7 Nº 2

Legation of the United States of America,
Rio de Janeiro.

Most Excellent Sir!

The undersigned,
Chargé d'affaires of the United States
of America, has the honor to address
his Excellency, Mr. Francisco Carneiro
de Campos, Councillor, Minister
Secretary of State, for foreign affairs,
in compliance with the wish of his
Excellency, expressed at their conference,
of the 28th. of last month; at which
time the undersigned had the
honor to call the attention of his
Excellency the Minister to the
cases of the Brigs Margaretta, and
Hardy, — of the Brig Orient, wrecked
on the islands of Manuel Gonsalves,
— of the seizure of part of the
Cargo of the Brig Thule; and
the exaction of a tax of ten per cent,

on

on certain property that had been consigned to Captain Cooper, who died at Santos.

The undersigned presumes that it would be superfluous, for him to detail, anew, all the facts in these cases. The circumstances attending each of them, have been fully stated by the U. States' Consul, Mr. Wright, acting as Chargé d'affaires, ad interim, to the late Minister of Foreign affairs, in the Consul's letters of the 29th and 30th of July, the 26th 27th and 28th of August the 6th 20th and 22d of September, 1830; and recited to his excellency Mr. Francisco Carneiro de Campos, in the letters of the Consul, bearing date on the 13th and 19th of October, on the 6th of November the 15th of December, 1830, and on the 22d of January last. All which must remain in the archives of the department over which his excellency, the

Minister

Minister of Foreign affairs now
presides; and to which the under-
signed asks leave to refer, for
the history of these several cases.
They shew the early and earnest
manner in which the claims have
urged upon the consideration of his
Imperial Majesty's government.
The undersigned would be remiss
in duty, and negligent of his in-
structions, if he should forbear
to enforce the remonstrances of the
Consul, by pressing these subjects,
respectfully
upon the immediate attention of
his Excellency the Minister of Foreign
affairs. The undersigned hopes
and believes that he will not be
thought importunate, when his
Excellency the Minister shall consider
how long these cases have been
suspended by his Imperial
Majesty's government; and justice
deferred, to the serious injury of
the mercantile interest and prosperity
of the claimants, by withholding, so

long

long, that restitution and redress, to which their government conceives them intitled; And the undersigned feels assured that his excellency the Minister of foreign affairs cannot fail to appreciate the value of promptness, in deciding these cases; and the importance of preventing the feelings of friendship between the two nations, from being weakened by the unauthorised acts of subordinate officers, of the government of his Imperial Majesty.

The case of the Margaretta is a subject of special instructions to the undersigned from his government. The injustice of her detention, and of the exactions suffered, appear to be fully acknowledged in the note of his excellency, the Minister of foreign affairs, dated the 9th of December last; wherein his excellency informed Mr. Wright that

that the Judge of the Custom House had been instructed that the errors of the Brazilian Consuls ought not to prejudice the parties. The Judge refuses to apply the principle, thus established, to the Margaretta's case; and decides that the rule is applicable only to future, and not to past occurrences. It seems impossible to comprehend by what rule of law or justice, or by what process of reasoning such a distinction can be made; but the Chargé d'Affaires of the United States has not been informed that the decision has been reversed. It is long since an appeal was made to his Excellency the Minister of Foreign affairs, from the interpretation given to the instructions of his government by the Custom House Judge; and the undersigned respectfully expresses his Expectation, that his Excellency,

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the Minister will not suffer this question to be longer suspended.

The case of the Brig Hardy depends on the same principles as that of the Maria=garetta,- involves the same principles questions, and presents a picture simi=lar in all the important features.—

The undersigned respectfully asks, that the case of this vessel may receive the same early decision of his Imperial Majesty's government.

The seizure of forty one barrels of flour, part of the cargo of the brig Thule, is the next case to which the Chargé d'affaires of the U. States has the honor to request the attention of his Excellency the Minister of foreign affairs. The facts attendant and consequent on that seizure, and already amply stated to his Ex=cellency, and his predecessor, are plain, simple, and uncontroverted: and the outrage, committed in this instance by the petty and subordinate officers of the Empire, has appeared

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so flagrant to the government of the
United States, — the pretences so frivo-
-lous, and the imputations so unjust,
that their Chargé d'Affaires has been
particularly directed to enforce, by
his representations, the claim made
by our consul, in behalf of the sufferers.
The undersigned must, consequently,
be permitted to express, with great
respect, his surprise, that the Minis-
-ters of his Imperial Majesty, in office
at that time, should have tolerated,
for a moment, so gross a violation
of the ordinary rights of hospitality
due to a Stranger; and that Stranger,
too, the citizen of a nation on terms
of stipulated amity with Brazil;
and the earliest declared friend
of its independence.

The undersigned
cannot cease, under his present in-
-structions, from pressing for an
indemnity, for the damages ascer-
-tained in this instance; where the
property seized was perishable in
its

its nature; and the prosecutor a person totally irresponsible in property; when, it is respectfully suggested, that restitution should have been instantly ordered, on the immediate reclamation made; instead of being sent to a judicial tribunal for adjudication; The ultimate decision, in that resort, appears to have been unreasonably postponed; and this delay forms one of the grounds of complaint, on this occasion.

The next point adverted to, in the conversation before mentioned, between his Excellency the Minister of foreign affairs, and the Chargé d'affaires of the U. States; and upon which his Excellency the Minister was pleased to ask a written communication, is the case of the Brig Orient, wrecked on the island of Manuel Gonsalvez, in the revenue district of the province of Rio Grande do Norte. The subject

of

of complaint is the exaction of double duteis; 1st. for shipping a part of the cargo saved, on board a vessel sent to the relief of the wreck; and again on the same merchandize, when entered at Pernambuco for consump-tion. The facts important in this case, are circumstantially detailed in the correspondence of the Consul, before-mentioned. If the multiplicity and weight of pressing affairs have diverted the attention of his Excel-lency, for a time, from this subject, the undersigned asks leave to refer his Excellency to the said correspond-ence, and to the tenth article of the treaty of Peace, Friendship, Commerce, and Navigation, which provides expressly for such a mis-fortune as befel the Orient — trusting that his Excellency, the Minister, will examine the same, and that the government of his Imperial Majesty will direct a restitution of the duties paid at

one

one or the other of those places, to be made without further delay.

The Chargé d'affaires of the United States will now turn to the last subject concerning which he had the honor to converse with his Ex=
=cellency the Minister of foreign affairs.

His Excellency, by referring to the correspondence so often quoted, will perceive that Captain Cooper, of the American Brig Louisiana, who died at Santos, left certain effects in the possession of Aguiar, Widow, Sons & Co. - That the authori=
=ties of that place claim a duty of Ten per cent, on the value of those goods, by virtue, as they say, of a law of the Empire, subjecting property to that tax, when the owners dies, within its jurisdiction, without heirs at law. The correctness of this application of such a law has been questioned; even if the effects had really belonged to Captain Cooper: but that point is reduced

to

to mere speculation, when it is
claimed, without contradiction
as the undersigned believes, that
the property belongs to others, and
that Captain Cooper was a mere
Consignee.

The undersigned, Chargé
d'affaires, in closing these notes, hopes
that his Excellency, the Minister,
whom he has now the honor to
address, will permit him to ad-
vert to the well known maxim
in jurisprudence, that "the operations
of delay is next, and often equal
in its effects, to a denial of justice".
The principle, being generally
true, becomes peculiarly so to
the merchant; whose credit and
business so greatly depend on
promptitude and punctuality.

Believing that the
foregoing claims will derive
additional

force, with the ministers of his Imperial Majesty, favor a strict examination into their respective merits, the undersigned solicits an answer, at the earliest convenience of his Excellency the Minister of Foreign Affairs; and has the honor to assure his Excellency of his great regard, and high consideration.

Thos. L. Brown

March 7.th 1831.

To his Excellency.

M. Francisco Carneiro

de Campos.

Councillor, Minister Secretary

of State, for Foreign affairs,

&c, &c, &c,.