The undersigned, Charge des affaires of The United States of America, presents his respects to The Marquis of Rhambupe, Boun-=dellon, Minister and Secretary of State for Foreign affairs, and in obedience to the orders of his Govern-=ment, which require him to re-=monstrate against every viola-=tion of the law of blockades, which may be practiced against the vessels and property of american citizens, by officers acting under the authority of the Brazilean Government, has the honour to call the attention of Excellency, to the following two cases of capture.

The Swedish and Neutral brig Anders, Haegen Master chartered by an american ci-=tizen resident at Malaga, and laden with a cargo whol-=ly american property, was captured on the 19th of November

last, in sight of Cape St Mary's,
by a Brasilean vessel of War,
sent into Monte Video, and de
subsequently to this Port, where
she arrived on the 26th of December.
This vessel was bound from the
said Port of Malaga to Buenos
Ayres, under a stipulation, that
in case on her arrival in the
River Plate, that Port should
be found still to be blockaded,
she was to proceed to Monte Video.

The American brig Matilda,
of New York, Marshall Master,
bound from that Port to Monte
Video, was captured on the
22d of November last, by the
blockading squadron in the
River Plate, and after having
had her crew taken out, as
in all the former cases, in
violation of the immunity of
the American flag, was sent
to this Port, where she arrived
on 26th ultimo.

A copy of the protests

of the masters of these two vessels will be found enclosed, by which His Excellency will perceive, that neither of them had received the previous warning requisite by the laws of nations to establish the validity of a capture for a breach of blockade. The Undersigned therefore cannot doubt but that His Imperial Majesty's Government will speedily adopt in relation to these cases those just and equitable measures, which are so confidently expected by the Government of the United States.

The Undersigned is aware of a difficulty which may possibly appear to His Excellency to stand in the way of a prompt decision in regard to these measures. It is the opinion of some, that in matters pending before the Judicial tribunals of the country, the

Executive Department has no
power to interfere. This idea,
founded no doubt upon the
article of the Constitution which
establishes the independence
of the different branches of the
government, has been suggested
in correspondence with the Un-
=dersigned, at different times
by several Ministers of His Im-
=perial Majesty's Government,
and was once maintained
by Counsel learned in the law
before the Supreme Court (Casa
da Supplicação) in the case
of an attempt by judicial
process, to eject the Undersigned
from his dwelling house. As
the Undersigned conceives, that
a right understanding of this
important subject, may be
the means of removing the causes
of dissatisfaction which now
exist, and which may prevent
a true and lasting harmony
between Brazil and the United

States, he will take the liberty of advancing his individual sentiments upon it, with the assurance, that should he not be so happy as to carry conviction to the mind of his Excellency, he will listen with great deference to any arguments which He may be pleased to advance in opposition to them.

The relation in which Governments stand towards each other, is like that of individual towards individual, each however having a code of laws peculiar to itself. The laws which define and regulate the rights and obligations of individuals, as respects each other and their government, are called municipal laws. Those which regard communities a States, are called the laws of nations.

All governments must needs regard each individual Go-

=vernment as One and Integral,
without any reference to its
peculiar form. as the former
have no right to interfere with
the internal organization of
an Independent State, so on the
other hand, are they not liable
to have any of their rights vi=
=paired, by any changes which
the latter may think proper
to make in the same.

A Constitution a Charter
introduced into a State where
an arbitrary government before
existed can only alter the rela-
=tions which Subsist between
citizen and citizen and between
these and their government. It
can have no influence beyond
the jurisdiction of the muni-
=cipal laws, and cannot in
any degree affect the interests
of foreign nations or individ=
=uals. To suppose the contrary
would be to suppose that a
single nation possessed the

power to make laws obligatory upon all — which would be manifestly absurd.

If these positions be true, it follows, that the relations between Brazil and Foreign States, have not been changed by her new form of government. The obligations which she owes to other nations, and the rights which these latter possess, are the same now, as they formerly were, and as they would be under an arbitrary government. The reasoning therefore, which is applicable to one case, is applicable to the other, and the mere fact of the division of the political powers, into a number of independent branches, can only be regarded as a measure of internal arrangement, for internal convenience. It is therefore only necessary to see how the case stands with nations, which have no di-

vision of the political powers
in order to form a correct judg-
=ment in relation to the matter
under investigation.

Governments can only come
into contact by the instrumen-
=tality of their citizens, and as
these have not ~~the right or a~~
the right or the power in divi-
=dually to redress themselves for
injuries inflicted by foreign
governments, they must appeal
for satisfaction to the Sovereign
authority of their respective Na-
=tions. Governments are responsi-
=ble for the conduct of those who
act under their authority. Qui
facit per alium, facit per se,
is as true of States as it is of indi-
=viduals, and hence arises
the chief necessity of diplomat-
=ic missions and correspondence.
Now, without any absolute di-
=vision of the political powers,
there must of necessity be, in
every Government, whatever

form it be, a distribution of employments. There must be a Department for the promulgation of laws — one to judge of, and punish, their violation — and one to superintend the affairs, foreign and domestic, of the Nation. By this distribution, the external relations of a government are always placed in the hands of the Executive Department, which is thereby invested in whole or in part with a species of legislative power, such as is exercised in the making of treaties. With this branch of a Government is it, through the Minister of Foreign Affairs, that foreign States negociate and correspond, and to which alone, they address all their complaints, for injuries inflicted upon their citizens. With other branches of the government, foreign nations have no concern. —

They are not bound to apply for the redress of wrongs, to the Legis=lative department, or to the Judicial, and if their just demands be not complied with, if their appeals to the laws of nations in a just cause, be not regarded — an appeal to the ultima ratio, as well of people as of kings, becomes their political right. To suppose, that the Executive power would not be competent to interfere in a case pending before the Judiciary, naked up=on such interference might defeat the salvation of the state, would be to suppose the exis=tence of a Government so badly constituted, as not to possess even the very elements of a self=preserving principle.

It is true however, that a regard for the convenience of each other, and a belief that justice will be best ad=

=ministered by the Sovereign,
through the instrumentality
of tribunals before which facts
may be minutely investiga=
=ted, have caused among=
=nations a general acquies=
=cence in the adiciary proces
of Courts of admiralty. This ac=
=quiescence however, is not
founded on any supposition,
that such Courts are Indepen=
=dent of the Executive Power. They
are too well known to be the
mere organ of that Power, and
the channel by which it de=
=clares its sentiments and its
policy towards other States.
In Great Britain, these Courts
are bound to execute the Sov.'s
Orders in Council, whilst in
other States of Europe, the sim=
=ple mandate of the Sovereign,
constitutes the law.

It is true that in adiu=
=ry cases involving simply
questions of fact, a direct

interference of the Executive may not be necessary. Foreign ~~Governments~~ are not disposed to com-
=plain except where principles sanctioned by the usage of nations are violated, & where Justice is too tardily rendered, as happens with governments which are not actuated by a true spirit of equity, or which calc-
=ulate upon the weakness or the forbearance of the injured Party.

If these arguments be sound, it is evident, that in Brazil, the Executive Depart-
=ment has the power to inter-
=fere in matters relating to Foreign nations & their citi-
=zens, which are pending before her Courts. Indeed the right of a direct interference with the Judicial branch of the Government, has already been recognized, by His Excellency,

in the case of the ejectment above
referred to, wherein the Minister
of Foreign affairs, he issued an
official order for the discontin-
=uance of the suit, and the
suppression of all judicial
proceedings.

But independent of this
right to interpose, it is in all
cases the duty of the Executive
in every country, to see that
justice be administered to For=
=eigners without unreasonable
delay. The damages and ex=
=penses which accrue to ships
and cargoes must always be
multiplied by detention, and
there, if the vessel be condemn=
=ed add to the original loss
of the captured, and if ac=
=quitted to the amount for
which the captors and then
government are liable. The
case of the American ship
Sperno, and Brig Pickerage
present a calamitous example

of the march of justice in this Empire. They have both been pending more than two years, during the whole of which time, the owners have been obliged to maintain special agents in this country, whose unwearied exertions to procure redress by the ordinary process of law, have due to this day been unavailing, whilst they have incurred a mass of expenses, which can never be refunded by the decisions which must ultimately be given in their favour.

The Undersigned in former communications, addressed to the Government of His Imperial Majesty, has endeavoured to explain the rules established by the laws of nations, respecting blockades, and has remonstrated against their violation, in regard to American vessels. In this communication, he

has undertaken, and he trusts with success, to shew, that the interference of the Government in those cases, is not only a right, but a duty, and in urging his arguments, he appeals not only to the justice of Brasil, but to her feelings as an American Power, equally interested with the other States of this hemis-=phere, in the preservation of the true principles of Publick law.

He therefore cannot but be persuaded, that the claims of the United States will be listened to in a spirit of equity as well as of conciliation, and that the cases of the American vessels now under detention, will meet with the early and favourable decision to which they are entitled.

The Undersigned offers to His Excellency, &c.-=or this occasion, the renewed

assurance of his esteem and
consideration.

Lord Ponsonby

Rio de Janeiro.
January. 17. 1827.