## WASHINGTON CITY,

MONDAY, October 8.

### SPANISH CONVENTION.

WE some time since laid before the public a concise view of the principal facts and inferences deducible from them, relative to the true boundaries of Louisiana as received by the United States from France. The reader will recollect that this statemement was occasioned by the alleged determination of the Spanish government, not to ratify the Convention of the 11th of August 1802, unless our government complied with three requisitions.

1. The allowance of a longer term than that contemplated by the Convention previous to the sitting of the commissioners, that the subjects of Spain might be apprised of its ratification—2. That the 6th article, keeping alive our claims for spoliations made by French cruisers sanctioned by condemnations in Spanish ports and by Spanish tribunals, should be expunged; and 3. That the legal provision for a port of entry on the Mobille should be repealed.—These requisitions have opened a wide field of discussion—On the most important point, it is a source of peculiar satisfaction that no diversity of opinion exists among our countrymen. When the question "what are the boundaries of Louisiana," was first started, there was a momentary error into which some of the federal presses fell. But information and reflection have entirely dissipated it; and there is now happily among all parties indications of the same zeal in maintenance of our territorial rights.

There is, however, another point, only of secondary magnitude, on which the friends and enemies of the administration are at issue;—viz. their conduct respecting the Convention above referred to. Flattering ourselves that information will, in this instance, as in the former, be efficacious in insuring harmony of opinion, we offer the following facts and remarks. Of the solidity of the remarks the reader will judge; for the accuracy of the facts we pledge ourselves.

Subsequently to the year 1795, when the treaty of San Lorenzo was formed between the United States and Spain, considerable spoliations were committed on the American trade by vessels under Spanish colors, and by French vessels, whose prizes were adjudicated in Spanish ports and by Spanish tribunals. For these infractions of our rights it became the duty of our government to demand reparation. It is presumed that this, as a matter of course, was done coeval with the occasion that created the necessity, by Mr. Adams then President of the United States. The treaty of San Lorenzo only provided for the termination of "all differences on account of the losses sustained by the citizens of the United States in consequence of their vessels and cargoes having been taken by the subjects of his Catholic Majesty, during *the late war between Spain and France*" [that is, antecedent to the 22d of July, 1795, when the war terminated.] This circumstance is stated to correct an inadvertent error into which a writer in an Eastern paper has fallen, in considering this provision of the treaty as prospective, and as embracing a period of eighteen months beyond the date of its ratification.

The new spoliations commenced immediately after the date of the treaty of San Lorenzo and continued until the convention of Madrid, which was signed on the 11th of August, 1802.

Exception has been taken to the conduct of the administration on three grounds:

1. On that of delay in the pursuit of efficient measures for the obtaining indemnification for spoliated property.

2. On account of the substance of the convention: and

3. On account of the circumstances attending its ratification.

In the *first* place, the administration are charged with having neglected to take prompt and efficient measures for indemnifying our merchants.

To test the accuracy of this charge, it is only necessary to state a few facts.

The spoliations commenced towards the close of the year 1795, in the Presidency of General Washington, and continued during the whole of that of Mr. Adams, whom it is customary to extol for the vigorous prosecution of the commercial rights of our citizens.

No treaty was formed, or redress obtained, during the whole of this period, which terminated the 3d of March, 1801, and which consequently embraced a term of more than five years.

It is well understood that these spoliations, in a great measure, if not altogether, grew out of our misunderstanding with France.

That misunderstanding was not fully closed until the 19th day of December 1801, when the treaty of Paris was finally acted upon by the Senate. That treaty, it is true, was signed on the 30th of September, 1800; but it will be recollected that there was a material modification of it proposed by our government, accompanied with which it was sent back to France, who agreed to it so modified; in consequence of which the ratifications were exchanged at Washington on the 19th of December, 1801.

On the 3d of March, 1801, Mr. Jefferson's administration commenced. Mr. Humphreys was then our minister at the court of Madrid. It is to be presumed that he had full instructions from Mr. Adams, and that they were renewed by Mr. Jefferson.

In the month of June, 1801, Mr. Pinckney was appointed minister; owing to sickness after he left the United States, he did not replace Mr. Humphreys till December 1801: and on the 11th day of August following the convention was signed.

From these facts then it follows, that what Mr. Adams was unable to effect in four years, Mr. Jefferson accomplished in seventeen months; notwithstanding the unavoidable delays arising from the commencement of a new administration.

It follows too, independent of any comparison of the promptness of the measures of one administration with those of the other, that little, if any time was lost, which could have been saved. It was essentially necessary, to secure the confidence of the Spanish court, that the new executive of the United States should renew the powers of its minister. It was impracticable to do this in less than a few months. That court, likewise, undoubtedly waited the issue of our negociations at Paris, and was eventually governed by them, and the treaty of peace with Great-Britain, entered into in October 1801. These negociations, we have seen, were not brought to a close until the 19th of December, 1801: leaving a period short of eight months; previous to the formation of the convention.

When these circumstances are duly weighed; and when a proper allowance is made for the tardy habits of the Spanish government; for the unavoidable delays attending all negociations between independent nations; for the connection, as in this case, of negociations on one point with those on another of greater importance; if any surprise is indulged, in respect to the time consumed in negociating the convention, it will be on account of its brevity.

Exception is, in the *second place*, taken to the substance of the convention, which is as follows:

"A CONVENTION.

"Between his Catholic Majesty and the United States of America, for the indemnification of those who have sustained losses, damages or injuries, in consequence of the excesses of individuals of either nation, during the late war, contrary to the existing treaty or the laws of nations."

"His Catholic majesty and the government of the United States, wishing amicably to adjust the claims which have arisen from the excesses committed during the late war, by individuals of either nation contrary to the laws of nations or the treaty existing between the two countries—his Catholic majesty has given, for this purpose, full power to his excellency Don Pedro Cevallos, counsellor of state, gentleman of the bed chamber in employment, first secretary of state, and universal dispatch, and superintendant general of the post and post-office in Spain and the Indies; and the government of the United States of America, to Charles Pinckney, a citizen of the said states, and their minister plenipotentiary near his Catholic majesty, who have agreed as follows:

"*First.*—A board of commissioners shall be formed composed of five commissioners, two of whom shall be appointed by his Catholic majesty, two others by the government of the United States and the fifth by common consent; and in case they should not be able to agree on a person for the fifth commissioner, each party shall name one, and leave the decision to lot: and hereafter in case of the death, sickness, or necessary absence of any of those already appointed, they shall proceed in the same manner, to the appointment of persons to replace them.

*Second.*—The appointment of the commissioners being thus made, each one of them shall take an oath to examine, discuss, and decide on the claims which they are to judge, according to the laws of nations and the existing treaty, and with the impartiality justice may dictate.

*Third.*—The commissioners shall meet and hold their sessions in Madrid, where within the term of eighteen months (to be reckoned from the day on which they may assemble) they shall receive all claims which in consequence of this convention, may be made, as well by the subjects of his Catholic majesty as by the citizens of the United States of America who may have a right to demand compensation for the losses, damages, or injuries sustained by them in consequence of the excesses committed by Spanish subjects or American citizens.

*Fourth.*—The commissioners are authorised by the said contracting parties, to hear and examine on oath, every question relative to the said demands, and to receive as worthy of credit all testimony, the authenticity of which cannot reasonably be doubted.

*Fifth.*—From the decisions of the commissioners, there shall be no appeal, and the agreement of three of them shall give full force and effect to their decisions, as well with respect to the justice of the claims, as to the amount of the indemnifications which may be adjudged to the claimants: the said contracting parties obliging themselves to satisfy the said awards in specie, without deduction, at the times and places pointed out, and under the conditions which may be expressed by the board of commissioners.

*Sixth.*—It not having been possible for the said plenipotentiaries to agree upon a mode by which the above mentioned board of commissioners should arbitrate the claims originating from the excesses of foreign cruisers, agents, consuls or tribunals, in their respective territories, which might be imputable to their two governments they have expressly agreed that each government shall reserve (as it does by this convention) to itself, its subjects or citizens, respectively, all the rights which they now have, and under which they may hereafter bring forward their claims, at such times as may be most convenient to them.

*Seventh.*—The present convention shall have no force or effect until it be ratified by the contracting parties, and the ratifications shall be exchanged as soon as possible. In faith whereof, we, the under written plenipotentiaries, have signed this convention, and have affixed thereto our respective seals.

Done at Madrid, this eleventh day of August, one thousand eight hundred and two.

PEDRO CEVALLOS, (Seal).
CHARLES PINCKNEY, (Seal).

This convention provides for the adjustment of all claims arising from the excesses committed by individuals of either nation, *contrary to the laws of nations, or the treaty existing between the two countries.* This provision, so far as it applies to the excesses of *Spanish subjects*, is co-extensive with the just grounds of complaint, and ought to be satisfactory. The treaty referred to is that of San Lorenzo which is remarkable for the precision with which it ascertains the commercial rights of the two nations.

By making this instrument, in connection with the laws of nations, the standard, the convention seems to have pursued the best course that could have been devised. According to it, the laws of nations, as modified by its provisions, are to guide the commissioners.

So far then no exception can be, and none, it is believed, has been taken to the convention.

As little exception can be taken to the tribunal established for deciding on the claims for excesses. It is the same that has, in all similar cases, been instituted; it is organised on the principle of mutual arbitration,—the only principle, which could perhaps be found that did not infringe the equal rights of the two nations. The commissioners are, it is true, to meet at Madrid; & in this respect Spain may, on the first impression, appear to have an advantage. But let it be recollected that the right to name the place was equal to both governments, and that Spain had the same right to insist on Madrid being the place, that we had to insist on Washington; that there was some force in the probable allegation that as the excesses complained of were principally committed in Spanish ports, so they ought to be decided upon at a place where there existed the greatest chance of obtaining the fullest evidence; that the treaty of San Lorenzo, having established a similar commission at Philadelphia, Spain had, in her turn, a right to the succeeding commission being held at Madrid, to equalise any inconvenience arising from distance; and finally that the American government, having every thing to gain, ought not to have suffered a trifling local difficulty to overrule their solicitude to obtain substantial justice.

The limitation, *in the third place*, of the period within which claims shall be received to eighteen months, has been objected to; but, apparently, without an attentive consideration of the nature of the provision. According to it, the ratifications of the convention are to be, in the first instance, exchanged. Contemporaneous with this act a promulgation of the convention would undoubtedly take place, which of itself would be a sufficient notification to claimants. Subsequent, however, to this, would be the appointment of commissioners by each government, which would not take place until intimation of it had been made to both the parties; this would take at least two months. Supposing the appointment of commissioners immediately to take place, and no time to be lost in fixing the time of their meeting, three months more would, at the least, be consumed, before they could reach Madrid; making, in the whole five months, which added to the eighteen months allowed in the convention, would make a term of nearly two years, during which they are to "*receive all claims*;" not, as has been erroneously stated, decide upon them.

Is not then the term of two years ample for the sole purpose of receiving them? Would not the allowance of a longer term have tended injuriously to delay the ultimate liquidation? It ought not to escape notice that, although eighteen months are allowed for receiving claims, there is no obstacle, created by the convention, to the settlement, at any time, of those preferred.

*In the fourth place* the convention has been condemned for not making provision for the indemnification of property captured by French cruisers, and adjudicated in Spanish ports. There can be no doubt of the justice of our claims on the Spanish government for this species of spoliation. But as the benefit derived from it accrued to France, and as the sanction given it by Spain was unquestionably coerced by France, it is probable that Spain thought it hard and unequitable to afford a compensation for which France would not indemnify her; or perhaps, her object was to gain time to make arrangements with France to relieve herself from the eventual burthen of the indemnity; and it is by no means unlikely that she was emboldened to pursue this course by the instructions of Mr. Adams, and the consequent treaty with France, waving all claims for French spoliations. So far, then, as this state of things induced the decision of Spain on this point, whatever merit or demerit attaches to it lies at the door of the former administration. Our government claimed a full indemnity. Spain agreed to allow a partial indemnity; not being able to obtain more, was it not right to take all that could be got; especially when this did not, as in the case of the treaty with France, annul, or in the least invalidate the claims for spoliations made by French cruisers, which are expressly reserved for future adjustment?

In the *last place*, censure is thrown on the administration on account of the circumstances attending the ratification of the convention. So unblushingly atrocious has calumny been on this point, that it has, in defiance of the clearest exposure of facts, charged the President with having suppressed the convention for twelve months, and the republican side of the Senate with having co-operated with him virtually to render it nugatory, in order to wreak a mean and contemptible vengeance on our merchants.

The facts attending this transaction we long since stated, in the hope that the falsehoods then propagated arose from ignorance, and that they would not, after such an exposure, be repeated. Events have, however, shewn that in this charitable hope, we have been disappointed. Those facts, with others which it is proper now to state, are these:

The convention was signed at Madrid on the eleventh of August, 1802. It was received by the executive on the 24th of November following, who early in the session, which commenced in the beginning of December, laid it before the Senate. In the mean time, the Spanish Intendant at New Orleans suspended our right of deposit at that place. The sensation excited by this aggression is not forgotten. Its immediate effects were distressing, while its ultimate effects menaced the peace of the country. There were not, indeed, wanting those, who denominated the outrage an act of war, and under this impression the federal side of the senate urged with vehemence the taking forcible possession of New-Orleans. It was during these discussions that the convention was communicated to the Senate. A majority of that body was then republican, but that majority did not amount to two thirds of all the members. The ratification of a treaty requires the concurrence of two thirds. Although, therefore, the republicans commanded a majority, not having so large a number as two thirds, they had it not in their power to insure by their votes alone the ratification of the convention. They knew full well that there scarcely existed a shadow of hope that the federal side of the body, whose object appeared to be to inflame the existing differences between the two countries into a state of war, would vote for it. Its discussion, for this reason probably, was waved until towards the close of the session, in the hope that the right of deposit would be previously restored. It is necessary here to state that as preliminary and incidental questions respecting treaties are decided by a simple majority, the republicans had a command over the time when the instrument should be taken up. Events proved the correctness of their fears; for, *at the close of the session the Convention, being taken into consideration, was rejected by the federal members, who exceeded one third of the body.* This was about the end of February or the beginning of March. *The republican members, with the exception of one, voted for it*; and had even this member voted for it, it would, notwithstanding have been lost.

But for a justifiable stratagem, this vote would have been final. Apprehending the result, it had been concerted that the republican member, we have alluded to, and whose name was the last on the list of the yeas and nays, should, in case a sufficient number of federal votes were previously given to reject the convention, vote against it, to secure the means of reconsidering the vote of rejection; it being a standing rule of the senate that a motion to reconsider can only be made by one who voted in the majority. After the vote, this member moved a reconsideration of the question; and the republican members voting in the affirmative, it was carried: when, the further consideration of the convention was postponed until the next session. These measures took place at the beginning of March, 1803, not quite seven months from the date of the convention. That it was not then ratified was altogether owing to the votes of the federalists. At the next session which commenced in October its consideration was resumed, and such a change having taken place in the senate as to make two thirds of its members republican, it was ratified.

Thus, then, have we demonstrated that the President and the republican part of the Senate have done all in their power to secure the ratification of the convention, and that every atom of blame among ourselves arising from delay is ascribable to the opposition.

There remains one view to be taken, which is, perhaps, in the present state of affairs between the two nations, more interesting than any which merely regards a division among ourselves.

One of the grounds on which Spain is represented to refuse the ratification of the Convention, is the delay on our part. To this, it may be confidently replied that the Convention provides for claims against Spain whose justice cannot be lessened by time, and that at this very moment, even without the existence of such a convention, her good faith as strongly requires a provision for them as with it. It also being confined to a single object affords little, if any ground for a change of opinion arising from a change of circumstances. It would, therefore, appear to be the duty of the Spanish government, notwithstanding the delay which has occurred, to ratify the Convention, or to offer an equivalent provision. But there are still stronger reasons for this. Whatever of impolicy there may have been in declining to ratify the Convention in the session of 1802—3, and, however, we may find just cause to censure those who voted for its rejection, there can be no doubt that the unauthorised aggression at New-Orleans by high officers of Spain would have justified the United States in refusing an attention to any pending arrangements between the two nations until this point was settled. This was then an obstacle to the carrying of those arrangements into effect, raised on the part of Spain, which we had a right to avail ourselves of, whether it was authorised by her government, or her subordinate officers, for whose conduct she is responsible. Shall it then be contended that a delay on our part, occasioned altogether by her, shall be made use of to justify a refusal to do us justice? No. The merits of the question hang not so much on the delay, as on the cause of it; which can only be ascribed to her. We hope, however, that events will shew that the Spanish government has been calumniated, and that her measures towards us will, on mature reflection, be such as honor, justice and friendship dictate.

It may be proper, before we close these remarks, to observe that an egregious error has been committed in representing the Convention to contain a provision that it should not be binding on either nation unless ratified within twelve months. It contains no such provision. It only provides that it shall be ratified *as soon as possible*.

### MARYLAND ELECTION.

J. H. Nicholson, is re-elected a representative to Congress, for the district composed of Queen Anne's, Talbot and Caroline counties.

ASSEMBLY.

*Cæcil County.*
D. Sheridine,
E. Veazy,
Doctor Miller,
Doctor Alexander.

*Kent County.*
James Scott,
R. Hatcheson,
John Moore,
John Thomas.

*Talbot County.*
Edward Lloyd,
William Meley,
P. Spencer,
Robert Goldsborough.

*State of the Polls in Harford County.*

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| John C. Bond, | 844 |
| Thomas Ayres, | 812 |
| John Montgomery, | 733 |
| John Forwood, | 665 |
| James Lytle, | 627 |
| Elijah Davis, | 560 |
| Andrew M'Adow, | 301 |
| James M'Comas, | 485 |

The four gentlemen first on the list are therefore constitutionally elected.