

PETITION OF BEALES TO THE QUEEN OF GREAT BRITAIN.<sup>a</sup>HAMILTON TO HOUSTON.<sup>b</sup>HAMILTON TO JONES.<sup>c</sup>

(Private)

COLUMBUS, [GEORGIA,] *Nov. 25th. 1842.*

MY DEAR SIR,

I transmit you an official report of the proceedings I instituted whilst in England for the seizure of the Montezuma and Gaudaloupe. I saw enough, whilst I was in England, to satisfy myself, that, from the comparative insignificance of Texas in European estimation, with the immense interest which England has through the public debt of Mexico to her citizens, no beneficial results are likely to arise from her mediation, whilst I think the course of conduct pursued by her Majesty's Government, in relation to these two steamers, makes even her neutrality questionable. Under this view of the subject, with a view of exciting sympathy in the United States, it might be well to publish my official account to you; but this I submit entirely to the President's discretion. Having disposed of this point permit me to touch on one other topic of public interest.

First in reference to a pacification with Mexico. The letter marked (Private) to Genl. Houston in this package, relates to this subject. I have left it purposely unsealed that you may read it before handing it to him.<sup>d</sup> In passing through Washington, in a conversation which I held with Genl. Almonte and the President, I was perfectly satisfied, that if proper appliances were brought to bear on both of them, a pacification between Mexico and Texas could be effected. Through the instrumentality of my friends Mr. John C. Calhoun and Mr. Webster, acting on Almonte and the President, these appliances may be furnished. The salvo of a cession and a retrocession may I think be necessary to soothe the wounded pride of Mexico. She would not like to recognise your independence *in limine*, but treating exclusively with the United States, she might be disposed to do so in the last instance. But if this scheme should not be in accordance with the views and feelings of the President, I should be quite happy to receive his own suggestions, and if he

<sup>a</sup> Undated, except for the year 1842. See Elliot to Jones, February 4, 1843.

<sup>b</sup> November 25, 1842. See Hamilton to Jones, marked "Private", of the same date.

<sup>c</sup> L. S.; apparently inclosed with the official letter of the same date.

<sup>d</sup> For this letter, Hamilton to Houston, November 25, 1842, see Jones to Van Zandt, December 25, 1842, in Correspondence with the United States, Part I.

feels inclined to employ my agency in the matter, they shall be most zealously enforced upon Mr. Calhoun and Mr. Webster, and lastly upon the President of the U. S.

I feel assured from the President's patriotic interest in the fate of his country, that he will permit no unkind feeling towards me to stand in the way of my rendering it at this crisis a most important service. I require neither compensation, nor any reward beyond the mere fact of being useful to a country, whose ruin would be my own. If you concur with me in these views, not one moment is to be lost. We must strike whilst the iron is hot; it is not every day that two such heads as Calhoun's and Webster's, can be zealously, powerfully and efficiently engaged in your service. It is one of those nice pieces of diplomacy which can be better done by a secret agent than by an accredited Minister. Suggest to the President the expediency of not saying a word on this subject to the English or French Chargés, or any person in the interest of either nation, as they would do all they possible<sup>a</sup> could to prevent it.

Some important business takes me down to Florida from this place, but I shall return to Charleston by Christmas and hold myself disposable to serve Texas by any means in my power. I have the<sup>b</sup> remain, my dear Sir,

With sincere Esteem Very Respectfully  
Your obt. Sert.

J HAMILTON

Direct to me at Charleston  
The Honble.

ANSON JONES  
*Secty. State*  
*Texas*

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

COLUMBUS (, GEO.) *Nov. 25th. 1842.*

To the Honble. ANSON JONES,  
*Secretary of State of the*  
*Republic of Texas.*

SIR,

Believing that it may be interesting as well as important to your government to be made minutely acquainted with the seizure and subsequent liberation of the Mexican Steam Frigate Montezuma, I proceed to detail the facts of this case as briefly as possible, so far at least as my agency in the transaction.

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<sup>a</sup> Possibly.

<sup>b</sup> Here was omitted, perhaps, the words "honor to."

<sup>c</sup> L. S.; Indorsed "Recd. 20th Decr 42."

On my reaching London on the 18th. of July last, I accidentally met a friend, who told me that a gentleman of high rank, and distinguished courage, boldness and enterprize, was desirous of making my acquaintance, and of communicating something of interest to me. An interview was accordingly arranged between us, when this gentleman informed me that there was fitting out at Blackwall a first rate Mexican War Steamer, which, if I was authorized, or if the Texian Minister was authorized to issue a letter of marque, he thought might easily be captured by fitting out an expedition for that purpose. I informed this gentleman, that I myself was not authorized to issue a letter of marque, as I had no official connection with your country at that time, but that I would write to the Texian Chargé D' Affairs, at Paris, requesting him to send me a commission to that effect. I accordingly addressed a letter to Mr. Ashbell Smith, your Chargé; and in the mean time the nobleman in question and myself made the preliminary arrangements for procuring one of the fastest iron steamers in the United Kingdom, with which we proposed, throwing an adequate crew on board of her, as soon as the Montezuma cleared the Channel, to lay her aboard, and carry her by Boarding pike and Cutlass. Unfortunately Mr. Smith communicated to us that he had no blank commissions of letters of marque and no authority to issue them. In this state of things as my friend, (as I may well call him) had no desire to render himself liable to the pains and penalties of piracy under the laws of his own country, we had to abandon this adventure. His Lordship however suggested the possibility of making a legal capture of the Steamer under the Foreign Enlistment Act. He remarked that the circumstances of her fitting out and equipment were in such manifest violation of the Provisions of the Act in question, that he thought if I stationed at Blackwall a trustworthy and intelligent agent, sufficient proof might be obtained to ensure her seizure and condemnation. I accordingly consulted Mr. Saml. Amory of Throckmorton Street, London, an eminent solicitor, who had long been a very steadfast and most zealous friend of the Republic of Texas, and to whom she is under the most extensive obligations. Mr. Amory, after having heard a narrative of all the information, which the gentleman to whom I have referred afforded me, was decidedly of opinion that there would be no difficulty in obtaining proof sufficient to bring this vessel under the penalties of the act. I was fortunately able to procure an agent of intelligence, courage, and great decision of character to take post at Blackwall. He went on board the steamer frequently without exciting suspicion, became intimate with the petty officers of the frigate, and obtained the following information. 1st. That she was a war steamer of the most powerful class. 2dly. That the greater part of her Armament

and munitions of War had gone aboard or was daily going aboard, that she had a crew of 150 British Seamen, and was commanded by a Capt. Cleaveland, an officer said to be of very distinguished merit in his profession: and 3dly. That she was designed to act hostilely against Texas. As soon as this proof was collected, I repaired on the 12th. day of August with my solicitor, Mr. Amory, to Her Majesty's Commissioners of Customs, and formerly lodged information against the Agents, captain and crew of the Steamer, according to the provisions of the Act of Parliament. The Commissioners of Her Majesty's Customs, deeming the proof sufficient, ordered the seizure of the Steamer, and placed a Custom House Officer on board of her. After the lapse of a few days, I was informed by the searcher of her Majesty's Customs that the case had been carried, by appeal as I presume, before the Lords of the Treasury. After the lapse of eight or ten days, receiving no summons from the Lords of the Treasury to sustain the Allegations of the information, I had lodged with the Commissioners of the Customs, and believing that the statements of the Agents of the Mexican Government, Messrs. Lizardi & Co. were about to be received without my having any opportunity of rebutting them, I addressed a communication to their Lordships informing them that I was ready to prove the case in every particular. After the lapse of a fortnight more, to the surprize of every one, who had been made acquainted with the circumstances, the Lords of the Treasury directed the release of the steamer upon condition of her being disarmed, her armament being sent ashore, and her crew reduced to a commercial standard. But the extraordinary part of this decision was the ground upon which it was made Whilst they found that the agents, captain, and crew of the Montezuma had been guilty of a violation of the Foreign Enlistment Act, which rendered the condemnation of the vessel legally inevitable, yet they were pleased in their decree to declare that they believed that the said agents, captain and crew had *not intended to be guilty of such violation*, and hence they decreed the release of the Steamer. I felt it my duty to transmit the following memorial in the shape of a protest against the decision.

*To the Right Honble. the Lords of Her Majesty's Treasury.*

"MY LORDS,

"I should certainly as a mere private individual not venture to  
"address your Lordships on a matter within your ministerial com-  
"petency, if I did not in my relation as a public Informer against  
"an infraction of an act of parliament, stand somewhat in public  
"connection with the Administration of the Justice of Your  
"Country."

"It is known to your Lordships that on the 9th. day of August last, I lodged information against the Mexican Steam Frigate Montezuma for a breach of the act of the 59th. George 3d. commonly called "The Foreign Enlistment Act."

"I will not recapitulate to your Lordships the testimony which I lodged at the Customs in support of the information; because your Lordships have found the Owners or agents of the said Frigate, *guilty*. But I am advised nevertheless that your Lordships have directed the said Steam Frigate to be released from her present detention, because you believe that the owners, parties, and agents were *unintentionally* guilty of a violation of the act in question; and that you have instituted a sort of compromise between the penalties for the offence under the said act of Parliament and the intention of the parties, by allowing the said Frigate to go out after being disburdened of her arms and munitions. My Lords, I join issue on first the Allegation of the Matter of fact. And hereby solemnly undertake to prove before your Lordships and in a court of Justice if you will permit me to go into such a tribunal, that it was *clearly*, *manifestly*, and *undeniably* the "intention" of the Owners and Agents of the Montezuma Steam Frigate to violate the said Act of Parliament; that they could not, "in point of fact, arm, equip and furnish" said Steamer without such *intention*; and that the same parties did not only equip and furnish, but actually did mount the armament on board the Guadaloupe, the consort of the Montezuma, in the port of Liverpool, prior to her sailing, in the month of July last, in the face of the positive refusal of Her Majesty's Secretary of Foreign Affairs to permit such Armament, a fact which furnishes the strongest corroboration of the *intentional* guilt of the parties in arming, equipping and furnishing the Montezuma."

"I must moreover be permitted to remark to your Lordships, that this compromise after the owners or agents had committed an offence which renders their vessel liable to seizure and condemnation, does not appear to find any warrant in the Act of Parliament itself. They are either guilty or innocent; the vessel liable to condemnation, or not liable to condemnation. You have found them guilty, and surely it is no part of the penalty that they may escape, provided the munitions of war are taken out of this vessel, and transshipped on board of another, to be reshipped the moment the Steamer gets four Leagues from the Coast of England, an event which will inevitably take place."

"Besides, my Lords, you do not by this transshipment alter the character of the steamer. She remains with all her adaptation to war. Her interior arrangement continues the same. Her accom-

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"Besides, my Lords, you do not by this transshipment alter the character of the steamer. She remains with all her adaptation to war. Her interior arrangement continues the same. Her accom-

“modations for her officers and crew, her slides for the pivot guns, gun room and magazine unaltered. I submit to your lordships whether under these circumstances a mere temporary separation of a war vessel of this description from her armament is not a mockery of Justice and whether this separation is contemplated by the Act; more especially as it does not appear from your Lordship’s proceedings that, whilst you allow the vessel to escape, you mean to subject her munitions of war to condemnation.”

“My Lords, although I appear before you as a common informer in which character I am by the necessary implication of the Law, yet I have been influenced in this proceeding by no sordid motives of gain. I act alone on public considerations in behalf of a country I have represented abroad; in whose fortunes I feel the deepest interest. You have decided under a modification which amounts to a mere nullity, to permit the means of the most destructive annoyance to be used against a young country, whose independence has been acknowledged by your own, united to you by the kindred of blood, and the sympathies of a common origin. She is too feeble in comparison with the immense power of Great Britain to do aught else but submit to this decision of Her Majesty’s Government; but this cannot absolve your Government from a moral responsibility for the consequences which may arise from a permitted breach of your own laws, or likewise absolve it from the force of that public opinion of the United States of America which will give fresh acrimony and potency to the Quarrell between Texas and Mexico. Texas has been willing to make peace with Mexico on terms of the most perfect honor to both countries, and with the most strict justice to your citizens, who are the public creditors of Mexico. Texas fears no contest with the latter in spite of the seemingly overwhelming superiority of their numbers. She vanquishes the forces of Mexico wherever she meets them whether by Sea or Land. But she is not prepared for a contest with British capital employed in preparing the instruments of war, and with British skill and valor in giving a fatal direction to these resources, or to the still higher peril the moral disadvantage of the apparently more favorable regards of Her Majesty’s Government to her enemy than herself.”

“I therefore most earnestly pray your Lordships to review your decision. It was made I am sure with no wish to do injustice between the parties. But it has nevertheless been made without allowing either the Texian Envoy or myself to rebut the allegation of the owners or agents of the Montezuma by the abundant proofs we hold in our hands in confirmation of their guilt. I therefore deny the allegation of the owners or agents of the Montezuma that

“they did not intend to violate the Act of Parliament, by offering  
 “to prove that, from which intentions can alone be inferred, their  
 “acts, precisely the converse To wit: That they did contemplate and  
 “could have intended nothing else but to violate the act as their  
 “*object could alone be answered through such violation.* I pray  
 “your Lordships instantly to suspend your order for the release of  
 “the Vessel, and allow the Texian Envoy and myself to go to proof.”

“I have the honor to remain Very Respectfully ”

“Your Lordships’ Most obt. servt.”

“J. HAMILTON.”

I have every reason to believe that, if Sir Robert Peel and Lord Aberdeen had not been absent from London at the time, attending the Queen in her visit to Scotland, a decision so manifestly preposterous and unjust would not have been made. In the whole of this transaction I did not pretend to act as the accredited and official agent of your country, although in appearing in the character of a public informer, I acted throughout as its steadfast friend, in attempting the seizure and condemnation of a vessel which is perhaps likely to be the cause of such serious hostility and annoyance to you. In consequence however of the absence of Mr. Smith on important official duties at Paris, I addressed Lord Aberdeen a communication, during the pendency of the case, calling upon him most earnestly to cause the admiralty to direct the Officers of Her Majesty’s Navy in the West Indian Seas to seize the Gaudaloupe, the consort of the Montezuma, wherever she might be found. This vessel left England about 10 days before my arrival. Hers was a far more flagrant case of the violation of the Act of Parliament, than that of the Montezuma, for she had left Liverpool with her armament all mounted, her Paixhan guns on their slides, with her munitions of war all on board, without the slightest concealment of her hostile character and destination. If I had been in time to have moved against this vessel, no indulgent disposition on the part of the British authorities could have prevented her condemnation. To my application, calling upon his Lordship to direct the detention and seizure of the Guadaloupe in the West Indian Seas, I received the following reply.

“FOREIGN OFFICE. *August, 19th. 1842.*”

“SIR,

“I am directed by the Earl of Aberdeen to acknowledge the receipt of your letter of the 13th. instant, in which you request that Her Majesty’s Government will take measures, directing Her Majesty’s Senior Naval Officer on the Cuba Station to seize and capture the “Gaudaloupe” Steamer, and to send her home for adjudication. And I am to inform you in reply that vessels fitted



“out and armed for the purpose of being employed in the service of  
 “a Foreign State, as the Gaudaloupe is alleged to have been, are,  
 “by the Law of this Country (59 Geo: III, c. 69.) liable to be seized  
 “in such places, and in such manner, and by such persons, as vessels  
 “may be seized under the Laws of Customs, or under the Laws of  
 “Trade and Navigation, but not otherwise; and as your letter leads  
 “to the inference that the “Gaudaloupe” is not, at present, in a  
 “situation in which she could have been seized for a breach of any of  
 “these Laws, it is impossible to comply with your application.

“I am, Sir,

“Your Most Obedient  
 “humble servant,

“H. W. ADDINGTON.”

“Genl. HAMILTON.”

Nothing daunted by this answer of his Lordship, on referring to the Foreign Enlistment Act, I discovered that the power of the Officers of Her Majesty's Navy, without the orders either of Her Majesty's Govt. or of the Admiralty were complete to seize and detain the vessel even if taken on the High Seas, and to send her home for Adjudication. I accordingly addressed the subjoined letter to the Senior Officer of Her Majesty's Navy on the Cuba Station. Unfortunately, however, before my letter reached the Havannah, the Guadaloupe was safely at anchor at Vera Cruz.

“LONDON, August 23d. 1842.”

“(Private and confidential)

“SIR,

“Although I am unknown to you and you to me, yet I trust the  
 “nature of the information I give you, and the testimony with which  
 “the American Consul, Mr. Calhoun, and Mr. George Knight of the  
 “Havanah can afford you of my character, will justify your repos-  
 “ing confidence in my statements. Whilst the important and valu-  
 “able character of the information I give you, will be my apology  
 “for making you this communication.”

“A war steamer called the Gaudaloupe sailed about three weeks  
 “since from Liverpool. She was built at that port for the Mexican  
 “Government, and intended to act against the Republic of Texas,  
 “with whom her Majesty's Government is at peace. The agents of  
 “the vessel, Lizardi & Co. and the Mexican Minister here applied to  
 “Her Majesty's Government to arm the said Vessel, which was  
 “refused, as will appear from the Note of the Texian Minister to  
 “myself, marked A. Notwithstanding this refusal and in violation  
 “of the Foreign Enlistment Act of George the Third, marked B,  
 “(which I enclose you) she was armed to the teeth before she left  
 “the Mersey, her Paixhan guns on their slides, and the other guns

“mounted, with a full crew enlisted and commanded by Capt. Char-  
“leywood of the Royal Navy. This intelligence did not reach Lon-  
“don until she sailed, otherwise I would have instituted proceedings  
“against her here, by which she would have been stopped and ulti-  
“mately condemned. I enclose you Mr. F. B. Ogden’s affidavit,  
“marked C,\* late American Consul at Liverpool, setting forth the  
“facts of this audacious violation of the Act of Parliament by this  
“Steamer.”

“She cleared for Corunna and the Havannah, at which latter place  
“she will doubtless rendezvous, and wait the arrival of her Consort,  
“the Montezuma, which has been fitted out at Blackwall. But since  
“the sailing of the Gaudaloupe, I have lodged information against  
“the Montezuma, and she has been seized by order of the Commis-  
“sioners of the Customs. Now although the Gaudaloupe has passed  
“beyond the jurisdiction of Her Majesty’s Customs she has not  
“passed beyond the power of Her Majesty’s Naval Officers. She is  
“a good prize wherever you may find her, for violating the Foreign  
“Enlistment Act. But I submit, whether it would be well to make  
“the capture until she pass the Moro Castle for fear of the inter-  
“ference of the Spanish Authorities. After the capture is made, it  
“would, I think, be best to take her to Jamaica for adjudication or  
“to send her home. The testimony against her will be found in  
“abundance on board. But at Liverpool there will be no difficulty  
“in sustaining Mr. Ogden’s affidavit, and even in going very far  
“beyond it. She cost £80,000—a *bona fide* valuable and sure prize,  
“if you strike at once. *Keep however your own counsels* until the  
“Steamer makes her appearance, and you have completed your  
“arrangements to take possession of her.

“I remain with great respect,

“Your most obt. servt.

“J. HAMILTON.”

“To the Senior Officer of  
“Her Majesty’s Navy at the  
“Havannah, Island of Cuba.”

“P. S. I ought to have added that the Guadaloupe being armed  
“is legal capture under the act, without she can shew a permission  
“to arm under the privy seal (see the 2d. section of the Foreign  
“Enlistment Act.) Direct your reply to General James Hamilton,  
“Charleston S. C. late Minister of the Republic of Texas to Her  
“Brittanic Majesty, and put it on board the U. S. Mail Schooner  
“Hayne. I leave for the U. S. via Halifax and Boston on the 19th.  
“Sept. I have kept this packet open until the 1st. Sept. to get the

\* No copies of inclosures A, B, and C are filed with this letter. The Foreign Enlistment Act was 59 George III, c. 69.

“letter of the Texian Minister marked A herewith enclosed, but for “obvious considerations of policy and propriety, he is not acquainted “with the contents of this letter or the fact of my having written “you.”

Thus have ended fruitlessly the efforts I have made for the capture of these two vessels. They were not however entirely unavailing, as the Montezuma was detained upwards of six weeks in a British port, and may have been seriously crippled by her disarming.

It is due to your Chargé D’Affairs Mr. Smith that I should say that the moment I communicated to him the fact of the seizure I had made of the Montezuma, he promptly repaired to London and endeavoured by the most strenuous and able exertions to make it effectual. His communications with Lord Aberdeen, as you are well aware, were frequent, pertinent, spirited yet respectful, and his conduct entitles him to the confidence and approbation of your Government.

I fear in the narrative of these facts, you will have to recognise a truth which is incontestibly borne-out by History, that Nations have rather to depend for their own security and defence, on their own means and exertions than on the justice so reluctantly dispensed by parties, who stand very often in the equivocal relation of neutrality. This decision at least has one very important bearing. What is a principle of public law in Downing Street, is also, I presume, a principle of public law at Washington. It seems, by the decision of the Lords of the Treasury in the case of the Montezuma, that a party has nothing to do, but to alledge that “he did not intend to violate the neutrality of a country,” to be exempt from the penalties of the law, enacted for its preservation. This will be a case worth quoting, when the clarion shall summon your brethren and kindred on this side the Sabine to the Rescue.

From all the events which occurred in relation to these steamers, whilst I was in England, I am constrained to believe that you must prepare for the active hostility of Mexico early in the ensuing spring, unless averted by the prompt and friendly interposition of the United States. Place no confidence on the mediation of the European Powers. They are too distant from the scene of action to feel much interest in your struggle. Depend on yourselves. After a close and anxious observation of public sentiment in Europe; with my own hopes and expectations so frequently baffled, my warning to you is in one word, Be armed to the teeth and Ready. I have the honor to remain,

Very Respectfully  
Your obt. servt.

J HAMILTON