, humble Servant,

(signed) ABERDEEN.

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The Earl of Aberdeen, to Ashbel Smith.

The Undersigned, Her Majestys Principal Secretary of State for Foreign Affairs, has the honor to acknowledge the receipt of the note of Mr. Ashbel Smith, chargé d'affaires from the Republic of Texas, dated the 14th. Instant, as well as of his letter of the 19th. Instant, in which he presented a remonstrance and protest against the release of the steam vessel "Montezuma" from the detention to which she had been subjected by the authorities of the Custom House, on an information laid against her owners, for an alleged contravention of the Foreign Enlistment Act.

In replying to the observations contained in the note and letter of the Texian chargé d'affaires, the Undersigned thinks it expedient, in the first place, to remark, that judging from the tone and tenor of Mr. Smith's communications, he seems to be under some error with respect to the object and intent of the Foreign Enlistment Act. That Act had originally, and still has for its object, not to give to Foreign Powers at variance with each other, the right of checking and controlling each others warlike designs and preparations in British Ports, or on British ground, but simply to give to the crown of Great Britain, the power of controlling, if it sees fit, the acts of its own subjects in regard to Foreign powers. In this view, therefore, at the same time that any individual, whether Englishman or Foreigner, may under the act, lay an information for any supposed infraction of it, whether, by fitting out Vessels of War, or in any other manner, a discretionary power is left with Her Majestys Government, to determine, whether or not such alledged infraction, is of a nature to be prosecuted before the proper Tribunals. In the case of the "Montezuma", circumstances which, in the opinion of the

competent authorities were of an extenuating character, presented themselves. The persons concerned in fitting out that vessel, satisfied the authorities, that it was under an erroneous impression of the extent, to which the trade in arms, in Great Britain is free, that they had embarked arms on board of the *Montezuma*. They had supposed that arms, being placed in the hold of that vessel, instead of being placed in position on deck, did not bring her within the scope and operation of the Foreign Enlistment Act.

This representation was considered by the authorities to whom it was submitted, as satisfactory. The "*Montezuma*" was therefore released from detention, on condition that the arms which she had on board, should be withdrawn, and the Crew reduced to such a number as might be fairly required, for the navigation of a merchant vessel. But this release had no reference to the contest existing between Mexico and Texas, any more than the original refusal, on the part of Her Majesty's Government, to grant permission to Messrs. Lizardi & Co. to arm the "*Montezuma*" and "*Gaudalupe*", had reference to that contest. That refusal was founded simply on the inexpediency of allowing private individuals, for whatever purpose, to arm vessels of war, in British Ports; and the release of the "*Montezuma*" was equally founded on the inexpediency of executing with undue and uncalled for severity, the provisions of the foreign Enlistment Act, to the great detriment, and perhaps ruin of an Individual who had infringed that Act, under an erroneous impression of the extent of the power allowed by its provisions. Had Her Majesty's Government entertained any intention of favouring Mexico at the expense of Texas, as Mr. Smith seems rather gratuitously to suppose, it would have been easy for them to have given effect to that intention, by advising Her Majesty to grant at once to Messrs. Lizardi & Co. the permission which they solicited, to arm the "*Montezuma*" and "*Gaudalupe*". It was perfectly competent to Her Majesty's Government to take such course, nor would any person or Government have had any just title to call their conduct in question. They however refused that permission. In submitting the preceding considerations to Mr. Ashbel Smith, the Undersigned thinks it right to repeat distinctly, that Her Majesty's Government are determined, and have already given ample proof of their determination, to act a strictly neutral and impartial part in the unhappy and fruitless contest which is now raging between Mexico and Texas; a contest which they earnestly desire to see terminated. No advantage will be given to the one Power, which is not equally enjoyed by the other, in the Ports of Great Britain.

But Her Majesty's Government do not propose to cramp the energies or fetter the spirit of enterprise of British ship builders or British manufacturers of arms, by unduly restricting the power of either

of the contending parties to resort to the British Markets for supplying their wants in either ships or arms. All that they propose to do, is to give equal facilities to both parties.

It has so happened that Texas has preferred building and fitting out her vessels of war, in the United States; but had she thought proper to resort to Great Britain for that object, the same facilities and the same measure of indulgence would have been extended to her, as to Mexico.

The undersigned begs to repeat here to Mr. Ashbel Smith, the assurance which he has already given him, that if after the arrival of the "Montezuma" and "Guadalupe" at Vera Cruz, to which Port it is understood that they are to be respectively conducted as private merchant vessels, by Captains Cleveland, and Charlewood, those vessels should assume the character of Ships of War, and Captains Cleveland and Charlewood should continue to serve on board them, or should serve on board any other vessels of war in the Mexican service, those officers, will on due evidence of the facts being given to the Admiralty, be recalled, and in the event of their refusal to obey that order, they will be removed from the list of officers in Her Majesty's service.

The undersigned avails himself of this opportunity to renew to Mr. Ashbel Smith the assurances of his distinguished consideration.  
(Signed) ABERDEEN.

FOREIGN OFFICE,  
*September 27, 1842.*

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Ashbel Smith to the Earl of Aberdeen.

The Undersigned, Chargé d'Affaires of the Republic of Texas, has the honor to acknowledge the receipt of the Note dated the 27th. ultimo, from the Earl of Aberdeen, Her Majestys Principal Secretary of State for Foreign Affairs; and although he regrets the decision of Her Majestys Government, in regard to the Mexican Frigates, the Gaudalupe and Montezuma, he cannot feel otherwise than gratified by the renewed assurance of the Earl of Aberdeen, that the British Government are determined to act a strictly neutral part in the contest between Texas and Mexico, and that they earnestly desire to see this contest terminated. The Undersigned will have the pleasure of promptly communicating this assurance to his Government.

Although the tenor of the Earl of Aberdeen's note leads the Undersigned to apprehend that the decision in regard to these vessels, is final, he feels it due to himself and more especially to the importance of this subject, to submit some further observations thereupon to the Right Hon. the Secretary of State for Foreign Affairs, lest silence might imply acquiescence in his Lordship's argument.



In inviting the attention of the Earl of Aberdeen to the hostile expedition which has been fitted out in British Ports against Texas, the Undersigned has not imagined that the object of the Foreign Enlistment Act was, to give to Foreign Powers at variance with each other, the right of checking and controlling each others warlike designs and preparations, in British Ports, or on British ground; but to enable the British Crown to regulate its domestic police, and to enforce the observance of its neutrality within its own dominions. Nor in alluding to any infringement of it, has he ever supposed that this act, with the discretionary power conferred by it on the crown, either defines what neutrality is, or settles in any manner, the Law of Nations on the subjects embraced in its provisions. The request that the case of the Montezuma should be tried before the ordinary courts of the Country, was prompted by his profound confidence in British justice, and his conviction that ample legal evidence was possessed to prove the equipment of the Montezuma to be in contravention of the Foreign Enlistment Act, as well as an infringement of the Law of Nations. The undersigned therefore, believing the case of the Montezuma to be a violation of a British Law of positive enactment—as indeed the Lords of the Treasury in their order for her release, have declared it to be—he chose to invite the attention of Her Majestys Government to the subject, under this point of view, as well as in reference to the question of neutrality, inasmuch as his purpose of guarding the rights of his own Country, might thus be effectually accomplished, and in a manner, as he believed not less acceptable to the British Government, than by an appeal to their obligations, as a neutral power, under the Law of nations. He has not however asked any further interference by the English Laws than he conceived the Law of nations entitled him to demand in behalf of his country.

The Undersigned is unwilling to pass without notice the doctrines which the Earl of Aberdeen, by the remarks contained in his note, appears to hold as to the extent, and under what circumstances, the trade of neutrals in arms and ships is authorized by the Law of Nations. He must also beg to declare his dissent from the opinion his Lordship has been pleased to express, that 'it was perfectly competent to Her Majestys Government to grant permission to Messrs Lizardi & Co. to arm the Montezuma and Gaudalupe, and that no person or Government would have had any just title to call their conduct in question'.

The exportation of arms as merchandize, and the equipment of merchant vessels as such, it is conceded, are lawful acts, and being made equally free to both the Belligerents, cannot be complained of by either, as a departure from strict neutrality. But the undersigned

cannot consent to regard a Frigate like the Gaudalupe, built for warlike purposes, fully armed, manned with British seamen, commanded by British officers, and notoriously destined to act against a friendly power, merely in the light of the exportation of arms and only as peaceful commerce in building and selling Ships. Neither can he admit that the Montezuma is to be considered merely as a Merchant Vessel, seeing that she too was built for a vessel of war, is manned with British Seamen, and commanded by British officers, the former of whom, if not the latter, have agreed to enter a foreign service at war with Texas, and have received an advance in money for the service which they have entered.

In support of the opinions entertained by the undersigned on the subject under consideration, he begs leave to appeal to cases in point.

Pending the war between France and other Powers of Europe, in 1793, Mr. Hammond the British Minister to the United States, presented memorials to the American Government, complaining of the purchase of arms and military accoutrements, and of the equipment and armament by French agents, of vessels in Ports of the United States, to cruise against British commerce. The subject of neutrality was at that time discussed at much length. It was then held that, "The original arming and equipping of vessels, in neutral Ports by any of the Belligerent Parties, for military service either offensive or defensive, would be unlawful,"—that "Equipments of Merchant vessels by either of the Belligerent parties in neutral Ports, purely for their accommodation as such, would be lawful",—and that "Equipments in neutral Ports of vessels of war, in the immediate service of the Government of any of the Belligerent Parties, which if done to other vessels would be of a doubtful nature, as being applicable either to commerce or war, are deemed lawful".

In reference to the hostile armaments alleged to be then preparing in the United States, to be employed against Great Britain, Mr. Jefferson the American Secretary of State under General Washington, in his correspondence with M. Genet, the French Envoy, stated,— "The case in question is that of a vessel armed, equipped, and manned in a Port of the United States, for the purpose of committing hostilities on nations, at peace with the United States". And the American Government then declared that "the arming and equipping vessels in the Ports of the United States, to cruise against nations with whom they are at peace, was incompatible with the Sovereignty of the United States,—that it made them instrumental to the annoyance of those nations, and thereby tended to commit their peace",—and that permission to do so, was incon-

sistent with a "faithful neutrality". It was ably argued at the same time, by reference to the doctrines laid down by Vattel and Wolf, that, "If the neutral Power may not, consistent with its neutrality, furnish men to either party for their aid in war, as little can either enroll them in the neutral Territory, by the Law of nations",—and further, that, "if the United States have the right to refuse the permission to arm vessels, and raise men within their Ports and Territories, they are bound by the Laws of neutrality to exercise that right and to prohibit such armaments and enlistments." It was also declared by the Attorney General, that a Citizen of the United States, who had embarked in a vessel, fitted out in an American Port, by a French agent, to cruise against England, "was indictable at the common Law".

These doctrines were faithfully observed, in regard to several vessels which were attempted to be fitted out in American Ports; and they appear to have been fully acquiesced in by the British Government, inasmuch as, where loss and damage had been sustained by the captures of British Ships, and merchandize, made by vessels, originally armed by French Agents, in United States Ports, the American Government were held bound, "in conformity to their neutrality", to make compensation.

The Undersigned conceives there is a special propriety in appealing to the above decisions, as the points arose upon the memorials of, His Majesty's Minister to the United States, —and were argued, exclusively, as questions of international Law, and before any positive Laws had been enacted by the American Government to enforce the observance of their neutral relations, within their own Territories.

The Undersigned would also appeal to the line of conduct pursued by His Majesty's Government in the contest between Don Miguel and Donna Maria, in 1829—particularly in what was called the "Terceira affair", and to the opinions afterwards maintained thereon, by His Majesty's Ministers, in the House of Lords, as fully sustaining the position, that the organization of hostile forces, or fitting out of hostile expeditions, in any manner whatever, in neutral Territories, to act against either of the Belligerent Parties or Powers, is incompatible with the Law of nations. He begs also to refer to this case, as shewing to what extent, the neutral power is bound to interpose, in maintenance of its neutrality.

The undersigned need not inform the Earl of Aberdeen under what circumstances, a number of Portuguese subjects came to England in 1828, after the affair at Oporto, and were assembled and organized at Plymouth. Their assembling in a British Port was deemed inconsistent with the neutrality of the British Government

in the contest between Don Miguel and Donna Maria, and they were ordered to disperse. They subsequently left Plymouth, in unarmed merchant vessels, themselves unarmed, and unaccompanied by any naval force with a view of repairing to Terceira, then governed by authorities civil and military in allegiance to Donna Maria, whom these subjects acknowledged to be their legitimate Sovereign. There was reason to suspect that arms were in store for them at Terceira. On their arrival at the shores of their own country, they were prevented from landing by His Majesty's Naval forces sent out for this purpose; they were fired into and compelled under a threat of a further use of force, again to put to sea.

In a debate on this subject, in the House of Lords, it was maintained by the members of His Majesty's Government, that the assembling and organization of these Portuguese subjects, although unarmed, in His Majesty's dominions, was a violation of their neutrality, in respect to Don Miguel; and that, in maintenance of their neutral relations, it was incumbent on the Government, not to permit these men, though unarmed, and sailing in Merchant Ships, thus to proceed, by direct route to their own country, but to dispatch a naval Force, to prevent their landing, even after reaching their own shores. The undersigned begs to adduce the following language held on that occasion by His Majesty's Secretary of State for Foreign Affairs, as he conceives some of the doctrines are applicable to the Mexican Frigates. "Since it could not, he apprehended, be doubted, that we had a right to disperse these troops on their arrival in England, and that moreover, we had a right to prevent their departure from this country on a hostile expedition to any part of the Portuguese Territory, the only question was, whether we had a right to prevent them from doing that by fraud, which it was our duty to prevent them from doing openly. If we had allowed them to do this, we should indeed have acted in violation of the Law of nations. He contended we were fully justified in doing that, which, if we had not done, would have exposed His Majesty to a just cause for war." His Lordship also argued, that "the fact of these men sailing without arms, did not alter the character of the Expedition." The undersigned need not intimate to the Earl of Aberdeen, that, the ministry were sustained in these opinions, after mature consideration, by a large majority of the Lords in Parliament.

The undersigned would, therefore, respectfully submit, that the building, manning, and arming of the Mexican Steamer, Gaudalupe, in a British Port, was an infringement of its neutrality, agreeably to the Law of Nations, irrespective of its being a violation of British Municipal Law.

He would also submit, that the equipments of the Montezuma, not being for her accommodation as a merchant vessel, nor of a doubtful character, as applicable either to commerce or war, but being those of a vessel of war, from the furnishing of her model and plan of arming, previously to laying her keel, until her completion, an accurate interpretation of the obligations of neutrality, would bring her within a violation of them; even after her large guns, and military stores were relanded. The essential fact is, that the Montezuma is a vessel of war, and not a merchant vessel. In the "Terceira Affair," it was contended, by the British Ministry, that "the distinction between the Portuguese Troops being armed or unarmed, was perfectly untenable." The force of this argument being conceded; by parity of reasoning, the distinction of armed or unarmed is as little applicable to the Montezuma, as it was to the Portuguese subjects; inasmuch as her armament may be lawfully exported to be reshipped on the way, or to meet her, on her arrival at Vera Cruz.

The undersigned also submits, that, as it was deemed by the British Government, to be in conformity with its neutrality, not to allow the unarmed Portuguese subjects to proceed direct from England to their own Country, it would be *a fortiori*, imperative on the British Government to prevent the departure of British Seamen, to engage in hostilities against a country at peace with Great Britain. The number of men, provided it be greater than necessary for the navigation of a merchant vessel, does not affect the principle involved. It surely will not be contended that eighty seamen, and a *gunner* were necessary for the peaceful navigation of the Gaudalupe, as a merchant ship. The undersigned confidently trusts, that, Her Majesty's Government will not permit that to be accomplished by fraud, and a false "assurance", which they would not allow to be done openly.

The undersigned would respectfully submit whether it would not be proper for Her Majesty's Government agreeably to the course pursued in the "Terceira Affair", and as clearly coming within the principle then acted upon, to dispatch a naval force, or to employ such other means, as they may deem proper, to prevent the Gaudalupe and Montezuma, from committing hostilities against Texas, in contravention of that neutrality which Her Majesty's Government have determined to observe in the contest between Texas and Mexico.

Should the Gaudalupe and Montezuma commit spoliations on the Texian coast or on Texian commerce, the undersigned, respectfully submits, that a just claim would accrue to his country for compensation therefor upon Her Majesty's Government, in conformity to the principle upon which the United States of America, stipulated in their Treaty with Great Britain, anno 1794, to make compensation

for loss and damage sustained by captures which were made by "vessels originally armed in the Ports of the United States."

The Undersigned takes this occasion to renew to His Excellency the Earl of Aberdeen the assurances of his very high consideration.

Signed ASHBEL SMITH.

[Oct. 10, 1842.]

His Excellency,

The EARL OF ABERDEEN—*etc. etc. etc.*

Extract from the order of the Lords of the Treasury for the release of the *Montezuma*.

"I am directed to acquaint you that my Lords are induced to believe that the parties have, as they allege, been led unintentionally into a violation of the Law, and as they have expressed their readiness to abandon the armament of the vessel, they are therefore pleased to authorise you to allow the vessel to proceed on the voyage, after the great guns and carriages now on board and the military stores connected with them shall have been relanded and the crew reduced to such a number as may be sufficient for the proper navigation of a vessel of such size and character if engaged in peaceful commerce."

ELLIOT TO TERRELL.<sup>a</sup>

GALVESTON *October 31st 1842.*

The Undersigned Her Britannic Majesty's Chargé d' Affaires to the Republic of Texas has the honor to acknowledge Mr. Terrell's note of the 16. Instant received yesterday.

In conformity with the President's wishes He has already endeavoured to convey to Her Majesty's Government the views and objects forming the subject of Mr. Terrell's note: But his own exposition was necessarily less comprehensive, and it is a relief to him that sentiments of so much moment to the interests of the Republic should be communicated in the express language of this Government. He is sure they will receive the attentive and friendly consideration of Her Majesty's Government; but whilst it would be unsuitable on his part to enter upon the general topics of Mr. Terrell's communication, He will beg to say a few words upon the revocation of the notice of blockade of the 26th. March last, incidentally mentioned at the close of Mr. Terrell's note.

The objections of Her Majesty's Government were directed against that particular character of hostility, under existing circumstances; and in pressing those views, adopted with reference to what appeared

<sup>a</sup>A. L. S.

to Her Majesty's Government to be for the interests of Texas, as well as for those of their own Merchants, the Undersigned confined himself to an attempt to establish the inexpediency of the blockade, if it were enforced, and the undue consequences of the existence of a notification, as it was not enforced. It would have been unsuitable on his part either to submit any thing in recommendation of other modes of warfare, or to speak dissuasively of any course except that under consideration. But He did not fail to express to the President the hope that nothing that fell from him might have the effect of relaxing any measures which His Excellency might think necessary for the safety and advantage of the Republic.

To do what the President considered best for the interests and convenience of this Country, with just regard to the rights of neutrals, must of course have been the predominating motives, on the occasion of revoking the notice of blockade of the 26th March last. Her Majesty's Government could have neither wished nor expected that there should be any enfeeblement of such a principle in the reasoning which led to that measure. But whilst the undersigned cannot perceive that there has been any sacrifice of the advantages or convenience of Texas in the revocation of the notice of blockade of the 26th March, He is persuaded it will be cordially acknowledged by Her Majesty's Government that beyond other considerations there was also a spirit of very friendly readiness to accede to their recommendations and wishes.

He will immediately transmit Mr. Terrell's note to England, and pending the reply it is most gratifying to the undersigned to renew his assurances of the desire of Her Majesty's Government for an early and amicable adjustment of the difficulties between this Republic and Mexico: And He can add, with equal gratification, that every effort will be made to promote that object consistent with the preservation of the strictest neutrality between the contending parties.

He avails himself of this occasion to renew to Mr. Terrell the assurances of esteem and high consideration with which He has the honor to remain His faithful Servant

CHARLES ELLIOT

The Honorable

G. W. TERRELL

*Attorney General*

*etc. etc. etc.*

*Washington on the Brazos.*

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ABERDEEN TO SMITH.<sup>a</sup>

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<sup>a</sup> November 8, 1842. See Smith to Jones, December 30, 1842.