

**James Madison to James Monroe, July 29, 1803.
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TO JAMES MONROE. D. OF S. MSS. INSTR.

Department of State July 29 1803.

Sir,

The communication by Mr. Hughes including the Treaty and Convention signed with the French Government, were safely delivered on the 14 instant. Inclosed is a copy of a letter written in consequence of them to Mr. Livingston and yourself.

On the presumption, which accords with the information given by Mr. Hughes, that you will have proceeded to Madrid in pursuance of the instructions of the 17th February last, it is thought proper to observe to you, that altho' Louisiana may in some respects be more important than the Floridas, and has more than exhausted the funds allotted for the purchase of the latter, the acquisition of the Floridas is still to be pursued, especially as the crisis must be favorable to it.

You will be at no loss for the arguments most likely to have weight in prevailing on Spain to yield to our wishes. These Colonies, separated from her other territory on this Continent, by New Orleans, the Mississippi, and the whole of Western Louisiana, are now of less value to her than ever, whilst to the United States, they retain the peculiar importance derived from their position, and their relations to us thro' the navigable rivers running from the U States into the Gulph of Mexico. In the hands

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of Spain they must ever be a dead expence in time of war, and at all times a source of irritation and ill blood with the United States. The Spanish Government must understand in fact that the United States can never consider the amicable relations between Spain and them as definitively and permanently secured, without an arrangement on this subject, which will substitute the manifest indications of nature, for the artificial and inconvenient state of things now existing.

The advantage to be derived to your negotiations from the war which has just commenced, will certainly not escape you. Powerful, and it might be presumed, effectual use may be made of the fact, that Great Britain meant to seize New Orleans with a view to the anxiety of the United States to obtain it;—and of the inference from the fact, that the same policy will be pursued with respect to the Floridas. Should Spain be [engaged?] in the war it cannot be doubted that they will be quickly occupied by a British force, and held out on some condition or other, to the United States. Should Spain be still at peace, and wish not to lose her neutrality, she should reflect that the facility and policy of seizing the Floridas, must strengthen the temptations of G. Britain to force her into the war. In every view, it will be better for Spain, that the Floridas should be in the hands of the United States, than of Great Britain; and equally so, that they should be ceded to us on beneficial terms by herself, than that they should find their way to us thro' the hands of Great Britain.

The Spanish Government may be assured of the sincere and continued desire of the United States to live in harmony with Spain; that this motive enters deeply into the solicitude of their Government for a removal of the danger to it, which is inseparable from such a neighborhood as that of the Floridas; and that having, by a late Convention with G. Britain, adjusted every territorial question and interest with that Nation, and the Treaty with France concerning Louisiana having just done the same with her, it only remains that the example be copied into an arrangement with Spain, who is evidently not less interested in it than we are.

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By the inclosed note of the Spanish Minister here, you will see the refusal of Spain to listen to our past overtures, with the reasons for the refusal. The answer to that communication is also inclosed. The reply to such reasons will be very easy. Neither the reputation nor the duty of his Catholic Majesty can suffer from any measure founded in wisdom, and the true interests of Spain. There is as little ground for supposing, that the maritime powers of Europe will complain of, or be dissatisfied with a Cession of the two Floridas to the United States, more than with the late cession of Louisiana by Spain to France, or more than with the former cessions thro' which the Floridas have passed. What the Treaties are subsequent to that of Utrecht, which are alleged to preclude Spain from the proposed alienation, have not been examined. Admitting them to exist in the sense put upon them, there is probably no maritime power who would not readily acquiesce in our acquisition of the Floridas, as more advantageous to itself, than the retention of them by Spain, shut up against all foreign commerce, and liable at every moment

to be thrown into the preponderant scale of G. Britain. Great Britain herself would unquestionably have no objection to their being transferred to us; unless it should be drawn from her intention to conquer them for herself, or from the use she might expect to make of them, in a negotiation with the United States. And with respect to France, silence at least is imposed on her by the Cession to the United States, of the Province ceded to her by Spain; not to mention, that she must wish to see the Floridas, like Louisiana kept out of the hands of Great Britain, and has doubtless felt that motive in promising her good offices with Spain for obtaining these possessions for the United States. Of this promise you will of course make the proper use in your negotiations.

For the price to be given for the Floridas, you are referred generally to the original instructions on this point. Altho' the change of circumstances lessens the anxiety for acquiring immediately a territory which now more certainly than ever, must drop into our hands, and notwithstanding the pressure of the bargain with France on our Treasury; yet for the sake of a peaceable and fair completion of a great object, you are permitted by the

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President in case a less sum will not be accepted, to give two Millions and a quarter of dollars, the sum heretofore apportioned to this purchase. It will be expected however, that the whole of it, if necessary be made applicable to the discharge of debts and damages claimed from Spain, as well those not yet admitted by the Spanish Government, as those covered by the Convention signed with it by Mr. Pinckney on the 11th day of Augt. 1802, and which was not ratified by the Senate because it embraced no more of the just responsibilities of Spain. On the subject of these claims, you will hold a strong language. The Spanish Government may be told plainly, that they

will not be abandoned any farther than an impartial Tribunal may make exceptions to them. Energy in the appeal to its feelings, will not only tend to justice for past wrongs, but to prevent a repetition of them in case Spain should become a party to the present war.

In arranging the mode, the time, and the priority of paying the assumed debts, the ease of the Treasury is to be consulted as much as possible: less is not to be done with that view, than was enjoined in the case of the French debts to our Citizens. The stock to be engaged in the transaction is not to be made irredeemable, without a necessity not likely to arise; and the interest as well as the principal should be payable at the Treasury of the United States. The only admissible limitation on the redemption of the stock is, that the holder shall not be paid off in less than about one fifth or one fourth of the amount in one year.

Indemnifications for the violation of our deposit at New Orleans have been constantly kept in view, in our remonstrances and demands on that subject. It will be desirable to comprehend them in the arrangement. A distinction however is to be made between the positive and specific damages sustained by individuals, and the general injuries accruing from that breach of Treaty. The latter could be provided for by a gross and vague estimate only, and need not be pressed, as an indispensable condition. The claim however, may be represented as strictly just, and a forbearance to insist on it, as an item in the valuable considerations for which the Cession

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is made. Greater stress may be laid on the positive and specific damages capable of being formally verified by individuals; but there is a point beyond which it may be prudent not to insist even here; especially as the incalculable advantage accruing from the acquisition of New Orleans, will diffuse a joy throughout the Western Country that will drown the sense of these little sacrifices. Should no bargain be made on the subject of the Floridas, our claims of every sort are to be kept in force. If it be impossible to bring Spain to a Cession of the whole of the two Floridas, a trial is to be made for obtaining either or any important part of either. The part of West Florida adjoining the territories now ours, and including the principal rivers falling into the Gulph, will be particularly important and convenient.

It is not improbable that Spain, in Treating on a Cession of the Floridas, may propose an exchange of them for Louisiana beyond the Mississippi, or may make a serious point of some particular boundary to that territory. Such an exchange is inadmissible. In intrinsic value there is no equality; besides the advantage, given us by the Western Bank, of the entire jurisdiction of the river. We are the less disposed also to make sacrifices to obtain the Floridas, because their position and the manifest course of events guarantee an early and reasonable acquisition of them. With respect to the adjustment of a boundary between Louisiana and the Spanish territories, there might be no objection to combining it with a Cession of the Floridas, if our knowledge of the extent and character of Louisiana were less imperfect. At present any arrangement, would be a step too much in the dark to be hazarded, and this will be a proper answer to the Spanish Government. Perhaps the inter-communications with the Spanish Government on this subject with other opportunities at Madrid, may enable you to collect useful information, and proofs of the fixt limits, or of the want of fixt limits to Western Louisiana. Your enquiries may also be directed to the question whether any and how much of what passes for West Florida, be fairly included in the territory ceded to us by France. The treaties and transactions between Spain and France will claim particular attention in this enquiry.

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Should no cession whatever be attainable, it will remain only, for the present, to provide for the free use of the rivers running from the United States into the Gulph. A convenient deposit is to be pressed as equally reasonable there as on the Mississippi; and the inconveniency experienced on the latter from the want of a jurisdiction over the deposit, will be an argument for such an improvement of the stipulation. The free use of those rivers for our external commerce, is to be insisted on as an important right, without which the United States can never be satisfied, and without an admission of which by Spain they can never confide either in her justice or her disposition to cultivate harmony and good neighborhood with them. It will not be advisable to commit the U States into the alternative of War or a compliance on the part of Spain; but no representation short of that, can be stronger than the case merits.

The instruction to urge on Spain some provision for preventing, or rectifying, by a delegated authority here, aggressions and abuses committed, by her Colonial officers, is to be regarded as of high importance. Nothing else may be able to save the U States from the necessity of doing themselves justice. It cannot be expected that they will long continue to wait the delays and the difficulties of negotiating, on every emergency, beyond the Atlantic. It is more easy and more just, that Spain and other European nations, should establish a remedy on this side of the Atlantic where the source of the wrongs is established, than that the complaints

of the United States should be carried to the other side, and perhaps wait till the Atlantic has moreover been twice crossed, in procuring information for the other party without which a decision may be refused.

The navigation of the Bay of St. Mary's is common to Spain and the United States; but a light house and the customary water marks can be established within the Spanish jurisdiction only. Hitherto the Spanish Officers have refused every proper accommodation on this subject. The case may be stated to the Government of Spain, with our just

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expectation that we may be permitted either to provide the requisite establishments ourselves, or to make use of those provided by Spain.

This letter will be addressed to Madrid; but as it is possible that you may not have left Paris, or may have proceeded to London, a copy will be forwarded to Paris, to be thence, if necessary, sent on to London. In case it should find you either at Paris or London, it must be left to your own decision how far the call for you at either of those places, ought to suspend these instructions. Should you decide to go to Madrid, it may be proper first to present your credence to the French or British Government, as the case may be; and to charge a fit person with the public business during your absence. Should you even be at Paris and your Commission filled up for London, it may be best to proceed first to London, if the call to Madrid be not very urgent.

I shall write to Mr. Pinckney and inform him that this letter is intended for his use jointly with yours; tho' addressed to you alone, because in part not applicable to him. Should you suspend or have suspended your visit to Madrid, you will please write to him also, giving him your ideas as to the expediency of prosecuting the object of the joint instructions or not, until you can be with him.