

MR. ROWAN'S

MOTION,

FOR

AN INQUIRY INTO THE CONDUCT

OF

HARRY INNIS

DISTRICT JUDGE OF THE UNITED STATES

FOR THE

DISTRICT OF KENTUCKY.

MARCH 21, 1808.

Ordered to lie on the table.

CITY OF WASHINGTON:

A. & C. WAT, PRINTERS.

.....
1808.

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MOTION.

RESOLVED, That a committee be appointed to inquire into the conduct of Harry Innis, district judge of the United States for the district of Kentucky, relative to his having, whilst in the tenure of his office aforesaid, been *party* or *privy* to a project, on the part of Spain or her subjects, to dismember these United States, or to the seduction of the state of Kentucky from this union; or relative to his having been party or privy, during the time aforesaid, to a project of France or her citizens, to embroil these United States in a war with Spain, or relative to his having illicitly corresponded with both or either of the governments aforesaid, or their subjects or citizens, upon one or both the projects aforesaid; or relative to his having known and concealed from this government one or both the said projects: and that the said committee have power to send for persons, papers and records; and that they report whether in their opinion the said Harry Innis hath so acted relative to all or either of the subjects aforesaid, as to require the interposition of the constitutional powers of this house.

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FRANKFORT, February 27, 1808.

SIR,

BY direction of the legislature of this state,
I have the honor of enclosing to you a resolution
respecting the honorable Harry Innes; the copy of a
letter from Joshua Barbee to said Innis, and a copy of
the report of the select committee appointed to inquire
into the conduct of Benjamin Sebastian, to which you
are requested to give your attention.

I have the honor to be,
With due regard and consideration,
Your obedient servant,
CHRISTOPHER GREENUP.

Hon. JOHN ROWAN.

IN GENERAL ASSEMBLY,

FEBRUARY 17, 1808.

Resolution respecting the honorable Harry Innis.

WHEREAS the house of representatives did at the last session, appoint a committee to examine into and report on the conduct of Benjamin Sebastian, one of the judges of the court of appeals of this state, in relation to the said Sebastian being a Spanish pensioner, while holding his office aforesaid, in which report there were circumstances implicating HARRY INNIS, a district judge of the court of the United States in and for the Kentucky district, as detailed by himself when called on as a witness on the part of this commonwealth against the said Sebastian, and these circumstances in the conduct of the said Harry Innis, are deemed sufficient by the present general assembly to call forth the public expression of their opinion; therefore,

Resolved, By the senate and house of representatives, that an inquiry ought to be instituted by the constituted authority into the conduct of the said judge Innis; and also,

Resolved, That the governor be requested to transmit to each of the representatives of this state in the congress of the United States, a copy of said report, as also a copy of a letter from Joshua Barbee to the said judge Innis, dated Danville, January 4th, 1807, together with these resolutions, to be laid by them before the house of representatives in congress, and that

our said representatives from this state do request an inquiry to be made into the conduct of said judge Innis.

HENRY CLAY,
Speaker of the house of representatives.
GREEN CLAY,
Speaker of the senate, pro tem.

Approved, Feb. 19, 1808.

CHRISTO. GREENUP,
Governor of the commonwealth of Kentucky.

By the governor,

ALFRED W. GRAYSON, secretary.

I, William C. Greenup, secretary of the state of Kentucky, do certify the foregoing to be a true copy from the original enrolled resolution filed in my office.

Given under my hand and seal of office
this 26th day of February, 1808.

WILLIAM C. GREENUP.

Copy of a letter from Joshua Barbee to Judge Innis.

DANVILLE, January 4, 1807.

SIR,

IN answer to your's of the 19th ult. wherein you say a piece had appeared, addressed particularly to you, in the *Western World*, and among other things had charged you with being instrumental in aiding and sending three men with secret dispatches for gen. Wilkinson to New Orleans, in the spring of 1788, in a canoe, I have to observe, that at your instance, I went to Wilkinson's about the 1st of March, 1788, that he employed me to go in a canoe with two others to New Orleans, that we left his house in

Woodford county, and took water at gen. Scott's, about the 20th of the same month; that we went to New Orleans, and while there I delivered letters or packets to the governor and Daniel Clarke, (now deceased) having on our way down called at Natchez, where I delivered one to the commandant at that post, that these letters or packets (whichever they were) were handed to me and I believe written by Wilkinson.

You request me to state particularly what agency you had, if any, in the business; also, whether there were any secret injunctions given me by you, in your presence or by any other person. The only agency that I know of was that of informing me that Wilkinson wanted to employ a person on whom dependence might be placed to make the tour aforesaid, and that if I was disposed to be employed I must go to Wilkinson and make my bargain with him; after which I do not recollect our speaking on the subject, and as to the secret injunctions, if I had any they were not given by you nor in your presence, consequently not pertinent to your case.

It having become too common to publish letters of this kind, and without an objection being made known to you, this might make its appearance in a newspaper. I cannot consent to this letter being published, as I have objections to my name becoming the subject of comment and animadversion.

I am, sir, your's, &c.

JOSHUA BARBEE.

A copy,

Att.

WILLIAM C. GREENUP.

Secretary.

STATE OF KENTUCKY, *sc.*

I, Christopher Greenup, governor of the commonwealth aforesaid, do certify all whom it may concern, that William C. Greenup, esq. who attests the resolutions respecting an inquiry to be made into the conduct of the honorable Harry Innis, judge of the district court for the district of Kentucky, was at the time of attesting the same, and still is the secretary of the state aforesaid, duly commissioned and sworn.

In testimony whereof, I have caused the seal of the said commonwealth to be affixed to these presents.

Given under my hand, at Frankfort, this
27th day of February, anno domini
1808, and in the sixteenth year of the
commonwealth.

CHRISTO. GREENUP.

By the governor,

WILLIAM C. GREENUP, secretary.

REPORT, &c.

STATE OF KENTUCKY.

In the House of Representatives,

December 6, 1806.

MR. POPE, from the select committee appointed to inquire into the charge against Benjamin Sebastian, one of the judges of the court of appeals, reported the following resolution, viz :

. The committee, to whom was referred the information communicated to the House, charging judge Sebastian with having received a pension from the Spanish government, have had the same under consideration, and report that they have with circumspection and attention, examined the various evidence brought before them, which is as follows :

THE evidence given on the inquiry into the charge against Benjamin Sebastian, esquire, one of the judges of the Kentucky court of appeals, before a special committee, appointed by the house of representatives for that purpose, on the 27th day of November, 1806.

Mr. Thomas Bullitt, of lawful age, being first duly sworn, deposed, That in the year 1800 or 1801, he was spoken to by judge Sebastian, to receive money for him at New Orleans, which, he said, was coming to him annually ; and upon his, the said Bullitt, agreeing to do so, judge Sebastian gave him a draft on Don Andre Armisto, not as an officer, but in the form which drafts are commonly drawn for money, without a consideration stated : which draft he

forwarded by a Mr. Smith, and was paid off; and that judge Sebastian informed him, that he drew two thousand dollars *annually for life*, in consequence of his, the said Sebastian, having been active in some commercial arrangements with the Spanish government, and the people of the western country; and that in the year 1802, he also got a second draft from judge Sebastian, for two thousand dollars, which was presented and paid. He also said that he had seen a letter from governor Carondelet to judge Sebastian, requesting him, the said Sebastian, to appoint an agent or agents to meet Gayozo at Madrid; which letter was dated previous to the drafts; and in consequence of which letter, judge Sebastian said he was induced to take his first trip to New Orleans. Mr. Bullitt, upon being interrogated whether this letter did not go to implicate judge Sebastian, as an officer under Spain? he answered in the negative. Mr. Bullitt also stated, that judge Sebastian told him, that while he was making those commercial arrangements, (for which he became entitled to the annuity) a courier arrived at New Orleans, giving information of the negociation of peace between America and Spain, which put a stop to the arrangements. Mr. Bullitt was also interrogated whether or not the annuity spoken of, was in consequence of any *monied* or property consideration? he answered, that he understood that it was in consequence of judge Sebastian's own personal services, in bringing about the before mentioned commercial arrangements.

Examined and signed by,

THOMAS BULLITT.

Mr. Charles Wilkins, being duly sworn, deposed, That in the fall of 1804, he went to Natchez, and on examining the papers of John A. Seitz, deceased, deposited in the house of J. and C. Wilkins, at Natchez, found among them a draft on "The Spanish gover

nor at New Orleans, or any other person authorized, drawn by Benjamin Sebastian, for the amount of his, the said Benjamin Sebastian's *pension* ;" but did not recollect the date of the draft. Mr. Wilkins being interrogated whether or not the word "*pension*" was made use of in the draft ? he answered, that he was confident it was. Mr. Wilkins was also asked, if Don Andre Armisto was not the secretary to the colony of Louisiana ? he answered that he was. It was also inquired of Mr. Wilkins, if the hand writing of the draft and the letter produced by him, did not appear to be the same ? he also answered that it did appear to be the same.

Examined and signed by

CHS. WILKINS.

The letter referred to in the foregoing deposition, is in the following words and figures, to wit :

LOUISVILLE, February 18, 1804:

DEAR SIR.

The intelligence of your having safely arrived at Natchez, about a month ago, gave me very considerable pleasure, not only because you were thus far secure from the dangers of a hazardous voyage, but also that you would soon have it in your power to determine whether the application to be made on my account would be productive or not. As this subject is all-important to me, and, of course, I feel considerable solicitude about it ; the sooner you can inform me of the true situation of the business the better ; for if you succeed, I shall be eased of a great weight of anxiety ; and if you do not, I must immediately make the necessary preparations to descend the river myself, for the purpose of collecting proof of my situation, and lay a statement of the business before the minister. If the person who was authorized to have transacted this affair in N. O. should be gone hence,

before you arrive there, it is probable the application must be made at the Havanna; and if this idea had suggested itself to you, I have flattered myself that *that* circumstance would hasten your departure from Natchez; or that you would devise some mode whereby application at N. O. might be made, through the agency of some confidential person. Accept the warmest wishes for your prosperity and happiness, of your sincere friend, and humble servant,

BEN. SEBASTIAN.

Messrs. Jos. H. Daviess, Thomas Bullit, John Allen, and John Pope, proved that the body and the signature of the said letter, was in the hand writing of judge Sebastian.

Mr. James T. Martin being also duly sworn, deposed as follows: In the year 1805, I received from the agent of Messrs. John and Charles Wilkins, at Natchez, a trunk, delivered me as the property of the late John A. Seitz, who died at Orleans, in July, 1804. The trunk contained a number of papers relative to the concern of said Seitz; among which I discovered a draft was signed "Sebastian," as the drawer; but I did not know the hand writing of judge Sebastian; nor am I confident that it was signed Benjamin Sebastian; but I recollect perfectly the substance of the address of the draft is contained, and I believe expressed in the following words: "To the proper officer in the Spanish government for paying off such claims."

The trunk that contained the above paper, I forwarded to John Clay, in New Orleans, in October, 1805, accompanied with a letter, in which I requested him (as well as I recollect) to give it the first conveyance to Mr. Francis West, of Philadelphia.

Signed,

JAMES T. MARTIN.

*Before the committee on the inquiry into the charge
against judge Sebastian, November 28, 1806, A. M.*

Mr. Thomas Bullitt was again called upon, and stated on oath as follows : That the letter spoken of yesterday by him from the baron of Carondelet, to judge Sebastian, was on the subject of commercial arrangements, and that the name of Mr. Innes, Mr. Nicholas, and some other person not recollected, were in it ; and who were requested jointly with judge Sebastian to appoint an agent or agents to meet Gayoso at Madrid ; and that commercial arrangements appeared to be the only object of that letter ; and that judge Sebastian informed him, that he, the said Sebastian, insisted on the articles of their commercial arrangements being signed, stating that the treaty might not be ratified ; and if it was not, they would have their operation ; and if it was, they would do no harm. The governor answered, he would not do any thing farther in the business.

Examined and signed by

THO. BULLITT.

His excellency C. Greenup, esquire, was duly sworn, and deposed as follows : That he knew nothing of judge Sebastian's receiving money from the Spanish government, until yesterday, on the receipt of judge Sebastian's resignation, in which he stated the commercial arrangements, and the money which he had received in consequence of them ; but that he saw a memorial in 1799 or 1800, concerning a negotiation with Spain for a grant of land, in which memorial some expressions were contained like the following : That the memorialists were dissatisfied with their government, and were more pleased with the mild and pacific government of his Catholic majesty ; and that judge Sebastian told him, that the baron of Caronde-

let assured him, the said Sebastian, that upon a proper company being formed, a grant of land would be made to them.

Examined and signed,

CHRISTO. GREENUP.

Mr. Richard Steele was also duly sworn, and deposed, That the memorial alluded to by governor Greenup, was drawn up by judge Sebastian, as he conceived from the hand writing and conversation which he had with judge Sebastian on that subject; and that he, as one of the company, did refuse to have any thing farther to do with it, in consequence of its stating that the memorialists were dissatisfied with the government of their country, and were more pleased with the government of Spain; which expressions were afterwards, at a meeting of the company, expunged; and then judge Sebastian refused to be their agent, or to have any thing more to do with it, in consequence of those expressions in the memorial being stricken out. Mr. Steele also stated that Messrs. Grayson, of Bardstown; A. Steele, of Shelbyville; doctor F. Ridgely, now of Woodford county; and the late John A. Seitz, then of Lexington, are directors; and that upon judge Sebastian's withdrawing from the company, doctor John Watkins was appointed agent to carry the scheme into effect.

Examined and signed by

R. STEELE.

Mr. Wingfield Bullock, being also sworn, deposed, That he was one of the memorialists spoken of by Mr. Steele, and at a meeting of a company held at Frankfort, previous to the one alluded to by Mr. Steele, it was proposed to strike out of the memorial the expressions of their being dissatisfied with their government, and were more pleased with that of

Spain; which proposition was warmly opposed by judge Sebastian; and upon which he withdrew his name, and had nothing more to do with the company.

Mr. Daniel Weisiger being also duly sworn, deposed, That he was administrator with the honorable Harry Innes, of the late Samuel M. Brown, deceased, and then judge Sebastian had a claim against the estate of the said Brown, amounting to about \$ 1,500, which he, the said Sebastian, informed him was sent by some person from New Orleans, for the support and education of his son, then at judge Sebastian's, over whom judge Sebastian had the controul; and that a Mr. Griffeth, who came up from New Orleans with the said Brown's boat, accounted to judge Sebastian for 300 dollars, part of the said 1,500 dollars; and that the balance remained unaccounted for, as the estate of Brown was insolvent.

The deposition of Harry Innes, who being sworn, deposeth and answereth to the following questions :

Do you, or do you not know of Mr. Sebastian's receiving money from the Spanish government, or of any officer of that government; and at what times?

Have you any knowledge of any negotiation, which was entered into, or attempted by Mr Sebastian and the Spanish government at New Orleans, or with any officer of that government? If you have depose as to these facts.

Answer to the first interrogatory: The deponent saith, he hath very little knowledge; and that the first intimation which he ever received upon that subject was from Mr. Wilkins, in Lexington, some time in August last; that as Mr. Wilkins has deposed to the fact, and any thing detailed by this deponent as coming from that gentleman would be hearsay, the deponent conceives it improper to relate it; that Mr. Wilkins informed this deponent of a letter signed by Mr. Sebastian, which he had in his possession, and which he found among the papers of Mr. Seitz, rela-

tive to a money transaction, which he promised to shew this deponent, and give him a copy ; that the next day Mr. Wilkins shewed the original letter which was signed with Mr. Sebastian's name, but had no direction, it being supposed to have gone under a cover ; which letter this deponent, from his knowledge of Mr. Sebastian's hand writing, believes to be his ; and Mr. Wilkins gave the promised copy after comparing.

This deponent further states, that he had no communication with Mr. Sebastian, after receiving the said copy, till the Saturday of the first week of the session of the court of appeals, in October last, when in an interview in this town, this deponent mentioned the information he had received from Mr. Wilkins, respecting the bill for a pension, and shewed him a copy of the letter. Mr. Sebastian read the letter, said he had no recollection of having written such a letter, and acknowledged that he had given Mr. Seitz the bill ; and then observed, that the pension had been given to him, in consequence of the business which induced him to go to New Orleans in 1795.

Answer to the second question. I have. But before this deponent proceeds to answer the question, he requests to be indulged with making some preliminary observations on the state of the public mind in this country in the year 1794, respecting the navigation of the Mississippi. This deponent observes, that it must be known and recollected by some of the committee, the violent heat that pervaded this state, arising from the publications and proceedings of the democratic society in Lexington, and some other places ; that it must be known and recollected that the French minister, Genet, had sent his emissaries to this state to excite the people of Kentucky to offensive measures against the Spanish province of Louisiana ; that officers were appointed to command an army to be raised for that purpose ; and that report said it was to consist of two thousand men. The truth of these

facts, the deponent has no doubt, can, if necessary, be proved ; and this deponent is of opinion that the proceedings of the people in the western country induced Spain to accede to the treaty at the time she did.

The deponent further states, that such was the heat of the public mind at that period, respecting the navigation of the Mississippi, that he avoided all the meetings of the democratic societies, lest their measures should lead to acts which would attract the notice of the general government, and prosecutions be instituted, which could only be done in the court in which this deponent presides.

That this deponent is convinced that the anxiety which appeared to pervade this state at that period, as expressed by the democratic societies, induced the president of the United States to send a messenger, to wit, colonel James Innis to this state, to communicate through the executive to the people of Kentucky, the situation of the pending negotiation between the United States and Spain, respecting the navigation of the Mississippi ; that the messenger arrived in this place on the 25th day of December, 1794, and in the course of that winter made a communication to governor Shelby, and that this communication quieted the public mind for the present. That the harvest of 1795 was very abundant ; and in the fall of that year, a general murmur pervaded the people of this country respecting their crops, on account of the probability of having no opportunity of exporting their produce the ensuing season ; that some time in November, or early in December, 1795, this deponent and William Murray, esq. received a letter from Mr. Sebastian, requesting us to meet him at col. George Nicholas's house in Mercer county, on a day stated in the letter, observing that he had business of importance to communicate, which related to us all. This deponent and Mr. Murray went to col. Nicholas's, where we were met, agreeably to appointment, by Mr. Sebastian,

who submitted to us a letter he received from the baron de Carondelet, then governor of Louisiana, to which this deponent refers, and makes a part of this deposition, in the words and figures following :

“ New Orleans, July 16, 1795.

“ SIR,

“ The confidence reposed in you by my predecessor, brigadier general Miro, and your former correspondence with him, have induced me to make a communication to you, highly interesting to the country in which you live, and to Louisiana.

“ His majesty being willing to open the navigation of the Mississippi to the people of the western country, and being also desirous to establish certain regulations, reciprocally beneficial to the commerce of both countries, has ordered me to proceed on the business, and to effect in a way the most satisfactory to the people of the western country, his benevolent design.

“ I have, therefore, made this communication to you, in expectation that you will procure agents to be chosen and fully empowered by the people of your country, to negotiate with colonel Gayoso on the subject, at New Madrid, whom I shall send there in October next, properly authorized for that purpose, with directions to continue in that place, or its vicinity, until the arrival of your agents.

“ I am, by information, well acquainted with the character of some of the most respectable inhabitants of Kentucky, particularly of Innes, Nicholas and Murray, to whom I wish you to communicate the purport of this address, and should you and those gentlemen think the object of it as important as I do, you will doubtless accede, without hesitation, to the proposition I have made of sending a delegation of your countrymen, sufficiently authorized to treat on a sub-

ject which so deeply involves the interest of both our countries.

“ I remain with every esteem and regard,

“ Sir,

“ Your most obedient humble servant,

“ THE BARON OF CARONDELET.”

The deponent further states, that, after deliberating on the contents of the letter, it was the unanimous opinion of the four persons referred to in the letter, that from the situation of the pending treaty between the United States and Spain, of which no communication had been received for near twelve months, and the uncertainty when it would terminate; that as it was a subject in which all the western people were greatly interested; that as it had excited great heat in the minds of the people of this country; that as we had no power to appoint agents to meet col. Gayoso, as was requested; that, under these existing circumstances, it would not be prudent to communicate the subject matter of the letter; yet, that it was adviseable to know what was the object of the Spanish government upon that important subject. To accomplish this object it was thought adviseable, that, as the communication was made to Mr. Sebastian, he ought to meet colonel Gayoso; and, in consequence of this opinion, Mr. Sebastian descended the Ohio. On Mr. Sebastian's return from New Orleans, in 1796, he informed this deponent colonel Gayoso was at the mouth of the Ohio river, waiting an answer to the baron's letter; that the severity of the weather induced them to go to New Madrid, where a conference took place on the subject of the letter; that, among the concessions which were stipulated, Gayoso proposed to reduce the duty of six per cent. import and six per cent. export, amounting to twelve per cent. to four per cent.; that he, Mr. Sebastian,

insisted that, as the Spanish government had come forward upon the principle of conciliating the people of the western country, no duty ought to be exacted from them, because they claimed as a right, the free and undisturbed navigation of the Mississippi river. Finding Gayoso fixed and immovable on that point, he proposed to go to New Orleans, and refer the point in dispute to the governor general, which being acceded to, he descended the river to New Orleans with colonel Gayoso. Upon their arrival at New Orleans, the governor had a private interview with Mr. Sebastian, and requested information as to the point in dispute between him and colonel Gayoso. Mr. Sebastian stated the demand of four per cent. import, to which the governor replied, that colonel Gayoso was wrong, and that he would release it, as the plan was altogether conciliatory, but observed, that he was then pressed by public business, yet would attend to him on a particular day, which he named; that a day or two preceding the time fixed for the interview, he received a message to immediately wait on the governor. Upon repairing to the government house, the governor informed him that a courier had arrived from the Havanna, informing that a treaty of friendship, limits, and navigation, had been entered into by his catholic majesty and the United States, which put an end to their business; that Mr. Sebastian then shewed this deponent a paper in his hand writing, containing the concessions which had been stipulated by Gayoso, and which he believes is the same paper now in his hands, and here presented to the committee, which is in the words and figures following :

“ His catholic majesty having taken into consideration the relative situation of his province of Louisiana and its dependencies, and that part of the United States of America lying west of the Apalachian mountains, and being of opinion that a commercial intercourse between the two countries will be productive of the harmony and reciprocal interest thereof, has

been pleased to concede to the people of the said western country, during his pleasure, the following privileges :

“ 1. The people of the western country shall henceforth freely use, and exclusively enjoy, for the purpose of commerce, the navigation of the river Mississippi, and all the ports and places thereon, under the government of his catholic majesty, subject to the same regulations and restrictions, and no other, by which the commerce of the subjects of his catholic majesty is now governed. And whereas, the people of the said western country are now subject to the payment of six per centum ad valorem on all the produce of the said western country, imported into the government of Louisiana and its dependencies; and also to the payment of the same duty on the exportation thereof; and his majesty being willing to remove every obstacle to that friendly intercourse which he is desirous to establish and maintain with the said western people, does hereby concede that the said western people shall hereafter be subject to the payment of a duty of four per centum only, whether the produce imported be disposed of in the markets of Louisiana, or exported to foreign markets; and that the duty to be thus paid by the said western people shall be regulated by the valuation of their produce hereto annexed :

“ 2. That there may be no obstruction or impediment to the fullest and most advantageous enjoyment of the privileges hereby granted to the people of the said western country by his catholic majesty, such of the western people as may choose to reside in the government of Louisiana, for the purpose of carrying on commerce, shall henceforth be permitted to acquire, by purchase or otherwise, both real and personal property in any port or place on the said river Mississippi, or at any other place within the government of the said province of Louisiana and its dependencies, and shall be protected by the said government in the enjoyment thereof, the said residents be-

ing amenable during their residence to the same laws and regulations by which the subjects of the said province are governed ; and, should the said residents, or any of them, die in the said province, or think proper to remove to the United States, or elsewhere, their property, both real and personal, shall, in the first case, be disposed of according to the will of the decedent, and, where no will has been made, shall descend to, and be distributed among the legal representatives of the deceased, agreeable to the laws of the said province, and in the last case, the removing resident shall have the liberty of disposing of the absolute estate, in the whole or any part of the property which he has either carried to, or acquired in the said province, and to transport the proceeds thereof free from duty to any part of the world.

“ 3. His catholic majesty, to evince to the said western people his disposition to encourage the commerce of their country, hereby permits them, when they cannot get a satisfactory market for their produce in the province of Louisiana or its dependencies, to export the same to the Havanna, or to any other port or place, either in the United States or Europe, and the said produce being exported to the Havanna, or to any of the said ports in the Spanish dominions, having paid the duty in the province of Louisiana, and the proprietor thereof taking from the proper officer in the said province, authentic documents of the payment, shall not again be subject to the payment of any duty in any port or place in the said Spanish dominions to which the said produce shall be exported ; but the same may be disposed of in such port or place under the same rules and regulations which at present govern the disposal of the produce of Louisiana.

“ 4. To prevent any misconstruction, or improper use of the privileges hereby granted, it is explicitly declared that the importation of all articles of commerce, of what nature or description soever which are not actually the production of the said western coun-

try, is absolutely prohibited; and if any person shall hereafter attempt, under any pretext whatsoever, to introduce into the province of Louisiana or its dependencies, down the Mississippi, the products or manufactures of any other country (unless specially permitted by the government) the same are hereby declared to be contraband, and liable to seizure.

“ 5. As the commutation of the products of one country for those of another, is the foundation of commerce, his majesty, in order to establish that reciprocity of interest between his dominions and the said western country; without which no commercial intercourse can be permanent, will cause a preference to be always given in his markets to the products of the western country, and therefore expects that the people of the said western country, acting under the influence of the same principle, will, in the purchase of such articles of commerce as they may need, whether foreign or domestic, prefer his markets to any other. And, as a farther inducement thereto, his majesty, contrary to a long established rule of his government, does henceforth permit the people of the said western country to carry out of his dominions whatever money may remain to them after completing their purchase free from any duty or impost whatsoever.”

This deponent having detailed every thing which occurred within his knowledge respecting Mr. Sebastian's receiving a pension, and the object which had induced him to descend the Mississippi in the latter end of 1795, or beginning of 1796, addressed this committee, and stated, that he was going to make a communication which was not pertinent to the subject of the testimony he had already given, but had relation to the same matter; that he was induced to do it in consequence of the slanders which had been falsely and lavishly heaped upon him by the publications in the *Western World*; that he had been charged as a disorganizer of the government; that he had been charged in an indirect manner as having impro-

perly received Spanish money, on account of his intimacy with, and friendly agency towards gen. Wilkinson after he had joined the army. To make this communication was a duty he owed to his own character, and to the memory of the late colonel Nicholas, whose character has also been attacked by the publications in the Western World; that he made a solemn appeal to the chairman of the committee, to his country, and to his God, that the accusations were false; that the communication he was about to make was of a delicate nature as it related to this deponent, because, from the circumstances which attended it, much must depend upon his own veracity, as he could only prove the facts by circumstantial evidence, to wit: the declarations of colonel Nicholas in his life time on the same subject.

This deponent then proceeded to state, that a certain Thomas Power, whom this deponent never saw, came from Louisiana in the summer of 1797, and made a communication to Mr. Sebastian in writing, which has a reference to the same characters that were named in the letter of the baron of Carondelet, herein before inserted; that Mr. Sebastian came to this deponent's house some short time after receiving the communication and shewed it to him; upon which this deponent observed that it was a dangerous project, and ought not to be countenanced, as the western people had now obtained the navigation of the Mississippi, by which all their wishes were gratified. Mr. Sebastian concurred in sentiment, but observed, that Power wished a written answer, and requested me to see colonel Nicholas, saying that whatever we did he would concur in. I promised to visit the colonel in two or three days. This deponent never had any communication with Mr. Murray upon the business, nor does he know that Mr. Sebastian ever did inform Mr. Murray of it.

This deponent rode to Lexington and had a conference with colonel Nicholas respecting the commu-

nication from Power, who agreeing with the deponent that the proposition ought to be rejected, he, colonel Nicholas, instantly wrote an answer, which was copied by this deponent, signed by both of us, and directed by me; that the copy of our joint answer was taken possession of by me, and has been ever since in my possession, except for a short time that I left it in the hands of Mr. Morrison in August last to have copied, as being the executor and friend of colonel Nicholas wished to have a copy; Mr. Morrison having previously informed me that colonel Nicholas in his life time had related all the circumstances to him, and that he had communicated it to James Ross, esq. of Pennsylvania, when in this country, in I believe 1798, who was then a senator in the congress of the United States.

This deponent, since making this communication, recollects that Mr. Sebastian informed him when he gave up the original paper to be submitted to colonel Nicholas, Mr. Power requested it to be returned to him with our answer, which was done, but not until this deponent took a copy, which, with the answer, are as follows:

“ His excellency the baron of Carondelet, commander in chief and governor of his catholic majesty's provinces of West Florida and Louisiana, having communications of importance, embracing the interests of said provinces, and at the same time deeply affecting those of Kentucky and the western country in general, to make to its inhabitants, through the medium of the influential characters in this country, and judging in the present uncertain and critical attitude of politics, highly imprudent and dangerous to lay them on paper, has expressly commissioned and authorized me to submit the following proposals to the consideration of Messrs. S. N. I. and M. and also of such other gentlemen as may be pointed out by them, and to receive from them their sentiments and determination on the subject.

“ 1. The above mentioned gentlemen are immediately to exert all their influence in impressing on the minds of the inhabitants of the western country a conviction of the necessity of their withdrawing and separating themselves from the federal union, and forming an independent government wholly unconnected with that of the Atlantic states. To prepare and dispose the people for such an event, it will be necessary that the most popular and eloquent writers in this state, should, in well timed publications, expose in the most striking point of view, the inconveniences and disadvantages that a longer connection with, and dependence on, the Atlantic states must inevitably draw upon them, and the great and innumerable difficulties in which they will probably be entangled if they do not speedily recede from the union; the benefits they will certainly reap from a secession, ought to be pointed out in the most forcible and powerful manner; and the danger of permitting the federal troops to take possession of the posts on the Mississippi, and thus forming a cordon of fortified places round them, must be particularly expatiated upon. In consideration of gentlemen devoting their time and talents to this object, his excellency, the Baron of Carondelet, will appropriate the sum of one hundred thousand dollars to their use, which shall be paid in draughts on the royal treasury at New-Orleans; or if more convenient, shall be conveyed at the expense of his catholic majesty into this country, and held at their disposal. Moreover, should such persons as shall be instrumental in promoting the views of his catholic majesty, hold any public employment, and in consequence of taking an active part in endeavouring to effect a secession, shall lose their employments, a compensation equal at least to the emoluments of their office, shall be made to them by his catholic majesty, let their efforts be crowned with success, or terminate in disappointment.

" 2. Immediately after the declaration of independence, fort Massac should be taken possession of by the troops of the new government, which shall be furnished by his catholic majesty without loss of time, with twenty field pieces with their carriages and every necessary appendage including powder, balls, &c. together with a number of small arms and ammunition, sufficient to equip the troops that it shall be judged expedient to raise. The whole to be transported at his expense to the already mentioned fort Massac. His catholic majesty will further supply the sum of one hundred thousand dollars for the raising and maintaining the said troops, which sum shall also be conveyed to and delivered at fort Massac.

" 3. The northern boundary of his catholic majesty's provinces of east and west Florida shall be designated by a line commencing on the Mississippi at the mouth of the river Yazoo, extending due east to the river Confederation or Tombecbee: *Provided however*, that all his catholic majesty's forts, posts and settlements on the Confederation or Tombecbee, are included on the south of such a line, but should any of his majesty's forts, posts or settlements fall to the north of said line, then the northern boundary of his majesty's provinces of east and west Florida shall be designated by a line beginning at the same point on the Mississippi, and drawn in such a direction as to meet the river Confederation or Tombecbee, six miles to the north of the most northern Spanish fort, post or settlement on the said river. All the lands to the north of that line shall be considered as constituting a part of the territory of the new government, saving that small tract of land at the Chicasaw Bluffs on the eastern bank of the Mississippi, ceded to his majesty by the Chicasaw nation in a formal treaty, concluded on the spot in the year 1795, between his excellency Sr. Don Manuel Gayoso De Lemos, governor of Natchez and Augliakabee, and some other Chicasaw chiefs; which tract of land his majesty reserves for

himself. The eastern boundary of the Floridas shall be hereafter regulated.

“ 4. His catholic majesty will, in case the Indian nations south of the Ohio, should declare war or commit hostilities against the new government, not only join and assist it in repelling its enemies, but if said government shall at any future period esteem it necessary to reduce said Indian nations, extend its dominion over them and compel them to submit themselves to its constitution and laws, his majesty will heartily concur and co-operate with the new government in the most effectual manner in attaining this desirable end.

“ 5. His catholic majesty will not either directly or indirectly interfere in the framing of the constitution or laws which the new government shall think fit to adopt, nor will he at any time by any means whatever attempt to lessen the independence of the said government, or endeavour to acquire an undue influence in it, but will in the manner that shall hereafter be stipulated by treaty, defend and support it in preserving its independence

“ The preceding proposals are the outlines of a provisional treaty, which his excellency the baron of Carondelet is desirous of entering into with the inhabitants of the western country, the moment they shall be in a situation to treat for themselves. Should they not meet entirely with your approbation, and should you wish to make any alterations in, or additions to them, I shall on my return, if you think proper to communicate them to me, lay them before his excellency, who is animated with a sincere and ardent desire to foster the promising and rising infant country, and at the same time promote and fortify the interests of his beneficent royal master, in securing by a generous and disinterested conduct, the gratitude and affections of a just, sensible and enlightened people.

“The important and unexpected events that have taken place in Europe since the ratification of the treaty concluded on the 27th of October, 1795, between his catholic majesty and the United States of America, having convulsed the general system of politics in that quarter of the globe, and wherever its influence is extended, causing a collision of interests between nations formerly living in the most perfect union and harmony, and directing the political views of some states towards objects, the most remote from their former pursuits, but none being so completely unhinged and disjointed as the cabinet of Spain; it may be confidently asserted, without incurring the reproach of presumption, that his catholic majesty will not carry the above mentioned treaty into execution; nevertheless the thorough knowledge I have of the disposition of the Spanish government justifies me in saying that so far from its being his majesty's wish to exclude the inhabitants of this western country from the free navigation of the Mississippi, or withhold from them any of the benefits stipulated for them by the treaty, it is positively his intention. so soon as they shall put it in his power to treat with them, by declaring themselves independent of the federal government and establishing one of their own, to grant them privileges far more extensive, give them a decided preference over the Atlantic states in his commercial connections with them, and place them in a situation infinitely more advantageous, in every point of view, than that in which they would find themselves, were the treaty to be carried into effect.”

(Signed)

THOMAS POWER.

Louisville, 19th July, 1797.

To which the following answer was returned :

“SIR,

“WE have seen the communication made by you to Mr. Sebastian. In answer thereto, we declare unequivocally that we will not be concerned either directly or indirectly in any attempt that may be made to separate the western country from the United States. That whatever part we may at any time be induced to take in the politics of our country, that her welfare will be our only inducement, and that we will never receive any pecuniary or other reward for any personal exertions made by us to promote that welfare.

“The free navigation of the Mississippi must always be the favourite object of the inhabitants of the western country ; they cannot be contented without it ; and will not be deprived of it longer than necessity shall compel them to submit to its being withheld from them.

“We flatter ourselves that every thing respecting this important business will be set right by the governments of the two nations ; but if this should not be the case, it appears to us that it must be the policy of Spain to encourage by every possible means the free intercourse with the inhabitants of the western country, as this will be the most efficient means to conciliate their good will, and to obtain without hazard, and at reduced prices, those supplies which are indispensibly necessary to the Spanish government and its subjects.”

The original communication and joint answer of colonel Nicholas and this deponent were forwarded to Mr. Sebastian, who has since informed this deponent that both were given to Mr. Power. Whether the letter was signed also by Mr. Sebastian this deponent does not know ; it was sent open to him, nor does he recollect that Mr. Sebastian ever informed him that he had signed it.

This deponent says that the reasons why he and colonel Nicholas did not communicate the subject to the executive of the United States were these. 1st, That it was well known that neither of us approved of Mr. Adams's administration, and that we believe he kept a watchful eye over our actions; that the communication must depend upon his opinion of our veracity; and it would have the appearance of courting his favor. 2d, That we both had reason and did believe that the then administration, were disposed upon the slightest pretext to send an army to this state, which we considered would be a grievance upon the people, and therefore declined making any communication upon the subject, as we apprehended no danger from the Spanish government.

This deponent requests the committee to summon Mr. Morrison, to prove the declarations of colonel Nicholas, respecting the transactions which relate to that gentleman, if any doubt exists as to the truth of the statement herein made.

HARRY INNES.

December 1, 1806.

This deponent requested that the committee would permit an address from the Democratic society of Lexington, bearing date the 13th of December, 1793, and addressed to the people west of the Allegany and Apalachian mountains, and a remonstrance from the people of Kentucky to the president and congress of the United States, on the subject of the navigation of the Mississippi, as also a letter signed Augusta Lachaize, dated, as is supposed from other papers, some time in May, 1794, addressed to the Democratic society in Lexington, stating that two thousand brave Kentuckians had been recruited to march against the Spaniards in Louisiana, to assist the French to regain that country, in support of the statement made by this

deponent in his deposition relative to the state of the public mind in Kentucky, in the year 1794, which was accordingly ordered, and the papers read.

HARRY INNES.

December 1, 1806.

To the inhabitants of the United States west of the Alleghany and Apalachian mountains.

FELLOW CITIZENS,

The democratic society of Kentucky having had under consideration the measures necessary to obtain the exercise of your rights to the free navigation of the Mississippi, have determined to address you upon that important topic. In so doing they think that they only use the undoubted right of citizens to consult for their common welfare. This measure is not dictated by party or faction; it is the consequence of unavoidable necessity. It has become so from the neglect shewn by the general government, to obtain for those of the citizens of the United States, who are interested therein, the navigation of that river.

In the present age, when the rights of man have been fully investigated and declared by the voice of nations, and more particularly in America, where those rights were first developed and declared, it will not be necessary to prove that the free navigation of the Mississippi is the natural right of the inhabitants of the country watered by its streams. It cannot be believed that the beneficent God of nature would have blessed this country with unparalleled fertility, and furnished it with a number of navigable streams, and that that fertility should be consumed at home, and those streams should not convey its superabundance to other climes. Far from it: for if we examine the wise diversity of the earth as to climate and productions, lands, seas, and rivers, we must discover the glorious plan of infinite beneficence to unite by the

exchange of their surplus, various nations, and connect the ends of the earth in the bands of commerce and mutual good offices. From the everlasting decrees of providence, then, we derive this right ; and must be criminal either to surrender or suffer it to be taken from us, without the most arduous struggles. But this right is ours, not only from nature, but compact. We do not mean to urge this, as if a compact could give an additional sanction to a natural right : but to shew that our claim is derived from every source which can give it validity. The navigation of the Mississippi was solemnly given and confirmed by Great Britain to the citizens of the United States, by the provisional articles entered into at Paris, between the two nations. More than eleven years have since elapsed, during which we have been denied the exercise of a right, founded upon such irrefragable grounds. What has been done by the former or present government, during this period, on our behalf ? In the former we have been able to learn of no attempt to procure from the king of Spain, even an acknowledgement of our right. Repeated memorials were presented to congress upon the subject, but they were treated with a neglect bordering on contempt. They were laid upon the table, there to rest in endless oblivion. Once, indeed, we know, this subject was introduced into congress, under the former government ; but it was by an unwarrantable and disgraceful proposition to barter away our rights. The proposition was not adopted ; the attempt being rendered abortive by the spirited and patriotic opposition of a part of the union. The time at length came, when the voice of the people called for a change in the general government ; and the present constitution of the United States was adopted. We then flattered ourselves that our rights would be protected ; for we were taught to believe, that the former loose and weak confederation having been done away, the new government would possess the requisite energy. Memorials

upon the subject were renewed. Six years have passed away, and our right is not yet obtained. Money is to be taken from us by an odious and oppressive excise ; but the means of procuring it by the exercise of our just right, is denied. In the mean while, our brethren on the eastern waters possess every advantage which nature or compact can give them. Nay, we do not know that even one firm attempt to obtain it has been made. Alas ! Is the energy of our government not to be exerted against our enemies ? Is it all to be reserved for her citizens ?

Experience, fellow citizens, has shown us that the general government is unwilling that we should obtain the navigation of the river Mississippi. A local policy appears to have an undue weight in the councils of the union. It seems to be the object of that policy to prevent the population of this country : which would draw from the eastern states their industrious citizens. This conclusion inevitably follows from a consideration of the measures taken to prevent the purchase and settlement of the lands bordering on the Mississippi. Among those measures, the unconstitutional interference which rescinded sales, by one of the states to private individuals, makes a striking object. And perhaps the fear of a successful rivalship in every article of their exports may have its weight. But if they are not unwilling to do us justice, they are at least regardless of our rights and welfare. We have found prayers and supplications of no avail, and should we continue to load the table of congress with memorials, from a part only of the western country, it is too probable they would meet with a fate similar to those which have been formerly presented. Let us, then, all unite our endeavors in the common cause. Let all join in a firm and manly remonstrance to the president and congress of the United States, stating our just and undoubted right to the navigation of the Mississippi, remonstrating against the conduct of government with regard to that right, which must have

been occasioned by local policy or neglect, and demanding of them speedy and effectual exertions for its attainment. We cannot doubt, that you will cordially and unanimously join in this measure. It can hardly be necessary to remind you, that considerable quantities of beef, pork, flour, hemp, tobacco, &c. the produce of this country, remain on hand for want of purchasers, or are sold at inadequate prices. Much greater quantities might be raised if the inhabitants were encouraged by the certain sale which the free navigation of the Mississippi would afford. An additional increase of those articles and a greater variety of produce and manufactures would be supplied, by means of the encouragement, which the attainment of that great object would give to emigration. But it is not only your own rights which you are to regard. Remember that your posterity have a claim to your exertions to obtain and secure that right. Let not your memory be stigmatised with a neglect of duty. Let not history record, that the inhabitants of this beautiful country lost a most invaluable right, and half the benefits bestowed upon it by a bountiful providence, through your neglect and supineness. The present crisis is favorable. Spain is engaged in a war, which requires all her forces. If the present golden opportunity be suffered to pass without advantage, and she shall have concluded a peace with France, we must then contend against her undivided strength.

But what may be the event of the proposed application is still uncertain. We ought, therefore, to be still upon our guard, and watchful to seize the first favorable opportunity to gain our object. In order to this, our union should be as perfect and lasting as possible. We propose that societies should be formed, in convenient districts, in every part of the western country, who shall preserve a correspondence upon this and every other subject of general concern. By means of these societies we shall be enabled speedily to know what may be the result of our endeavors.

to consult upon such further measures as may be necessary to preserve union, and finally by these means to secure success.

Remember that it is a common cause which ought to unite us, that that cause is indubitably just, that ourselves and posterity are interested, that the crisis is favorable, and that it is only by union that the object can be achieved. The obstacles are great, and so ought to be our efforts. Adverse fortune may attend us, but it shall never dispirit us. We may for a while exhaust our wealth and strength, but until the all important object is procured we pledge ourselves to you, and let us all pledge ourselves to each other, that our perseverance and our friendship will be inexhaustible.

JOHN BRECKENRIDGE, *Chairman.*

Test,

THOMAS TODD, }
THOMAS BODLEY, } *Clerks.*

December 13, 1793.

To the President and Congress of the United States
of America.

*The remonstrance of the subscribers, citizens of the
commonwealth of Kentucky, sheweth:*

That your remonstrants have observed with concern and indignation the injuries and insults offered to the United States by the king of Great Britain. He has violated in important parts, that treaty of peace, the observance of which might have obliterated the remembrance of former injuries. He has, by means of his agents, supplied arms, ammunition, clothing and provision to those merciless savages who have so long ravaged the western frontier of these states. He has interposed, unsolicited, and negotiated truces for Portugal and Holland, with the piratical states, in or-

der to turn the rapine of those African barbarians solely on the American commerce. His vessels of war, and the piratical vessels of his subjects, by his orders, in violation of the law of nations, have despoiled the commerce and insulted the neutral flag of America. He has made no compensation for the property of citizens of these states, carried away by his troops contrary to treaty; and, that we might escape no species of injury which could be heaped on the weakest and most despicable of nations, he holds within the territory of the United States, in defiance of treaty and of right, posts fortified and garrisoned by his armies.

That these injuries and insults call loudly for redress, and that we will to the utmost of our abilities, and in any mode that can be devised, support the general government in the firmest and most effectual measures to obtain full satisfaction for all our wrongs.

That your remonstrants, and the other inhabitants of the United States, west of the Allegany and Appalachian mountains, are entitled by nature and stipulation to the free and undisturbed navigation of the river Mississippi; and that from the year 1783 to this day, they have been prevented uniformly by the Spanish king, from exercising that right. Your remonstrants have observed with concern, that the general government, whose duty it was to have preserved that right, have used no effectual measures for its attainment; that even their tardy and ineffectual negotiations have been veiled with the most mysterious secrecy; that that secrecy is a violation of the political rights of the citizen, as it declares that the people are unfit to be entrusted with important facts relative to their rights, and that their servants may retain from them the knowledge of those facts. Eight years are surely sufficient for the discussion of the most doubtful and disputable claim. The right to the navigation of the Mississippi admits neither of doubt or dispute. Your remonstrants, therefore, conceive that the negotiations on that subject have been unnecessarily lengthy,

and they expect that it be demanded categorically of the Spanish king, whether he will acknowledge the right of the citizens of the United States to the free and uninterrupted navigation of the river Mississippi, and cause all obstructions, interruption and hindrance to the exercise of that right in future to be withdrawn and avoided; that immediate answer thereto be required, and that such answer be the final period of all negotiations upon this subject.

Your remonstrants further represent, that the encroachment of the Spaniards upon the territory of the United States, is a striking and melancholy proof of the situation to which our country will be reduced, if a tame policy should still continue to direct our councils.

Your remonstrants join their voice to that of their fellow-citizens in the Atlantic states, calling for satisfaction for the injuries and insults offered to America; and they expect such satisfaction shall extend to every injury and insult done or offered to any part of America, by Great-Britain and Spain; and as the detention of the posts, and the interruption to the navigation of the Mississippi, are injuries and insults of the greatest atrocity, and of the longest duration, they require the most particular attention to those subjects.

To the Democratic Society of Lexington.

CITIZENS,

Events unforeseen, the effects of causes which it is unnecessary here to develope, have stopped the march of 2000 brave Kentuckians, who, strong in their courage, in the justice of their rights, their cause, the general assent of their fellow-citizens, and convinced of the brotherly dispositions of the Louisianians, waited only for their orders, to go, by the strength of their arms, take from the Spaniards, the despotic usurpers of the empire of the Mississippi,

insure to their country the navigation of it, break the chains of the Americans, and their brethren the French, hoist up the flag of liberty in the name of the French republic, and lay the foundation of the prosperity and happiness of two nations situated so, and destined by nature to be but one, the most happy in the universe.

Citizens, the greater attempts you have made towards the success of that expedition, the more sensible you must be of the impediments which delay the execution of it ; the more energetic should your efforts be towards new means of success. There is one from which I expect the greatest advantages, which you may render decisive by an address to the National Convention, or to the executive council of France. In the name of my countrymen of Louisiana, in the name of the interest of yours, I dare once more ask you this new proof of your patriotism.

Being deprived of my dearest hopes, of the pleasure, after 14 years absence, and three years of proscription, to return to the bosom of my family, my friends and my countrymen, I have only one path to follow ; that of going to France, and express to the representatives of the French people, the cry, the general wish of the Louisianians to make part of the French Republic, to inform them of the most ardent desire which the Kentuckians have had, and will continue to have, forever to take the most active part in any undertaking tending to open to them the free navigation of the Mississippi.

The French Republic, in their sublime constitutional act, have proffered their protection to all those nations who had the courage of shaking off the yoke of tyranny. The Louisianians have the most sacred right to it. They are French, but have been sacrificed to despotism by arbitrary power. The honor, the glory, the duty of the National Convention is to grant them their powerful support.

Every petition or plan relative to that important object would be considered in the highest degree ; the address of the Democratic Society of Lexington would give it a greater weight.

Accept, citizens, the farewell, not the last, of a brother who is determined to sacrifice every thing in his power, for the liberty of his country and the prosperity of the generous inhabitants of Kentucky.

Salut en la patrie,

AUGUSTE LACHAISE.

Endorsement on the back.

This letter was written previous to the 14th of May, 1794. The Democratic Society acted on it that day. An address was prepared and presented ; and on the 19th day of May an answer returned.

Joseph Hamilton Daviess deposed, that no information has been derived by this deponent from the papers of the late col. Nicholas, this deponent's testator, relative to any connexion between any citizen and the Spanish government. This deponent does not believe he has seen any letter from judge Sebastian on the subject of the present inquiry, other than that in possession of the committee.

J. H. DAVIESS.

John Brown deposeth and saith, that he has no personal knowledge of the business upon which it is said Mr. Sebastian went to New-Orleans in the years 1795-6, or relative to his having at any time received a pension from the government of Spain ; that Mr. Sebastian never made to him any communication whatever on those subjects ; nor did he ever receive any information respecting them from any quarter, until he read certain publications which appeared in the Western World since the 4th of July last ; that in, or about the month of August last, Mr. Innes did make a communication to this deponent relative

to the business on which he, said Mr. Sebastian, had gone to New-Orleans; and also stated some information which he said had been given to him by Charles Wilkins relative to said pension: but as the communications then made to this deponent, are, as he believes, substantially contained in the testimony delivered by Mr. Innes to this committee, he deems it unnecessary to state them; that he heard Mr. Sebastian had been in Philadelphia on his return from New Orleans in 1796; but he did not call on this deponent then attending congress in that city; and he has been informed that he did not call on any of the then members of the Kentucky delegation at that place; that some time after, Mr. Genet arrived at Philadelphia, and during the continuance of the war between France and Spain, he informed this deponent that he had it in contemplation to raise an army, to consist of recruits from Kentucky, Tennessee, the Creek and other Indian tribes, for the conquest of Louisiana in behalf of France. Shortly after he understood from one of the heads of departments that he was apprised of the project of Genet; that he was absent from Kentucky from the autumn of 1792, till about August 1795; and therefore, has no personal knowledge of the progress of any agent of Genet, in issuing commissions or enlisting men; but during that time he received letters from Kentucky containing information on that subject, and without delay gave extracts from them to the then secretary of state, for the information of the president of the United States.

J. BROWN.

December 1st, 1806.

Thomas Todd being sworn, was interrogated by Mr. Grundy. Do you know any thing of any money being received by Mr. Sebastian from, or his having any negotiation with, the Spanish government or any of its officers? If you do, at what time did you come to the knowledge of it?

The deponent says that in the month of August last, in a conversation with Mr. Innes, as to the statements published in the Western World, he shewed to this deponent a copy of the concessions which some short time before, as this deponent understood, had been sent to Mr. Innes by Mr. Sebastian. Mr. Innes at the same time shewed this deponent the papers relative to the proposition made by Powers, and the answer. That in the course of the said month of August, at Lexington, Mr. Innes mentioned to this deponent the conversation which he had with Mr. Charles Wilkins, of that place, shewed this deponent the copy of a letter from Mr. Sebastian to John A. Seitz, who had previously died at New-Orleans, and informed this deponent that the original letter was in the possession of Mr. Wilkins, and that Mr. Wilkins had seen among Mr. Seitz's papers a draft drawn by Mr. Sebastian on some officer of the Spanish government, in favor of Mr. Seitz for his (Mr. Sebastian's) pension. That the papers above alluded to, and the information coming from Mr. Wilkins, was the first knowledge I had of the real cause of Mr. Sebastian's having descended the Ohio and Mississippi rivers. That at the commencement of the last October term of the court of appeals, this deponent mentioned to Mr. Sebastian the above circumstances; he then acknowledged that he had drawn such a draft in favor of Mr. Seitz, and stated that in consequence of a letter which he had received from the governor of New-Orleans, he had in the fall or winter of 1795-6, descended the Ohio, and at or near its mouth had met with Gayoso. That they entered on the business, and he received the concessions before alluded to; that a difference in opinion took place between him and Gayoso as to the duty which should be paid by the people of the western country, who might export produce down the Mississippi; Gayoso insisting that they should pay four per cent. as an acknowledgment for the permission given them. He, Mr. Se-

bastian, insisting that it was a conciliatory measure on the part of the Spanish government, that no duty ought to be exacted ; that it was at length agreed to descend the river and submit the difference to the governor at New-Orleans. They did so, and in some short time after their arrival, he (Mr. Sebastian) had an audience with the governor, who decided against Gayoso. That the governor appointed a day when he should again attend, in order to complete the business ; but previous to the day appointed, a courier arrived at New-Orleans with intelligence that the treaty of friendship, limits and navigation had been entered into between the governments of the United States and Spain. That the governor sent for him and informed him of that circumstance, and observed that the business as to the concessions was at an end; but that he had it in charge from the king to inform whoever should come on that business, should be entitled to two thousand dollars a year. That upon this ground he had drawn in favor of Mr. Seitz, the draft before alluded to.

Upon being further questioned—At what time was Mr. Sebastian appointed a judge of the court of appeals ; at what times was he absent, and how long ?

This deponent says that Mr. Sebastian was appointed a judge of the court of appeals in the year 1792, shortly after the commencement of this government ; that from the record book of the court of appeals, it appears that he qualified as judge on the 7th day of January, 1793. From the same record book it appears that he was absent at the May term of the court of appeals 1796 ; that this absence was, as this deponent was informed and believes, in consequence of h., having descended the Ohio and Mississippi rivers, in the fall or winter 1795-6. That it also appears from the said record book he was also absent at the May and October terms of the court of appeals in the year 1798 ; this deponent was informed and believes that this absence was from his having also descended the said rivers in that year.

Question. Was you not clerk of the Kentucky convention, in the year 1788? Answer. I was.

Question. Did not general Wilkinson produce a lengthy memorial and read the same in that convention, and then state that he had before that time presented to the governor or intendant at New-Orleans a copy thereof? Answer. He did.

Question. Was that paper deposited and left with you as clerk, as other papers produced in like manner generally are? Answer. It was not.

Question. At what time were you first informed that a negotiation of any kind (unauthorized by government) had been carried on, or attempted between the officers or agents of the Spanish government, and any individuals or set of men in the western country? Answer. Not until I saw the papers before stated in the month of August last.

Question. Did Mr. Sebastian at the time he explained himself to you, as to the draft drawn in favor of Mr. Seitz, speak of his having drawn drafts in favor of any other person? Answer. He did not.

Question. Do you recollect the substance or object of the memorial read by general Wilkinson? Answer. I do not; but upon reading the letters published in the news-papers, as having passed between colonel Marshall and general Washington, it appears to me to be tolerably accurately stated in colonel Marshall's letter.

THOMAS TODD.

Colonel Joseph Crockett, being duly sworn to give evidence before the special committee appointed by the house of representatives, for the inquiry into the charge against judge Sebastian, deposeth and saith, that he was in the Kentucky convention, held at Danville in the year 1788, when general Wilkinson produced a memorial, which he read to the said convention as handed to him, sheet by sheet, by judge Sebastian; and that the said memorial never was read or handed into the clerk's table of the said convention.

JOSEPH CROCKETT.

December 1st, 1806.

STATE OF KENTUCKY,

Clerk's office of the Court of Appeals, sct.

At the request of a special committee appointed to inquire into certain charges alleged against Mr. Benjamin Sebastian, late a judge of the court aforesaid, I do hereby certify that from an examination of the order books of said court, I find that Mr. Sebastian qualified as a judge of said court, on the 7th day of January, 1793; and that he hath attended the respective terms of said court ever since, the May term in 1796, and the May and October terms in 1798 excepted.

Given under my hand, as clerk of the court aforesaid, this 1st day of December, 1806.

ACHILLES SNEED.

Auditor's Office, Nov. 29, 1806.

I do hereby certify, that it appears from the books and records in my office, that the honorable Benjamin Sebastian has regularly drawn his salary as one of the judges of the court of appeals for the state of Kentucky, from the 18th day of July, 1792, to the 1st day of October, in the present year.

Given under my hand, as auditor of public accounts for the state of Kentucky, the date above.

GEORGE MADISON.

Whereupon your committee does not hesitate to declare, as their opinion, that the information given to the house of representatives is substantially true and correctly detailed; and that the said judge Sebastian is guilty of having for several years received from the Spanish government a pension, paid in cash annually, to the amount of two thousand dollars.

Your committee further report, as their opinion, that whilst judge Sebastian was in the exercise of his office in this state, and drawing his annual salary there-

from, he was employed in carrying on with the agents of the Spanish government an illicit, unjustifiable, and highly criminal intercourse, subversive of every duty he owed to the constituted authorities of our country, and highly derogatory to the character of Kentucky.

And the same being read was unanimously agreed to, the following members being present : Messrs. Atkinson, Barnes, Bartlett, Blackburn, Brents, Buford, Bullock, Cosby, Crabtree, Crist, Davidge, Dougherty, Ewing, Field, Fletcher, Ford, Grundy, Holton, Hopkins, Jones, Kercheval, Lowe, Manifee, Marshall, Mills, Miller, M'Kee, M'Millin, M'Clanahan, M'Intire, Moderill, J. Morgan, D. Morgan, Pitts, Pope, Pollock, Porter, Polk, Ray, Reed, Rennick, Robinson, Rogers, Russell, Rutter, Semple, Simpson, South, Spalding, J. Thompson, G. C. Thompson, Trapnall, and Woodford : 53.

Whereupon Mr. Grundy moved the following resolution :

Whereas it appears to this house that since the institution of the inquiry into the charges exhibited against Benjamin Sebastian, esquire, that the said Sebastian has resigned his office of judge of the Kentucky court of appeals : Resolved, therefore, that any further proceedings to effect the removal of the said Sebastian from office is rendered unnecessary.

Which resolution being read was concurred in.

Extracts, &c.

Attest, THOMAS TODD, C. H. R.

In the House of Representatives, December 6, 1806.

Resolved, That the printers who are employed to print the proceedings on the inquiry into the conduct of Benjamin Sebastian, are hereby requested to subjoin, at the end of each copy of said proceedings, the resolutions lately adopted, expressive of our attach-

ment to the union, and our approbation of the present administration of the federal government.

Extract, &c.

Attest, THOMAS TODD, C. H. R.

In General Assembly, December 4, 1806.

Whereas it is considered of importance that citizens living under the same government should be correctly informed of the views and intentions of every portion of the community; and as the sentiments of the people of Kentucky may be misunderstood by those who, from their remote situation, have not an opportunity of judging of the disposition which the citizens of this state entertain towards the general government; and as an expression of the public will, through their representatives, is deemed the most effectual mode to prevent any misapprehension of our sentiments, which might be occasioned by the conduct of individuals, or might grow out of misrepresentations.

Resolved, therefore, by the general assembly, that the people of Kentucky feel the strongest attachment to the federal government, and consider a dismemberment of the union as the greatest evil which could befall them, and would view with abhorrence any individual, or set of individuals, who should attempt to separate us from those whose interests are so intimately connected with our own, and for whom the people of Kentucky entertain an unchangeable attachment, arising from a lively recollection of their united efforts for liberty.

Resolved, That the people of Kentucky have entire confidence in the present administration of the general government, and have no doubt that such measures will be pursued as are best calculated to secure us peace and tranquillity, and at the same time preserve our national honor from insult.

Resolved, That the governor of this state be requested to transmit copies of the foregoing resolutions to the president of the United States, to the executives of the different states, and to our present senators and representatives in congress.

(Passed unanimously.)

IN THE HOUSE OF REPRESENTATIVES.

December 11, 1806.

Resolved, That Joseph M. Street, & co. be requested to annex the depositions of Charles Wilkins and James Morrison, this day laid before this house, to each of the 1200 copies of the report of the committee appointed to inquire into the conduct of judge Sebastian.

Extract, &c.

Attest,

T. TODD, C. H. R.

In the month of August last, judge Innes called on me in Lexington, to inquire into the circumstances relative to a pension which it was said judge Sebastian had received from the Spanish government at New Orleans.

Judge Innes said, Mr. Morrison, of Lexington, had communicated to him, information which he had received from me; but believing judge Sebastian incapable of any thing inconsistent with his character, induced him to think that which he had received, could not be correct. I immediately detailed to him all the knowledge I possessed, and the manner by which I procured it (which will appear by a reference to my testimony, given before a committee of the house of representatives of this date, 27th Nov. 1806). Judge Innes expressed his surprise, and regretted that he, judge Sebastian, had suffered himself to become the

pensioner of Spain, and observed to me, that there were some circumstances attending this transaction, which I had not been informed of, and that but two or three persons now living, were acquainted with. He, judge Innes, then communicated to me the substance of the letter from the baron of Carondelet to Mr. Sebastian, which had a reference to col. Nicholas, Mr. Murray, and col. Innes, in the year 1795; the result of the conference between Sebastian and Gayoso at New Madrid, and as nearly as he said he could recollect, the purport of the concessions, to be made by the Spanish government, to the people of the western country, &c. Judge Innes proceeded to communicate the substance of the propositions made by a certain Thomas Powers, to the above mentioned gentlemen in the year 1797, and the reply thereto, by col. Nicholas and himself. Judge Innes further observed, that copies of Power's communications, and the answer, would be left with Mr. James Morrison, in Lexington, to take copies; and that Mr. Morrison should be instructed to shew them to me for my perusal. I called upon Mr. Morrison, in one or two days after the conversation between judge Innes and myself, and was put in possession of the papers alluded to above: I read them with attention, and believe them to be correct copies of the letter, &c. communicated to the committee by judge Innes, on the 28th of Nov. 1806. The reading of the papers shown to me by Mr. Morrison, induced us to converse freely upon the subject. He detailed to me the substance of frequent conversations between him, Mr. Morrison, and col. Nicholas, about this transaction; and communicated to me the reasons assigned by col. Nicholas for withholding this information from the president of the United States, all of which agree substantially with the information given by judge Innes, to the committee of the house of representatives of this state, on the 28th of Nov. 1806. Judge Innes assured me, that he never heard that judge Sebastian

had been in the receipt of a pension from the government of Spain, and observed, that he feared judge Sebastian had acted indiscreetly.

CHS. WILKINS.

Colonel George Nicholas informed me of certain propositions having been made by the baron of Carondelet, through the agency of a certain Thomas Powers, in the year 1797, to him, Benjamin Sebastian, Harry Innis, and William Murray; that he had never seen Powers, but received from judge Innis the object of his mission to Kentucky; that he at once expressed his disgust and abhorrence of the views of the Spanish governor, with which opinion, judge Innes concurring, he immediately prepared a concise answer, which was to be forwarded by the latter to Mr. Sebastian, to be delivered by him to the said Powers; that he was convinced from the purport of the propositions that improper representations had been made to the Spanish governor, of the views, disposition and intentions of the citizens of Kentucky; that the answer which they had given would, in his opinion, prevent a similar application; but that should he be mistaken, he was determined to have Powers, or any other person who might again be sent by the Spanish governor, apprehended, and detained as a prisoner until the executive was fully apprised of all the circumstances; and that he had taken care Powers should be correctly informed of such determination. He then went on (in consequence of some questions which I asked) to state the reasons which had prevented him from giving the executive information of the hostile disposition of the Spanish government. Amongst others he observed that the general government was leaning strongly in favor of monarchical principles; that the executive was deeply prejudiced against the leading men in our state; that he would lay hold of the information with pleasure and avidity, and make it the basis for increasing the

army, and thereby strengthen the hands of those who were opposed to our republican form of government ; that the means of discharging the public debt, would thereby be completely perverted ; that our citizens would be saddled with troops, and burthened with taxes for the support of government ; and that he was well assured, from information which he could not disbelieve, that the executive was thirsting for a plausible pretext, to send an army into our country, as he had declared not only to curb the licentiousness of the press, but to check a daring disposition in our citizens to intermeddle with the affairs of the general government. He stated further, that, having a perfect knowledge of the temper and attachment of our citizens to their constitution, and how impossible it would be for the Spanish government to effect a change in its favor, and that however fortunate that government or its agents might be in corrupting one or two solitary and discontented individuals, the mass was immoveable ; that it was (as it had been ever since he became a citizen of Kentucky) his intention to be watchful and attentive to the conduct of certain individuals ; that from his situation no movement or attempt to alienate the citizens from our government, and attach them to the Spanish interest, could take place without his knowledge ; and that if he ever discovered such attempts were making he would be the first to raise his voice against the authors, and to give the executive every information he was possessed of. He remarked that he had often debated with himself whether it would not still be proper to give our government information of the facts which had come to his knowledge ; and that he was never more at a loss to make up an opinion ; but that from the circumstances before stated, he had hitherto been prevented. He said he had no doubt but that our government was already possessed of *imperfect* information on the subject ; and that the motives of a communication from him would probably be misconstrued, and consider-

ed as a dereliction of the republican principles which he had avowed; and for which he knew he was denounced by the executive.

In a conversation with James Ross, esq. of Pittsburgh, in the year '98, (a day or two after col. Nicholas had been endeavoring to convince him by a lengthy and detailed account of the *causes* which induced himself and others in Kentucky, to condemn certain acts of the then administration) I stated to him that I believed the citizens of Kentucky were as firmly attached to the general government as those of any state in the union; and that as an evidence in support of that position I observed, that col. Nicholas and some others equally suspected and obnoxious to the administration, and who were believed to be in the Spanish interest, or deeply disposed to insurrection, had convinced me that their intentions and views had been shamefully misrepresented, and in support of this opinion I then informed him of the rejection of Carondelet's alluring proposition, with his 100,000 dollars; that on the same, or succeeding day, I stated to col. Nicholas the substance of the conversation which I had with Mr. Ross, and of having communicated the proposition by the baron of Carondelet, &c. &c. He replied that he was much pleased that I had done so, observing that he had only been prevented from making that gentleman acquainted with all the circumstances, from an idea that he might probably suppose he was solicitous of enhancing or raising himself in his opinion by a display of his patriotism and disinterestedness; but that now Mr. Ross, (a senator in congress of the United States, and known to be highly in the confidence of the executive) was in possession of the facts, and would no doubt make them known, which relieved him of great solicitude, and he was conscious it would be highly gratifying to judge Innis, that the executive would gain the information through a channel that could not be question-

ed, and would no doubt keep a watchful eye over our Spanish neighbors.

It may not be improper here to observe, that I had a conversation with judge Innes relative to the overtures made by the Spanish government through Powers, &c. but was ignorant of the papers being in his possession, until informed by himself in July last, and at my request he placed them in my hands in the succeeding month, until I had taken copies; the first was a letter from the baron of Corondelet to Mr. Sebastian, dated at New Orleans, 16th July, 1795; the second, without date, consisting of propositions or rather concessions by his catholic majesty, in favor of the citizens of the United States west of the Appalachian mountains; the third, propositions to the people of the western country by the baron of Corondelet, signed by Thomas Powers, and dated at Louisville, July 19th, 1797; and the fourth, an answer without date. The two first were in the hand writing of Mr. Benjamin Sebastian, the third in that of judge Innes, and the fourth in that of George Nicholas.

JAMES MORRISON.

Franklin county, ss.

Personally came before me, the subscriber, a justice of the peace for said county, the above mentioned Jas. Morrison, who made oath that the foregoing statement contains the truth to the best of his recollection and belief. Given under my hand this 6th day of December, 1806.

THOMAS LOVE.

A copy.

Attest,

WILLIAM C. GREENUP,
Secretary.