

John Quincy Adams to Andrew Jackson, October 26, 1821, from Correspondence of Andrew Jackson. Edited by John Spencer Bassett.

SECRETARY ADAMS TO JACKSON.1

1 Jackson MSS.; printed in *Am. St. Pap., Misc.*, I. 818.

Department of State, October 26, 1821.

Sir, I have had the honour of receiving your Letters of 30 July, 26th August, and 1st September, with their respective enclosures, which have been submitted to the Consideration of the President of the United States.

I now enclose copy of a Letter which I have by his direction written to Judge Fromentin,² informing him that it was understood and intended that his Jurisdiction should be confined to the execution of the only Laws of the United States which by Act of Congress had been extended to the territories of Florida, namely the Laws relating to the revenue and its collection, and to the Slave trade. In the execution of these laws, which are of a nature entirely distinct, from those of Spain, operating in the Provinces, the President is of opinion that he should be amenable only to the Government of the United States.

² Judge Fromentin wrote several long letters to Washington defending his position with reference to his controversy with Jackson. They are to be found in *Am. St. Pap., Misc.*, II. 833–848. Secretary Adams's reply, Oct. 26, 1821, which disposed of the affair so far as the judge was concerned, was as follows (*ibid.*, II. 848):

Library of Congress

"I have had the honour of receiving your letters of 20th, 26, and 28th Augt., 6, 8, and 21 Sepr. with their respective enclosures, All which have been submitted to the President of the United States.

"I am, directed by him to inform you, that the Laws of the United States relative to the Revenue and its collection, and those relating to the Slave trade, having been the only ones extended by Act of Congress to the territories of Florida, it was to the execution of them that your Commission as Judge of the United States was considered and intended to apply. The President thought the authority of Congress alone competent, to extend other Laws of the United States to the newly acquired territories, nor could he give to the Judge a Jurisdiction which could only be conferred by *them*. There being an essential difference between the nature of the powers, heretofore exercised, by the Spanish authorities in those provinces, which were continued in force, by the Act of the 3d of March last until the end of the next Session of Congress, unless a temporary government should be sooner established over them, and of the laws of the United States, which were extended to those provinces by that law, the President considered it his duty to entrust the execution of each branch, to officers specially appointed for the purpose. In the execution of these laws, in your judicial Capacity the Governor has been informed, that you are considered amenable only to the Government of the United States.

"In the different view which you have taken of the subject, he is persuaded that your motives and intentions were entirely pure, tho' he deeply regrets the collision of authority and misunderstanding which have arisen between the Governor of the Territory and you."

I enclose also translations of a Letter from Mr. Salmon the Charge d'Affaires of Spain, and of a Statement by Coll. Callava, relative to the arrest and detention of his person, and the forcible seizure, and abduction, under your authority of certain papers, which were in his possession, with a Copy of the answer given to the Letter of Mr. Salmon.³ Before an ultimate answer shall be given to the Spanish Minister, upon this complaint, the President has thought it proper to transmit these documents to you, with the purpose of receiving

Library of Congress

any remarks either in relation to the facts alledged, or to the principles asserted in them which you may think the occasion requires.

3 Am. St. Pap., For. Rel., IV. 767–779.

Appretiating, as the President does, the sense of duty under which you felt yourself compelled to resort to these measures, and the objects of high and impartial Justice, to which they were in your estimation rendered indispensable, I am directed particularly to invite your attention, to the following circumstances represented in these papers.

1. That Coll. Callava, claimed as of right the immunities, with reference to his person, to his dwelling house, and to his papers, which by the customary Laws of Nations belong to public Commissioners appointed to negotiate or to execute Treaty stipulations between Nation and Nation.
2. That you had transacted business with him in the Capacity of a public Commissioner, as late as the 3d of August, three weeks after the day on which the surrender had been made of the Territory.
3. That the papers finally seized by your orders, had never been officially demanded, and that he had offered to deliver them or give adequate security that they should be delivered, if they should prove to be of the description of papers stipulated by the Treaty to be left in the Territory.
4. That at the time when he was forcibly brought before you, and required to submit to examination upon interrogatories, neither the questions asked of him, nor his answers were correctly interpreted.

It is proper to apprise you that in the opinion of the President, so far as Coll. Callava, could justly claim the rights of a Commissioner for the surrender of the territory, he was entitled to all the immunities, which might be necessary for the execution of his trust, and

Library of Congress

which the Laws of Nations recognize as belonging to public Ministers. As authority for this opinion I refer you to Vattel,⁴ Book 4, ch. 6, s. 75, and ch. 9, s. 125.

4 E. de Vattel, *Droit des Gens* (1758, Eng. trans. 1760, etc.).

A different sentiment appearing from your Letter of the 26th august to have been entertained by you, it would be satisfactory to learn upon what grounds it had been taken up, or if the privileges incident to this immunity had in your view ceased, it is desirable to know the considerations upon which you had so deemed of them, the view taken of them in the Answer to the Note of Mr. Salmon, admitting the right only in general terms, and inferring that they had ceased by the act of surrender, and of reasonable time for departure, as well as by the limitation of the time for the surrender stipulated in the Treaty.