

RIGHTS ACCORDED TO NEUTRALS AND RIGHTS CLAIMED BY  
BELLIGERENTS.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

*Copies of correspondence relating to the rights accorded to neutrals and the rights claimed by belligerents in the war pending between certain European powers.*

MAY 18, 1854.—Referred to the Committee on Foreign Affairs and ordered to be printed.

*To the House of Representatives :*

I transmit a report from the Secretary of State, with accompanying papers, in answer to the resolution of the House of Representatives of the 1st instant.

FRANKLIN PIERCE.

WASHINGTON, May 11, 1854.

DEPARTMENT OF STATE,  
Washington, May 11, 1854.

The Secretary of State, to whom has been referred a resolution of the House of Representatives of the 1st instant, requesting the President to communicate to that "House (as far as in his opinion may not be incompatible with the public interest) copies of all correspondence that has passed between this government and foreign governments upon the subject of the rights accorded by declaration or otherwise to neutrals, and the rights claimed by belligerents, in the war pending between certain European powers," has the honor to report to the President the accompanying copy of papers embracing the correspondence called for by the resolution.

Respectfully submitted:

W. L. MARCY.

To the PRESIDENT OF THE UNITED STATES.

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*Mr. Crampton to Mr. Marcy.*

WASHINGTON, April 21, 1854.

The undersigned, her Britannic Majesty's envoy extraordinary and minister plenipotentiary to the United States of America, has received orders from his government to make to the Secretary of State of the United States the following communication:

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and his Majesty the Emperor of the French, being compelled to take up arms for the purpose of repelling the aggression of his Majesty the Emperor of Russia upon the Ottoman Empire, and being desirous to lessen as much as possible the disastrous consequences to commerce resulting from a state of warfare, their Majesties have resolved, for the present, not to authorize the issue of letters of marque.

In making this resolution known, they think it right to announce, at the same time, the principles upon which they will be guided during the course of this war with regard to the navigation and commerce of neutrals.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland has accordingly published the accompanying declaration, which is identical with that published by his Majesty the Emperor of the French.

In thus restricting within the narrowest limits the exercise of their rights as belligerents, the allied governments confidently trust that the governments of countries which may remain neutral during this war will sincerely exert every effort to enforce upon their subjects or citizens the necessity of observing the strictest neutrality.

Her Britannic Majesty's government entertains the confident hope that the United States government will receive with satisfaction the announcement of the resolutions thus taken in common by the two allied governments, and that it will, in the spirit of just reciprocity, give orders that no privateer under Russian colors shall be equipped or victualled, or admitted with its prizes, in the ports of the United States, and also that the citizens of the United States shall rigorously abstain from taking part in armaments of this nature, or in any other measure opposed to the duties of a strict neutrality.

The undersigned has the honor to avail himself of this occasion to renew to the Secretary of State of the United States the assurance of his highest consideration.

JOHN F. CRAMPTON.

Hon. W. L. MARCY,  
*Secretary of State, &c, &c.*

*Declaration of the Queen.*

DECLARATION.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, having been compelled to take up arms in support of an ally,

is desirous of rendering the war as little onerous as possible to the powers with whom she remains at peace.

To preserve the commerce of neutrals from all unnecessary obstruction, her Majesty is willing, for the present, to waive a part of the belligerent rights appertaining to her by the law of nations.

It is impossible for her Majesty to forego the exercise of her right of seizing articles contraband of war, and of preventing neutrals from bearing the enemy's despatches; and she must maintain the right of a belligerent to prevent neutrals from breaking any effective blockade which may be established with an adequate force against the enemy's forts, harbors, or coasts.

But her Majesty will waive the right of seizing enemy's property laden on board a neutral vessel, unless it be contraband of war.

It is not her Majesty's intention to claim the confiscation of neutral property, not being contraband of war, found on board enemies' ships; and her Majesty further declares, that, being anxious to lessen as much as possible the evils of war, and to restrict its operations to the regularly organized forces of the country, it is not her present intention to issue letters of marque for the commissioning of privateers.

WESTMINSTER, March 28, 1854.

*The Count de Sartiges to Mr. Marcy.*

[Translation.]

LEGATION OF FRANCE IN THE UNITED STATES,

Washington, April 28, 1854.

The undersigned, envoy extraordinary and minister plenipotentiary of France, has received orders from his government to address the following communication to the Hon. Secretary of State:

His Majesty the Emperor of the French, and her Majesty the Queen of the United Kingdom of Great Britain, are about to find themselves under the necessity of resorting to the force of arms, in order to repel the aggressions, of which the Ottoman Empire is the object, on the part of his Majesty the Emperor of Russia. Being desirous to lessen as much as possible, in behalf of commerce, the fatal consequences of a state of war, their Majesties have determined not to authorize privateering, for the present, by issuing letters of marque, and to make known, at the same time that this determination is communicated, the principles which they intend to apply to the navigation and the commerce of neutrals during this war.

It was with this view that his Majesty the Emperor of the French caused the accompanying declaration to be published; the same being identical with that which her Majesty the Queen of the United Kingdom of Great Britain and Ireland has caused to be published on her side.

In confining the exercise of their rights of belligerents within such narrow bounds, the allied governments consider themselves justified in relying upon the sincere efforts of those governments which shall



remain neutral in this war, to cause their respective citizens and subjects to observe the obligations of strictest neutrality. Consequently, the government of his Majesty the Emperor of the French trusts that the government of the United States will receive with satisfaction the announcement of the determination taken in common between the two allied governments, and that it will, by way of just reciprocity, give orders so that no privateer under the Russian flag shall be allowed to be fitted out or victualled, nor admitted with its prizes, in the ports of the United States, and in order that United States citizens may rigorously abstain from taking part in equipments of this kind, or in any other measure contrary to the duties of a strict neutrality.

The undersigned avails himself of this occasion to renew to the Hon. Mr. Marcy the assurance of his high consideration.

SARTIGES.

*Mr. Marcy to Mr. Crampton.*

DEPARTMENT OF STATE,  
Washington, April 28, 1854.

The undersigned, Secretary of State of the United States, has had the honor to receive the note of Mr. Crampton, her Britannic Majesty's envoy extraordinary and minister plenipotentiary, of the 21st instant, accompanied by the declaration of her Majesty the Queen of the United Kingdom of Great Britain and Ireland, in regard to the rule which will for the present be observed towards those powers with which she is at peace, in the existing war with Russia.

The undersigned has submitted those communications to the President, and received his direction to express to her Majesty's government his satisfaction that the principle that free ships make free goods, which the United States have so long and so strenuously contended for as a neutral right, and in which some of the leading powers of Europe have concurred, is to have a qualified sanction by the practical observance of it in the present war by both Great Britain and France—two of the most powerful nations of Europe.

Notwithstanding the sincere gratification which her Majesty's declaration has given to the President, it would have been enhanced if the rule alluded to had been announced as one which would be observed not only in the present, but in every future war in which Great Britain shall be a party. The unconditional sanction of this rule by the British and French governments, together with the practical observance of it in the present war, would cause it to be henceforth recognised throughout the civilized world as a general principle of international law. This government, from its very commencement, has labored for its recognition as a neutral right. It has incorporated it in many of its treaties with foreign powers. France, Russia, Prussia, and other nations, have, in various ways, fully concurred with the United States in regarding it as a sound and salutary principle, in all respects proper to be incorporated into the law of nations.

The same consideration which has induced her Britannic Majesty, in concurrence with the Emperor of the French, to present it as a con-

cession in the present war, the desire "to preserve the commerce of neutrals from all unnecessary obstruction," will, it is presumed, have equal weight with the belligerents in any future war, and satisfy them that the claims of the principal maritime powers, while neutral, to have it recognised as a rule of international law, are well founded, and should be no longer contested.

To settle the principle that free ships make free goods, except articles contraband of war, and to prevent it from being called again in question from any quarter or under any circumstances, the United States are desirous to unite with other powers in a declaration that it shall be observed by each, hereafter, as a rule of international law.

The exemption of the property of neutrals, not contraband, from seizure and confiscation when laden on board an enemy's vessel, is a right now generally recognised by the law of nations. The President is pleased to perceive, from the declaration of her Britannic Majesty, that the course to be pursued by her cruisers will not bring it into question in the present war.

The undersigned is directed by the President to state to her Majesty's minister to this government that the United States, while claiming the full enjoyment of their rights as a neutral power, will observe the strictest neutrality towards each and all the belligerents. The laws of this country impose severe restrictions not only upon its own citizens, but upon all persons who may be residents within any of the territories of the United States, against equipping privateers, receiving commissions, or enlisting men therein, for the purpose of taking a part in any foreign war. It is not apprehended that there will be any attempt to violate the laws; but should the just expectation of the President be disappointed, he will not fail in his duty to use all the power with which he is invested to enforce obedience to them. Considerations of interest and the obligations of duty alike give assurance that the citizens of the United States will in no way compromise the neutrality of their country by participating in the contest in which the principal powers of Europe are now unhappily engaged.

The undersigned avails himself of this opportunity to renew to Mr. Crampton the assurance of his distinguished consideration.

W. L. MARCY.

JOHN F. CRAMPTON, Esq., &c., &c.

[Same, *mutatis mutandis*, to the Count de Sartiges.]

*Mr. Crampton to Mr. Marcy.*

WASHINGTON, May 9, 1854.

The undersigned, her Britannic Majesty's envoy extraordinary and minister plenipotentiary to the United States of America, has the honor, by the instructions of his government, to communicate to the Hon. W. L. Marcy, Secretary of State of the United States, a copy of the London Gazette of the 18th ultimo, containing two orders issued by the Queen in council: one extending to the 15th of the present



month, the period of time allowed to Russian ships to clear out of harbor, and bring their cargoes to Great Britain from any Russian ports in the Baltic or White Sea, not being blockaded; the other granting additional facilities to trade beyond those specified in her Majesty's declaration of the 28th of March last.

The undersigned avails himself of this occasion to renew to the Secretary of State of the United States the assurances of his highest consideration.

JOHN F. CRAMPTON.

Hon. W. L. MARCY,

*Secretary of State, &c., &c., Department of State.*

*At the Court of Windsor, the 15th day of April, 1854.*

Present, the Queen's Most Excellent Majesty in council.

Whereas her Majesty was graciously pleased, on the 28th day of March last, to issue her royal declaration in the following terms:

"Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, having been compelled to take up arms in support of an ally, is desirous of rendering the war as little onerous as possible to the powers with whom she remains at peace.

"To preserve the commerce of neutrals from all unnecessary obstruction, her Majesty is willing, for the present, to waive a part of the belligerent rights appertaining to her by the law of nations.

"It is impossible for her Majesty to forego the exercise of her right of seizing articles contraband of war, and of preventing neutrals from bearing the enemy's despatches, and she must maintain the right of a belligerent to prevent neutrals from breaking any effective blockade which may be established with an adequate force against the enemy's forts, harbors, or coasts.

"But her Majesty will waive the right of seizing enemies' property laden on board a neutral vessel, unless it be contraband of war.

"It is not her Majesty's intention to claim the confiscation of neutral property, not being contraband of war, found on board enemies' ships; and her Majesty further declares that, being anxious to lessen as much as possible the evils of war, and to restrict its operations to the regularly organized forces of the country, it is not her present intention to issue letters of marque for the commissioning of privateers."

Now, it is this day ordered, by and with the advice of her privy council, that all vessels under a neutral or friendly flag, being neutral or friendly property, shall be permitted to import into any port or place in her Majesty's dominions all goods and merchandise whatsoever, to whomsoever the same may belong; and to export from any port or place in her Majesty's dominions to any port, not blockaded, any cargo or goods not being contraband of war, or not requiring a special permission, to whomsoever the same may belong.

And her Majesty is further pleased, by and with the advice of her privy council, to order, and it is hereby further ordered, that, save and

except only as aforesaid, all the subjects of her Majesty and the subjects or citizens of any neutral or friendly State shall and may, during and notwithstanding the present hostilities with Russia, freely trade with all ports and places, wheresoever situate, which shall not be in a state of blockade, save and except that no British vessel shall, under any circumstances whatsoever, either under or by virtue of this order or otherwise, be permitted or empowered to enter or communicate with any port or place which shall belong to or be in the possession or occupation of her Majesty's enemies.

And the right honorable the lords commissioners of her Majesty's treasury, the lords commissioners of the admiralty, the lord warden of the cinque ports, and her Majesty's principal secretary of State for war and the colonies, are to give the necessary directions herein as to them may respectively appertain.

C. C. GREVILLE.

*Mr. Buchanan to Mr. Marcy.*

[Extracts.]

[No. 25.]

LEGATION OF THE UNITED STATES, LONDON,

*February 24, 1854.*

SIR: \* \* \* \* \*

I then inquired of his lordship [Lord Clarendon] whether the British government had yet determined upon the course they would pursue, during the impending war, in regard to neutrals; whether they would adhere to their old rule of capturing the goods of an enemy on board the vessel of a friend, or adopt the rule of "free ships, free goods;" observing that it was of great importance to my countrymen, engaged in commerce, that they should know the decision on this point as speedily as possible.

He said that the question was then under the consideration of the cabinet, and had not yet been decided, but I should be the very first person to whom he would communicate the result. Intimating a desire to converse with me, informally and unofficially, upon the subject, I informed him that I had no instructions whatever from my own government in relation to it, but, as an individual, I was willing frankly to express my opinions. From what passed between us, I should consider it a breach of confidence in me to report his private opinions, on a question still pending before the cabinet council, and on which its members are probably divided.

I can, however, have no objection to repeat to you the substance of my own observations.

I said that the Supreme Court of the United States had adopted, in common with their own courts, the principle that a belligerent had a right, under the law of nations, to capture the goods of an enemy, on board the vessel of a friend, and that he was bound to restore the goods of a friend captured on board the vessel of an enemy. That, from a very early period of our history, we had sought, in favor of neutral commerce, to change this rule by treaties with different nations; and,



instead thereof, to adopt the principle that the flag should protect the property under it, with the exception of contraband of war. That the right of search was, at best, an odious right, and ought to be restricted as much as possible. There was always danger, from its exercise, of involving the neutral in serious difficulty with the belligerent. The captain of a British man-of-war or privateer would meet an American vessel upon the ocean and board her for the purpose of ascertaining whether she was the carrier of enemies' property. Such individuals, especially, as their own interest was deeply involved in the question, were not always the most competent persons to conduct an investigation of this character. They were too prone to feel might and forget right. On the other hand, the American captain of the vessel searched would necessarily be indignant at what he might believe to be the unjust and arbitrary conduct of the searching officer. Hence bad blood would be the result, and constant and dangerous reclamations would arise between the two nations.

I need not inform his lordship that our past history had fully justified such apprehensions. On the other hand, if the rule that "free ships shall make free goods" were established, the right of the boarding officer would be confined to the ascertainment of the simple facts, whether the flag was bona fide American, and whether articles contraband of war were on board. He would have no investigation to make into the ownership of the cargo. If, superadded to this rule, the corresponding rule were adopted, that "enemy's ships shall make enemy's goods," the belligerent would gain nearly as much by the latter as he had lost by the former; and this would be no hardship on the neutral owner of such goods, because he would place them on board an enemy's vessel with his eyes open, and fully sensible of the risk of capture.

I observed that the government of the United States had not, to my recollection, made any treaties recently on the principle of "free ships, free goods;" and the only reason, I presumed, was, that until the strong maritime nations, such as Great Britain, France, and Russia, should consent to enter into such treaties, it would be but of little avail to conclude them with the minor powers.

This, I believe, is a fair summary of all I said, at different times, in the course of a somewhat protracted conversation, and I hope it may meet your approbation.

I shall not be astonished if the British government should yield their long-cherished principle, and adopt the rule, that the flag shall protect the cargo. I know positively that Sweden and Norway, Denmark, the Netherlands, and Prussia, are urging this upon them; but what I did not know until the day before yesterday was, that the government of France was pursuing the same course.

In this connexion, I feel it to be my duty to say that the correspondence of Mr. Schroeder, our chargé d'affaires at Stockholm, a gentleman with whom I am not personally acquainted, has furnished me the earliest and most accurate information of the proceedings of the Northern powers on questions which may affect the neutral interests of the United States.

Lord Clarendon referred to our neutrality law (of April 20, 1818.)

in terms of high commendation, and pronounced it superior to their own, especially in regard to privateers. They are evidently apprehensive that Russian privateers may be fitted out in the ports of the United States, to cruise against their commerce, though in words his lordship expressed no such apprehension. Would it not be advisable, after the war shall have fairly commenced, for the President to issue his proclamation upon the proper official authorities to be vigilant in executing this law? This could not fail to prove satisfactory to all the belligerents.

Yours, very respectfully,

JAMES BUCHANAN.

Hon. W. L. MARCY, &c., &c., &c.

*From Mr. Buchanan to Mr. Marcy.*

[Extract.]

[No. 25.]

LEGATION OF THE UNITED STATES, LONDON,

March 17, 1854.

SIR: Lord Clarendon sent for me yesterday, and, in compliance with his promise, read me the declaration which had been prepared for her Majesty, specifying the course she had determined to pursue towards neutral commerce, during the present war. It announces distinctly, not only that the neutral flag shall protect the cargo, except in cases of contraband, but that the goods of neutrals captured on board an enemy's vessel shall be restored to their owners. It fully adopts the principle that "free ships shall make free goods," and also secures from confiscation the property of a friend found on board the vessel of an enemy.

The declaration on the subject of blockades, so far as I could understand it, from the reading, is entirely unexceptionable and in conformity with the doctrines which have always been maintained by the government of the United States.

Her Majesty also declared that she will issue no commissions to privateers, or letters of marque, during the war.

His lordship then asked me how I was pleased with it; and I stated my approbation of it in strong terms.

I said that, in one particular, it was more liberal towards neutral commerce than I had ventured to hope, and this was in restoring the goods of a friend, though captured on the vessel of an enemy.

He remarked that they had encountered great difficulties in overcoming their practice for so long a period of years, and their unvarying judicial decisions; but that modern civilization required a relaxation in the former severe rules, and that war should be conducted with as little injury to neutrals as was compatible with the interest and safety of belligerents. He also observed that he had repeated the conversation which he had with me on these subjects to the cabinet council, and this had much influence in inducing them to adopt their present liberal policy towards neutrals.



He then expressed the hope that their course would prove satisfactory to the government of the United States; and I assured him that I had no doubt it would prove highly gratifying to them.

I asked him if I were at liberty, in anticipation of the publication of her Majesty's declaration, to communicate its substance to yourself; and he replied, certainly, I was. \* \* \* \* \* It had not yet undergone the last revision of the cabinet; but the principles stated in it had received their final approbation, and would not be changed.

If our shipping interest in the United States should feel as anxious upon this subject as American owners of vessels in this country, you may deem it advisable to publish a notice of the practice which will be observed by Great Britain and France towards neutrals, during the continuance of the present war; and to this I can perceive no objection.

\* \* \* \* \*

Yours, very respectfully,

JAMES BUCHANAN.

Hon. WM. L. MARCY,  
*Secretary of State.*

—  
*Mr. Buchanan to Mr. Marcy.*

[Extract.]

[No. 26.]      LEGATION OF THE UNITED STATES, LONDON,  
March 24, 1854.

SIR: In my last despatch, (No. 25) of the 17th instant, I omitted, for want of time, to refer to the conversation between Lord Clarendon and myself, on the general subject of privateering. He did not propose the conclusion of a treaty between Great Britain and the United States for its suppression; but he expressed a strong opinion against it, as inconsistent with modern civilization, and liable to great abuses. He spoke in highly complimentary terms of the treaties of the United States with different nations, stipulating that if one of the parties be neutral and the other belligerent, the subjects of the neutral accepting commissions as privateers to cruise against the other from the opposing belligerent, shall be punished as pirates.

These ideas were, doubtless, suggested to his mind by the apprehension felt here that Americans will, during the existing war, accept commissions from the Emperor of Russia, and that our sailors will be employed to cruise against British commerce.

In short, although his lordship did not propose a treaty between the two governments for the total suppression of privateering, it was evident that this was his drift.

In answer, I admitted that the practice of privateering was subject to great abuses; but it did not seem to me possible, under existing circumstances, for the United States to agree to its suppression, unless the naval powers would go one step further, and consent that war against private property should be abolished altogether upon the ocean,

as it had already been upon the land. There was nothing really different in principle or morality between the act of a regular cruiser and that of a privateer in robbing a merchant vessel upon the ocean, and confiscating the property of private individuals on board for the benefit of the captor.

But how would the suppression of privateering, without going further, operate upon the United States? Suppose, for example, we should again unfortunately be engaged in a war with Great Britain, which I earnestly hoped might never be the case; to what a situation must we be reduced if we should consent to abolish privateering.

The navy of Great Britain was vastly superior to that of the United States in the number of vessels-of-war. They could send cruisers into every sea to capture our merchant vessels, whilst the number of our cruisers was comparatively so small as to render anything like equality in this respect impossible. The only means which we would possess to counterbalance in some degree their far greater numerical strength, would be to convert our merchant vessels, cast out of employment by the war, into privateers, and endeavor, by their assistance, to inflict as much injury on British as they would be able to inflict on American commerce.

The genuine dictate of Christianity and civilization would be to abolish war against private property upon the ocean altogether, and only employ the navies of the world in public warfare against the enemy, as their armies were now employed; and to this principle thus extended, it was highly probable the government of the United States would not object.

Here the conversation on this particular subject ended in a good-natured manner; and I am anxious to learn whether what I have said in relation to it meets your approbation.

\* \* \* \* \*

Yours, very respectfully,

JAMES BUCHANAN.

Hon. WM. L. MARCY,  
*Secretary of State.*

—  
*Mr. Buchanan to Mr. Marcy.*

[Extract.]

[No. 27.]      LEGATION OF THE UNITED STATES, LONDON,  
March 31, 1854.

SIR: \* \* \* \* \*  
You will perceive that her Majesty's declaration concerning the commerce of neutrals is substantially the same as that which I informed you it would be in my despatch of the 17th instant. It has given great satisfaction to the diplomatic representatives of neutral nations in London, and to none more than to myself.

Indeed, it is far more liberal than I had any reason to expect it



would have been, judging from the judicial decisions and past history of the country.

Yours, very respectfully,

JAMES BUCHANAN.

Hon. W. L. MARCY,

*Secretary of State.*

*Mr. Marcy to Mr. Buchanan.*

[Extract.]

[No. 35.]

DEPARTMENT OF STATE,  
*Washington, April 13, 1854.*

SIR: The course indicated to you by Lord Clarendon as that which Great Britain had determined to pursue in the event of a European war in regard to neutral commerce is entirely satisfactory to this government as to the two main points.

The propositions submitted to you—the same, I presume, which Mr. Crampton has confidentially submitted to me—are, 1st. That free ships make free goods, except articles contraband of war; and, 2d. That neutral property, not contraband, found on board enemies' ships is not liable to confiscation. The United States have long favored the doctrine that the neutral flag should protect the cargo, and endeavored to have it regarded and acted on as a part of the law of nations. There is now, I believe, a fair prospect of getting this sound and salutary principle incorporated into the international code.

There can be, I presume, no doubt that France cheerfully concurs with Great Britain in adopting this principle as the rule of conduct in the pending war. I have just received a despatch from Mr. Mason, in which he details conferences he has had with the French ministers on the subject of neutral rights; but it does not appear from the accounts he has given of them that the French government had intimated to him the course it intended to pursue in regard to neutral ships and neutral property on board enemy's ships. I have no doubt, however, that France has more readily acquiesced in the indicated policy than Great Britain.

Both Great Britain and France, as well as Russia, feel much concerned as to the course which our citizens will take in regard to privateering. The two former powers would at this time most readily enter into conventions, stipulating that the subjects or citizens of the party, being a neutral, who shall accept commissions or letters of marque and engage in the privateer service, the other party being a belligerent, may be treated as pirates. A stipulation to this effect is contained in several of our treaties, but I do not think the President would permit it to be inserted in any new one. His objection to it does not arise from a desire to have our citizens embark in foreign belligerent service: but, on the contrary, he would much regret to see them take such a course. Our laws go as far as those of any nation—I think further—in laying restraints upon them in regard to going into foreign privateer service. This government is not prepared to listen

to any proposition for a total suppression of privateering. It would not enter into any convention whereby it would preclude itself from resorting to the merchant marine of the country, in case it should become a belligerent party.

The declaration which her Britannic Majesty's government proposes to issue is distinct in interdicting to neutrals the coasting and colonial trade with the belligerent, if not enjoyed by them previous to the war. In regard to this trade, you are aware that Great Britain asserted principles, in the wars resulting from the French revolution, before she issued her obnoxious orders in council, which this country held to be in violation of the law of nations. Should she still adhere to those principles in the coming conflict in Europe, and have occasion to apply them to our commerce, they will be seriously controverted by the United States, and may disturb our friendly relations with her and her allied belligerents. The liberal spirit she has indicated in respect to the cargoes under a neutral flag, and neutral property which may be found on board of enemies' ships, gives an implied assurance that she will not attempt again to assert belligerent rights, which are not well sustained by the well-settled principles of international law.

In some respects, I think the law of blockade is unreasonably rigorous towards neutrals, and they can fairly claim a relaxation of it. By the decisions of the English courts of admiralty—and ours have generally followed in their footsteps—a neutral vessel which happens to be in a blockaded port is not permitted to depart with a cargo, unless that cargo was on board at the time when the blockade commenced, or was first made known. Having visited the port in the common freedom of trade, a neutral vessel ought to be permitted to depart with a cargo, without regard to the time when it was received on board.

The right of search has heretofore been so freely used, and so much abused, to the injury of our commerce, that it is regarded as an odious doctrine in this country, and if exercised against us harshly in the approaching war, will excite deep and wide-spread indignation. Caution on the part of belligerents in exercising it towards us, in cases where sanctioned by usage, would be a wise procedure. As the law has been declared by the decisions of courts of admiralty and elementary writers, it allows belligerents to search neutral vessels for articles contraband of war, and for enemies' goods. If the doctrine is so modified as to exempt from seizure and confiscation enemies' property under a neutral flag, still the right to seize articles contraband of war, on board of neutral vessels, implies the right to ascertain the character of the cargo. If used for such a purpose and in a proper manner, it is not probable that serious collisions would occur between neutrals and belligerents.

A persistent resistance by a neutral vessel to submit to a search renders it confiscable, according to the settled determinations of the English Admiralty. It would be much to be regretted if any of our vessels should be condemned for this cause, unless under circumstances which compromised their neutrality.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.

JAMES BUCHANAN, Esq., &c., &c., &c.



*Mr. Mason to Mr. Marcy.*

[Extracts.]

[No. 11.]

LEGATION OF THE UNITED STATES, PARIS,  
March 22, 1854.

SIR: \* \* \* \* \*

The allies, too, find themselves under the necessity of providing for future contingencies of a most delicate nature, by instructions to their naval commanders, acting in concert, in respect to neutral rights pending the war. In the past history of the two countries, the principles of France on this subject have been, as you are aware, entirely at variance with those held by England. It is both delicate and difficult to produce harmony in their combined action. The deep interest of the European States, not engaged in this war, in the adoption by the allies, with their absolute naval supremacy over Russia, of measures which will give to the commerce of neutrals the most perfect security, added to the earnest desire of the allies to secure their co-operation, if to be had, and if not, to avoid their active opposition, has given to the subject the deepest interest, and contributed to prepare the way for a fair and equitable adjustment. I have looked to this subject with deep anxiety, and have endeavored to guard against any possible violation of our rights as a neutral, by the measures of the belligerents, in the prosecution of the war. I have embraced every opportunity, since I have been in Paris, of impressing, by informal conversation, on the minister, and with the representatives of foreign powers here, that if those liberal principles which the United States have always maintained were not recognised, my government could not be satisfied; that with her vast commercial marine, her enormous surplus products, her export and import trade, and her large investments in the fisheries, in the Pacific and Atlantic oceans, it was impossible that my country could submit to any practical exercise of the rights of war which would subject her citizens, their business, and their vessels to vexatious searches, captures or detentions; that except in cases of contraband, her flag must protect the cargo which it covered, and the high seas must be what the God of nature intended it—a free highway for all nations. The point on which most apprehension is felt, is the engagement of citizens and vessels of the United States in privateering under the Russian flag. I have urged, that, with every disposition to prevent such unlawful proceedings by our people, the government would find much difficulty in enforcing its laws, unless sustained by public opinion in the United States, and aided by the people, as well as by officers of government; that with the vast extent of seacoast of the United States, the government could not have information of the preparation of vessels for such enterprises, in all cases, in time to suppress them, unless the *people* felt an anxious desire that the laws should be executed; that if the allies adopted just and liberal measures in regard to neutral rights, it would give profitable returns to a safe business, and the entire mercantile community of the United States would, from a sense of justice and of national duty, as well as of their own interest, be found ready to aid the government in executing the laws;

that, tempting as might be the offers to engage under the Russian flag, to cruise against the commerce of the allies, the danger of the service, the difficulty of realizing their prizes by adjudication, and, above all, the actual profit of lawful trade, under equitable and fair rules in respect to neutral rights, and the public satisfaction at seeing just principles established among nations, would probably prevent our citizens, however bold and adventurous, from taking part in the assaults on the commerce of the allies.

\* \* \* \* \*

The combination of circumstances is most auspicious to the establishment of our cherished principles of neutral rights—the rights of the weaker powers against the aggressive pretensions of the strong; and the considerations of policy are too grave, in their favor, to believe that so sagacious a statesman as Mr. Drouyer de Struyo will fail to see them in all their force, nor is there any doubt that he will be sustained by the Emperor.

It is fortunate, too, that the present state of things will give to the British cabinet a disposition to regard with favor the relaxation and liberalization of their ancient views on this subject.

\* \* \* \* \*

I am, &c.,

J. Y. MASON.

Hon. W. L. MARCY,  
*Secretary of State.*

*Mr. Mason to Mr. Marcy.*

[Extract.]

[No. 14.]

LEGATION OF THE UNITED STATES, PARIS,  
March 30, 1854.

SIR: \* \* \* \* \*

In the *Moniteur* of this morning appeared a report of the Minister of Foreign Affairs, and the declaration of the Emperor of France, on the subject of neutrals, letters of marque, &c., pending the war. I enclose slips of the *Moniteur* containing these several important documents. I think that you will observe in them satisfactory recognition of liberal principles in regard to the rights of neutrals.

\* \* \* \* \*

I have the honor, &c.,

J. Y. MASON.

Hon. W. L. MARCY,  
*Secretary of State, Washington City, D. C.*



*The Chargé d'Affaires of Denmark to Mr. Marcy.*

[Translation.]

DANISH LEGATION, WASHINGTON,  
January 20, 1854.

The present political complications consequent upon the declaration of war by the Ottoman Porte, and the possible contingency of a maritime war, have imposed on the government of his Majesty the King of Denmark the obligation of giving an earnest attention to the effects which may be their result. Its sincere desire is to preserve intact the relations of friendship and good understanding which so happily reign between Denmark and all the governments of Europe. Having nothing more at heart than to maintain and cement those relations, his Majesty the King of Denmark regards it as a duty not to leave the allied and friendly powers in ignorance of the line of policy which, for the attainment of said object, he proposes to follow in case of the above mentioned event.

Guided as much by the frank friendship which reigns between the sovereigns and people of Denmark and of the United Kingdoms of Sweden and Norway, as by that community of interests and political principles which reciprocally sustains and reinforces each other, his Majesty the King of Denmark has found himself called, in the first place, to concert himself with his august friend, neighbor, and ally, the King of Sweden and Norway, on the measures eventually to be adopted in order to establish a common action proper to facilitate, by its identity, the application of the system agreed upon. These overtures having met with that favorable reception one had a right to expect, it is in conformity with the resolutions taken by the two sovereigns that the undersigned, chargé d'affaires of his Majesty the King of Denmark near the government of the United States of America, has received the order of his august sovereign to bring to the knowledge of the government of the United States the general rules which his Majesty the King of Denmark has deemed it proper to establish in order to fix the position of his States in the deplorable event of hostilities breaking out between the friendly and allied powers of the King.

The system which his Majesty the King of Denmark intends to follow and to apply invariably, is that of a strict neutrality, founded on a loyal, impartial, and equal respect for the rights of all the powers. This neutrality, according to the like views of the two courts, imposes on the government of his Majesty the King of Denmark the following obligations, and assures him the following advantages:

1. To abstain, during the contest which may take place, from every participation, direct or indirect, in favor of one of the contending parties, and to the detriment of the other.

2. To admit into the ports of the monarchy the ships of war and of commerce of the belligerent parties, the government reserving for itself, however, the faculty of interdicting to the first, as well as to the transport ships belonging to the respective fleets of the belligerent powers, the entry of the port of Christiana.

The sanitary and police regulations which circumstances may have

rendered or will render necessary, are of course to be observed and respected. Privateers will not be admitted into the ports, nor tolerated on the anchorages, of the States of his Danish Majesty.

3. To grant to the vessels of the belligerent powers the faculty of providing themselves, in the ports of the monarchy, with all goods and merchandises of which they may be in want, with the exception of articles reputed contraband of war.

4. To exclude from the ports of the monarchy the entry—recognised cases of distress excepted—the condemnation, and the sale of all prizes; and, finally,

5. To enjoy in the commercial relations of the States of his Danish Majesty, with the countries at war, every security and all facilities for Danish vessels, as well as their cargoes; with the obligation, however, for said vessels to conform to the general rules established and recognised in the special cases of declared and effective blockades.

Such are the general principles of the neutrality adopted by his Majesty the King of Denmark in case a general war in Europe should break out. The King flatters himself that they will be recognised as conformable to the law of nations, and that their loyal and faithful observation will enable his Majesty to cultivate with the friendly and allied powers those relations which, for the welfare of his people, he has so much at heart to preserve from all interruptions.

Requesting the honorable Secretary of State of the United States to bring the present communication to the knowledge of the government of the United States the undersigned avails himself, &c.

TORBEN BILLE.

*The Chargé d'Affaires of Sweden and Norway to Mr. Marcy.*

[Translation.]

LEGATION OF SWEDEN AND NORWAY, WASHINGTON,  
January 28, 1854.

The present political complications consequent upon the declaration of war by the Ottoman Porte, and the possible contingency of a maritime war, have imposed on the government of his Majesty the King of Sweden and Norway the obligation of giving an earnest attention to the effects which may be their result. Its sincere desire is to preserve intact the relations of friendship and good understanding which so happily reign between Sweden and Norway and all the governments of Europe. Having nothing more at heart than to maintain and cement those relations, his Majesty the King of Sweden and Norway regards it as a duty not to leave the allied and friendly powers in ignorance of the line of policy which, for the attainment of said object, he proposes to follow in case of the above mentioned event.

Guided as much by the frank friendship which reigns between the sovereigns and people of Sweden and Norway and of the kingdom of Denmark, as by that community of interests and political principles which reciprocally sustains and reinforces each other, his Majesty the



King of Sweden and Norway has found himself called, in the first place, to concert himself with his august friend, neighbor, and ally, the King of Denmark, on the measures eventually to be adopted in order to establish a common action proper to facilitate, by its identity, the application of the system agreed upon. These overtures having met with that favorable reception one had a right to expect, it is in conformity with the resolutions taken by the two sovereigns, that the undersigned, chargé d'affaires of his Majesty the King of Sweden and Norway near the government of the United States of America, has received the order of his august sovereign to bring to the knowledge of the government of the United States the general rules which his Majesty the King of Sweden and Norway has deemed it proper to establish in order to fix the position of his States in the deplorable event of hostilities breaking out between the friendly and allied powers of the King.

The system which his Majesty the King of Sweden and Norway intends to follow, and to apply invariably, is that of a strict neutrality, founded on a loyal, impartial, and equal respect for the rights of all the powers. This neutrality, according to the like views of the two courts, imposes on the government of his Majesty the King of Sweden and Norway the following obligations, and assures him the following advantages:

1. To abstain, during the contest that may take place, from every participation, direct or indirect, in favor of one of the contending parties, and to the detriment of the others.

2. To admit into the ports of the monarchy the ships-of-war and of commerce of the belligerent parties; the government reserving for itself, however, the faculty of interdicting to the first, as well as to the transport ships belonging to the respective fleets of the belligerent powers, the entry of the port of Christiana.

The sanitary and police regulations which circumstances may have rendered or will render necessary, are of course to be observed and respected. Privateers will not be admitted into the ports, nor tolerated on the anchorages, of the States of his Swedish and Norwegian Majesty.

3. To grant to the vessels of the belligerent powers the faculty of providing themselves in the ports of the monarchy with all goods and merchandises of which they may be in want, with the exception of articles reputed contraband of war.

4. To exclude from the ports of the monarchy the entry—recognised cases of distress excepted—the condemnation, and the sale of all prizes; and, finally,

5. To enjoy in the commercial relations of the States of his Swedish and Norwegian Majesty, with the countries at war, every security and all facilities for Swedish and Norwegian vessels, as well as their cargoes; with the obligation, however, for said vessels to conform to the general rules established and recognised in the special cases of declared and effective blockades.

Such are the general principles of the neutrality adopted by his Majesty the King of Sweden and Norway in case a general war in Europe should break out. The King flatters himself that they will be recognised as conformable to the law of nations, and that their loyal

and faithful observation will enable his Majesty to cultivate with the friendly and allied powers those relations which, for the welfare of his people, he has so much at heart to preserve from all interruption.

Requesting the honorable Secretary of State of the United States to bring the present communication to the knowledge of the government of the United States, the undersigned avails himself, &c.

G. DE SIBBERN.

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*Mr. Marcy to the Danish Chargé d'Affaires.*

DEPARTMENT OF STATE,  
Washington, February 14, 1854.

The undersigned, Secretary of State of the United States, has the honor to acknowledge the receipt of the note which the chargé d'affaires of his Majesty the King of Denmark addressed to this department on the 28th ultimo, bringing to the knowledge of this government the general rules which it has been deemed proper by his Majesty the King of Denmark, in concert with his Majesty the King of Sweden and Norway, to establish, in order to fix and define the position of Denmark in the event of hostilities breaking out among the powers of Europe, in consequence of the existing relations between Russia and the Ottoman Porte.

The undersigned has the honor to inform Mr. Torben Bille that, at his request, the views of his government have been submitted to the President, and that they are regarded by him with all the interest which the occasion demands. Mr. Bille may rest assured that the government and people of this country feel deep solicitude in the events now transpiring in Europe, not only on account of the general anxiety they occasion to those powers more nearly exposed to the menaced evils, but also as having a most important ulterior bearing upon the United States.

The undersigned avails himself of this occasion to offer to Mr. Bille a renewed assurance of his high consideration

W. L. MARCY.

MR. TORBEN BILLE, &c., &c.

[The above note, *mutatis mutandis*, was also addressed to the Chevalier de Sibbern, chargé d'affaires of Sweden and Norway.]

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*Mr. Schroeder to Mr. Marcy.*

[No. 125.] LEGATION OF THE UNITED STATES, STOCKHOLM,  
April 10, 1854.

SIR: A Swedish ordinance was published yesterday, defining the rights and obligations of such of the people as are engaged in commerce and navigation. The document is interesting, as forming part of the history of the Northern neutrality. For this and other reasons, I



have translated it entire. The marginal notes which I shall add will enable you to refer to any clause that may chiefly interest you.

You will best know what reliance may be safely placed upon the equitable promises which have been held out to neutrals by the belligerent powers; seemingly triumphs of the enlightened age over historic reminiscences of war. It would ill become me to offer an opinion of the realities to be looked for; but the forebodings of the more intelligent men of the country weigh upon this community; and, although unconfessed by government, they are the real controlling influences in the council of state.

I have the honor to remain, with great respect, sir, your obedient servant,

F. SCHROEDER.

HON. WM. L. MARCY,  
Secretary of State.

OFFICIAL NOTICE.—(Translated.)

*What must be observed for the security of Swedish commerce and navigation during war between foreign maritime powers.*

We, Oscar, &c., make known, that in view of imminent hostilities between foreign maritime powers, and in order that those of our faithful subjects who are engaged in commerce and navigation may to the uttermost observe the obligations and prudence necessary for securing to the Swedish flag, as neutral, future freedom and immunity, and in order that everything may be avoided which can possibly render Swedish commerce and navigation suspected and exposed to wrong, we have found good to repeal whatever in this regard has been heretofore ordained, and we proclaim the following:

SEC. 1. In order to secure to the Swedish flag, as neutral, future advantages and immunity, Swedish vessels must be provided with the documents required by existing laws, in proof of their nationality. These documents should always be at hand during the voyage.

SEC. 2. No ship captain should have incorrect or double ship's papers and manifests. He is also forbidden, in any case, or under any pretext whatever, to hoist a foreign flag.

SEC. 3. If, while a Swedish ship is abroad, the crew shall be diminished by death, illness, desertion, or any other cause, so that the necessary working of the ship cannot be performed without the aid of foreign seamen, the subjects of neutral States must be preferred; and in no case shall the number of subjects of belligerent States on board exceed one-third of the whole crew. Every such change in the crew, as well as the cause thereof, should be entered on the muster-roll, and the correctness of the entry should be attested by a Swedish consul or vice consul, or, in the absence of such officer, by a legal magistrate, notary public, or any responsible witness, according to the custom of the country.

SEC. 4. Swedish ships, as neutrals, may freely enter the harbors,

and sail along the coasts of belligerents; yet, must no captain attempt to enter a blockaded port after due notice given of blockade. By blockaded ports, are understood only such as are so guarded by one or more hostile ships-of-war, stationed so near that a ship cannot enter without evident danger (utan ögonskenlig fara.)

SEC. 5. All kinds of goods, even such as belong to belligerents, may be carried in Swedish ships as neutral, except contraband of war; by which are understood, cannons, mortars, all kinds of arms, bombs, grenades, balls, flints, linstocks, gunpowder, saltpetre, sulphur, cuirasses, pikes, belts, cartouch-boxes, saddles, bridles, and all other manufactures (*tillverkningar*) immediately applicable to warlike purposes: herein, however, are not included a stock of such articles necessary for the defence of ship and crew.

In regard to contraband of war, should any change or addition be made, in consequence of agreement between us and other powers, a separate notice thereof shall be proclaimed.

SEC. 6. Swedish sea captains are forbidden, unless under actual force—and in that case after formal protest—to carry despatches, troops, articles contraband of war, for any belligerent power.

SEC. 7. Vessels belonging to belligerents may bring into, or take away from, Swedish harbors, any and every kind of goods, provided they are permitted by the tariff, and always excepting such as are contraband of war.

SEC. 8. No Swedish subject may fit out or arm a vessel to be used as privateer against any of the belligerent powers, their subjects or property, or have anything to do with such vessel. Moreover, no Swedish subject is permitted to take service on board of any foreign privateer.

SEC. 9. Foreign privateers are not permitted to enter a Swedish harbor, or to remain at any Swedish roads, nor shall captures be brought into Swedish harbors, unless in case of evident distress, ("sea necessity,") and in no case shall captures be adjudicated or sold in Sweden. Our subjects are strictly forbidden also to buy from privateers captured goods of any description whatever.

SEC. 10. When a Swedish shipmaster navigates without the protection of armed convoy, and is hailed at sea by a belligerent entitled to examine his ship's papers, he should neither refuse nor seek to evade this ceremony, but he is bound to exhibit his papers honestly and openly, and to take care that neither before nor during the visit, any document relating to ship or cargo be altered, hidden, or thrown overboard.

SEC. 11. When a Swedish captain is under convoy, let him conform to the rules set forth in the royal ordinance of June 10, 1812.\*

\* I have examined the above cited ordinance, in hopes to find in it the claim that neutral merchant vessels under convoy are exempt from actual visit of belligerents, and that an assurance by the commander of the convoying man-of-war in relation to the vessels under his protection must suffice. These things do not appear in the ordinance referred to, nor in that at present translated; but I have been officially informed that the Swedish government claim these principles as international rights, and as expressed in article XII of our treaty with Sweden of 1783, revived in the existing treaty, article XVII.

The Swedish ordinance of 1812, cited above, contains sailing directions for convoys, and national regulations for the commanders thereof.

F. SCHROEDER.



SEC. 12. While Swedish sea captains duly observe the foregoing, they ought, according to treaties and law of nations, to enjoy free, unobstructed navigation; but if, nevertheless, they be wronged, they may expect from our ministers and consuls abroad, fullest support in all that, in pursuit of justice and indemnity, they can reasonably demand; whereas he who neglects or disregards what is now ordained for his observance, may blame himself for whatever consequences may ensue, without depending upon our gracious protection.

SEC. 13. If a Swedish ship be seized, the captain should deliver to the consul or vice consul, in the harbor to which he is conducted, or in the absence of a consul or vice consul, then to the nearest such officer, a full and fair report of the circumstances and proceedings attending the case. All concerned must conform obediently to this ordinance.

In testimony whereof, we have signed this with our own hand, and permit to be affixed our royal seal. Stockholm Palace, April 8, 1854.

OSCAR. [L. s.]

J. F. FAHROENS.

*Mr. Marcy to Mr. Seymour.*

DEPARTMENT OF STATE,  
Washington, May 9, 1854.

SIR: You have probably seen the joint declaration of Great Britain and France, referred to in the enclosed copy of a note to Mr. Crampton, her Britannic Majesty's minister to this government. This declaration was communicated to me by the ministers of France and England, accompanied by a note, to which I replied. The note to the French minister is substantially the same as that sent to Mr. Crampton.

It is the settled purpose of this government to pursue such a course, during the present war in Europe, as will give no cause to either belligerent party to complain, and it sincerely hopes neither will give this country any ground for dissatisfaction.

The danger of a misunderstanding is much less with Russia than with Great Britain and France. I believe, however, these latter powers are desirous to pursue a fair and liberal course towards neutrals, and particularly towards the United States.

You will observe that there is a suggestion in the enclosed for a convention among the principal maritime nations to unite in a declaration that free ships should make free goods, except articles contraband of war. This doctrine has had heretofore the sanction of Russia, and no reluctance is apprehended on her part to becoming a party to such an arrangement. Great Britain is the only considerable power which has heretofore made a sturdy opposition to it. Having yielded it for the present in the existing war, she thereby recognises the justice and fairness of the principle, and would hardly be consistent if she should withhold her consent to an agreement to have it hereafter regarded as a rule of international law. I have thrown out the suggestion to Great Britain and France to adopt this as a rule to be observed in all future wars. The President may instruct me to make the direct proposition

to these and other powers. Should Russia, Great Britain, and France concur with the United States in declaring this to be the doctrine of the law of nations, I do not doubt that the other nations of the world would at once give their consent and conform their practice to it. If a fair opportunity should occur, the President requests you to ascertain the views of his Majesty the Emperor of Russia on the subject.

The decisions of admiralty courts, in this and other countries, have frequently affirmed the doctrine that a belligerent may seize and confiscate enemy's property found on board of a neutral vessel; the general consent of nations, therefore, is necessary to change it. This seems to be a most favorable time for such a salutary change. From the earliest period of this government, it has made strenuous efforts to have the rule that free ships make free goods, except contraband articles, adopted as a principle of international law; but Great Britain insisted on a different rule. These efforts, consequently, proved unavailing; and now it cannot be recognised, and a strict observance of it secured, without a conventional regulation among the maritime powers. This government is desirous to have all nations agree in a declaration that this rule shall hereafter be observed by them respectively, when they shall happen to be involved in any war, and that, as neutrals, they will insist upon it as a neutral right. In this the United States are quite confident that they will have the cordial consent and co-operation of Russia.

I am, sir, respectfully, your obedient servant,

W. L. MARCY.



THOMAS H. SEYMOUR, Esq., &c., &c., &c.