The Undersigned, Chargé d'Affaires of the United States of America, has had the honor to receive the two notes of the Most Excellent Sor. Francisco Carneiro de Campos, Councellor of H. M. the Emperor, Minister and Secretary of State for Foreign affairs, dated on the 26th. of April past, and on the 10th. of last month respectively; the former relating to the complaint of Francisco José de Abreu Faria, the latter ~~an~~ reply to a note of the 31st. of March last, attempting to explain certain views entertained by the Undersigned when he remonstrated in the case of the Thule.

As final Judgment has been rendered, in the latter case, in favor of the accused, by the Judicial Court, and as proceedings at law are contemplated against the Captor for damages caused by the seizure of the flour, H. Ex: will probably consider a further discussion of the subject unprofitable at this time; The Undersigned would, accordingly, confine him=

=self, on this occasion, to acknowledging the honor of the note from H. Ex. the Sec. Minister, but for the passage that continues to im=
=putes a breach of law to the Master,—
another that adverts to the Captor as a
party in the question; and, Last, the
brief answer of H. Ex.y concerning im=
=decency.

His Excellency is pleased
to observe that a certain argument referred
to would have had some weight, if there
had been no infraction of law: herein
taking that infraction for granted, which
formed the very point in litigation, and
whereof the decision of the Court of
Appeals has completely established the
innocence of the accused.

In reply to the argument
that the prohibition of intercourse was
strengthened by the fact that there was
a party, and for that reason the affair
could only be determined by a judicial
sentence, the Chargé d'affaires of the
U. States remarks that if the Imperial
Government, in order to enforce its revenue
laws, has seen proper to establish a relation

between itself and the Captor, which by
vesting the latter with the character of a
party interested in the decision of the Prize
Court, and the condemnation of the Flour,
as good Prize, thereby places the specific
property, and the process at law, beyond
the Executive authority of the Empire,
the Undersigned does not imagine that
the Imperial Government, by that act,
deprived itself of all remedial power,
present and future; nor interdicted the
owner from appealing, at any time, thro'
the medium of his own government, to
the conscience of the constituted authori-
=ties, and selected guardians of the
honor and interest of Brazil, to pre-
=vent or to redress a wrong, so grievous
and manifest.

The Undersigned,
with great respect, invites the attention
of H. Ex. the Minister to the consideration,
that whatever the interest of the Captor,
- whatever the attitude in which the
Government chose to place him before
the Judiciary - whatever irresponsibi-
=lity to the Head of the Department

the Government has thought fit to confer on him, this cannot be assimilated to a common case of litigation between two private individuals. The seizure does not lose its character, as a public act, by those internal arrangements. It was committed by a public agent, by authority of his office, under colour of law; and if not literally, at least constructively, under the eyes of his superiors: who were powerless, as your Excellency represents, to arrest the glaring injustice; as well as to prevent the Guard from attempting to legalise the plunder.

Nl. 4. The Minister is also, very respectfully reminded, that the remonstrance in this affair, which the Undersigned renewed in obedience to his instructions, was made by the U. S. Consul, on the 29th of July last, and the final sentence was rendered on the 26 of February; during which long period, the flour is said to have become worth little or nothing, from the effects of a tropical climate.

The

The Undersigned abstains from further argument, at present, on this topic; and tho' the inquiry concerning ultimate indemnity, by the Government of H. I. Majesty, may be superfluous, he indulges a hope that H. Ex. the Minister, whom he has the honor to address, will not continue to think it so very indiscreet, as the brevity of H. Excellency's reply, on this point, would seem to intimate.

The complaint of the Guardadel Alfandega from Rio Grande having been referred to the Sec. Minister of Justice, before the note of H. Ex. the Minister of Foreign Affairs of the 26th of April was delivered to the Chargé d'affaires of the U. States, the disposal there made of the memorial seemed to preclude the necessity of reply to that note. Subsequent reflection has induced the belief, that a particular notice of that communication is due to respect for H. Ex.y, and for the Chargé d'affaires himself.

His Excellency, in that note, informed the Undersigned that his duty requiring him to give it's course, (de os seguimentos,) to the com-=plaint of that Brazilian Citizen, which had not met with the deferimento claimed of M. Brown, he was going to remit the re-=querimento to the Sot. Minister of Justice, that the latter might provide as the case and justice should require: and the reason. Ex. is pleased to assign for making this communication is, because the whole respon-=ence of the Undersigned was to the act passed before the American Consul; which document Ex. charges with containing an improbability and unlikelihood, that a guarda d'Alfandega of Rio Grande, in service on board an American vessel, should voluntarily wish to come to Rio de Janeiro, without having made the necessary preparation, and without even the necessary clothing for the voyage; besides which, the said document is said to prove, "with all certainty," that the American Capitain brought away the said Empregado, without the necessary passport; from which irregularity,

H. Ex. deduces a corroboration of the verifi-
=cation presumption of the violence, which
he had inferred.

The Secr. Minister is
understood as intimating that the complaint
had not received due attention from the
Chargé d'affaires of the United States.
The Undersigned is not informed of the
extent of claim upon him the requirements
was entitled to, in the opinion of H. Ex. &c.
Having done all he thought incumbent on
him, he does not now imagine what de-
=mands was expected, unless it were
such satisfaction to the municipality, as
should induce him to withdraw his com-
=plaint. The Secr. Minister of Foreign
affairs is not, perhaps, aware that the
Complainant, at one time, demanded a
gratification of 2000$000, as a consider-
=ation for desisting from the prosecution.
It is now understood, that the reduced,
but still enormous exaction, of 600$000,
has been, submitted to; rather than encounter further
detention of the vessel and Master, and
the expense and vexation of a law suit;
and the Complainant, for that premium,

having withdrawn his charges, the vessel is gone to sea.

This compromise has led the Undersigned to reflect, that the Plaintiff seems to have been invested with the only interest in a sentence against the defendant, with the circumstances proven to prosecute or dismiss the suit at pleasure; so that the proceedings are presented in the light of a private, not a public prosecution. The redress sought being for a private, not public wrong. Or if punishment, in the latter view, were contemplated, it could only have been incidental; otherwise the government would be abandoning its dignity, so far as concerned in this case, to the discretion of the prosecutor, (a thing not to be supposed.) In fine, the action appears to have been merely personal; Yet the the person and goods of the defendant have not, alone, been held responsible. The vessel and Cargo of innocent persons, no way participating in the transaction, are parties to the suit, have been detained.

The Undersigned is not permitted to doubt, that the motives of the Regency of this

this Great Empire, and of Some of the
great Departments of its Administration,
in arresting the departure of this vessel,
were for the sole and laudable purpose
of promoting justice; but the principal
=pal object of this note being to convince
Ex. Ex. that proper regard was paid to
the communication by the writer, and that
he was incapable of treating with ne=
=glect a communication from a Minis=
=ter, for whom he entertains the highest
respect, the Undersigned does not think
the occasion requires him to be so bold
as to question the legality of that de=
=tention, against such high authority.

Ex. Ex. The Minister having
done the Undersigned the honor to in=
=form him of his intention to make the
above mentioned reference of the com=
=plaint, and assigned the supposed im=
=probability of the Captain's statement,
and the want of a passport for the guard,
as reasons for communicating that refer=
=ence to the U. S. Chargé d'Affairs,
the latter conceives himself bound by
Courtesy, and by his sincere respect

for the personal and official character
of the Sec. Carneiro de Campos, as well
as by justice to himself, to make another
attempt to persuade Ex. that he did
not take an improper view of this subject;
nor of his duty, in regard to it.

The Sec. Minister premises,
that the whole reliance of the Under-
=signed was placed on the act before
the American Consul. Ex. Excellency
also refers to the same document, and
to that alone, for evidence of the charge;
and, thence, it is presumed that his opi=
=nion coincides with that of the Under=
=signed, in considering the complain=
=ant as totally unworthy of belief — an
opinion which events have amply justi=
=fied. The Undersigned did, indeed, be=
=lieve that the sworn Statement of Captain
Gardner, confirmed by the oaths of his
mate and two seamen, contradicting
the memorial in the material par=
=ticulars, was a sufficient answer to
the naked and unsupported allegations
of an interested — Guarda d'Affandega.
From a supposed improbability in

the Captain's relation. H. Ex. has inferred
an evidence of violence, which, in his opinion,
is fortified by the want of a passport for
the guard; and the Master's Statement
is said to prove this deficiency, with all
certainty.

Notwithstanding his profound
respect for the discernment of the Secr.
Minister of Foreign Affairs, the Undersigned
is obliged to profess that he does not arrive
at the same conclusion. But even here
H. Ex. does not deny that the guard may
have had motives to quit a station, where
his emoluments must have been slender,
and to repair to this place, in hopes of
bettering his condition; where he is sup-
=posed to have found employment of
another kind. The attainment of this
object, without cost for his transportation
or subsistence, - the evasion of the charges,
and other possible difficulties in obtain-
=ing a passport - perhaps its refusal,
were probable inducements for him to
resort to the artifice, in which he has
so well succeeded. It is useless,
however, to imagine the many various

motives, when one, clearly proved, is suffi=
=cient; and that one stands manifest, in
the shameful extortion which he has
practised. His Excellency adverts to the
defect of necessary preparation and clothing
for the voyage, as directed by the State=
=ment of the Master. The Undersigned
respectfully suggests that there must be
some mistake, in supposing such an ad=
=mission to be expressed in that paper.
Besides it should remembered, that the
stores and accommodations of the brig
afforded a passage and necessaries,
free of expense, except the clothing.
Had that last item been alluded to by
the Master, it would have been easy,
as the Undersigned is told, to prove,
by the plaintiffs own declaration, that
his whole "fato," except one pair of
shoes, was on his back.

The Undersigned takes the liber=
=ty to observe, that if any law, or regu=
=lation of the Customs in Brazil, re=
=quire the master to furnish a boat
and crew, for the conveyance of guards
to and from the vessel, he believes

such

such requisition is not uniformly pra=
=ctised. In the instance here treated of,
however, the pertinacity of the complain=
=ant refused a landing, until the brig
had reached a point where it could
not be attempted without imminent
hazard - where the danger even pre=
=vented the pilot boat from attempt=
=ing to take him off.

This critical situation,
in itself, might have claimed, for Cap=
=tain Gardner, a more indulgent inter=
=pretation of his conduct, in overlook=
=ing the want of a passport; if there
=ever had, in fact, been unprovided
with one; for the Undersigned cannot
agree that the account given by the
Captain proves that deficiency with all
certainty; inasmuch as the admission
must have been inferred from his silence
on that point. Inadvertence, on his part,
would be susceptible of some excuse, as
the passport is a regulation or unknown
in practice, as it is unnecessary, in the
United States, save in particular situ=
=ations, in time of war. It has,

moreover, been supposed, that the pass-
=port is the property of the person to whom
it is granted, and out of the Master's
controul. It is probable, however, that
the guard was destitute of such a paper;
and some reasons have already been sug-
=gested for his omission to procure one.
It was, at any rate, convenient for him
to throw the blame on the Captain;
and it is no ways improbable that he
calculated, from the first, to make
the Master the victim of his extortion.
His Excellency has not adduced this
irregularity as proof, per se, of the
truth of the charge; but only as cir=
=cumstantial evidence, supporting a
presumption of intended violence; which
the Undersigned cannot admit.
The Undersigned might
enlarge upon the circumstances of the
Complainants living at free quarters,
on board of the vessel, for many days
after his arrival - his deferring his
Complaint until the Brig an time was
loaded, and had obtained her pass-
=port from the Department of the Marine;

when longer delay in proceeding to sea must have been of serious injury to the owner; but believing that no addition is necessary for his vindication, in regard to the requirements, and trusting that the Sec. Minister will ascribe the Argument of his remarks to a spirit of the most respectfull candor, he offers to His Excellency the assurance of his continued high Esteem, and distinguished Consideration.

Legation of the United States of America
Rio de Janeiro, May 10th. 1831.

Henry A. Brown.

To His Excellency
Sen. Francisco Carneiro de Campos,
Councillor, Minister and Secretary
of State, for Foreign affairs.
&c &c &c