

Thomas Jefferson to James Madison, November 26, 1795, The Works of Thomas Jefferson in Twelve Volumes. Federal Edition. Collected and Edited by Paul Leicester Ford.

TO JAMES MADISON J. MSS.

Nov. 26, 95.

Your favor from Fredericksburg came safe to hand. I enclose you the extract of a letter I received from Mr. R. now in Richmond.¹ Tho' you will have been informed of the fact before this reaches you, yet you will see more of the subject by having different views of it presented to you. Though Marshall will be able to embarrass the republican party in the assembly a good deal, yet upon the whole, his having gone into it will be of service. He has been hitherto able to do more mischief acting under the mask of Republicanism than he will be able to do after throwing it plainly off. His lax lounging manners have made him popular with the bulk of the people of Richmond, & a profound hypocrisy with many thinking men of our country. But having come forth in the plenitude of his English principles the latter will

¹ "Extract of a Ire. dated Richmd. Nov. 22. 1795.

"Mann Page's motion for a resolution approving the conduct of the minority in the national senate was warmly agitated three whole days, Wednesday Thursd. & Friday. It was much less ably defended than opposed. John Marshal it was once apprehended would make a great number of converts by an argument which cannot be considered in any other light than an uncandid artifice. To prevent what would be a virtual censure of the President's conduct he maintained *that the treaty in all its commercial parts was still under the power*

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of the H. of R. He contended that it was more in the spirit of the constitution for it to be rendered nugatory after it received the sanction of the P. & S. by *the H. of R. refusing it their support*, than for its existence to be prevented, for it to be stifled in embryo by their declaring upon application from the P. to know their sentiment before he had given it his signature, that they would withhold that support. He compared the relation of the Executive to the Legislative department to that between the states and the Congress under the old confederation. The old Congress might have given up the right of laying discriminating duties in favor of any nation by treaty: it would never have thought of taking beforehand the assent of each state thereto. Yet no one would have pretended to deny the power of the states to lay such. This doctrine, I believe, is all that is original in his argument. The sophisms of Camillus, & the nice distinctions of the Examiner made up the rest. It is clear that it was brought forward for the purpose of gaining over the unwary & wavering. It has never been admitted by the writers in favor of the treaty to the northward. Its author was disappointed however. Upon a division the vote stood 100 to 50. After the question Charles Lee brought forward a motion of compliment to the P. It was of most uncommon length which was undoubtedly intended to puzzle: & the word 'wisdom' in expressing the confidence of the House in the P. was so artfully introduced that if the fraudulent design had not been detected in time the vote of the House, as to its effect upon the P. would have been entirely done away. A resolution so worded as to acquit the P. of all evil intention, but at the same time silently censuring his error, was passed by a majority of 33. 89 to 56.

"Some of the warmest of the victorious party talk of bringing forward a motion for a vote of applause to S. T. Mason. But the more moderate say their triumph is sufficient, & it is supposed this will be dropped."

see that it is high time to make him known. His doctrine that the whole commercial part of the treaty (& he might have added the whole unconstitutional part of it) rests in the power of the H. of R. is certainly the true doctrine; & as the articles which stipulate what requires the consent of the three branches of the legislature, must be referred to the H. of R. for

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their concurrence, so they, being free agents, may approve or reject them, either by a vote declaring that, or by refusing to pass acts. I should think the former mode the most safe & honorable. The people in this part of the country continue very firmly disposed against the treaty. I imagine the 50.

negative votes comprehend the whole force of the Alexandrian party & the bigots & passive obedience men of the whole state who have got themselves into the legislature. I observe an expression in Randolph's printed secret intimating that the President, tho' an honest man himself, may be circumvented by snares & artifices, & is in fact surrounded by men who wish to clothe the Executive with more than constitutional powers. This when public, will make great impression. It is not only a truth, but a truth levelled to every capacity & will justify to themselves the most zealous rotaries, for ceasing to repose the unlimited confidence they have done in the measures which have been pursued. Communicate the enclosed paper, if you please, to Mr. Giles. Our autumn is fine. The weather mild & intermixed with moderate rains at proper intervals. No ice yet, & not much frost. Adieu.