

Alexander James Dallas to Andrew Jackson, July 1, 1815, from Correspondence of Andrew Jackson. Edited by John Spencer Bassett.

SECRETARY DALLAS TO JACKSON.1

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Department of War, July 1, 1815.

Sir, Your Letter of the 23d of May, and the printed paper enclosed in it, were submitted to the consideration of the President of the United States, at the time they were received; and you would have been much sooner answered, in conformity to his instructions, if the intention which you announced of visitting Washington, had not induced me to hope for the opportunity of giving, as well as of obtaining, all the necessary explanations 16 in a personal interview. Convinced, indeed, of the patriotic motives which actuated your conduct at New-Orleans, the President would willingly abstain from any further remarks upon the subject, were he not apprehensive, that the principle of your example, and the reason of his silence, might be hereafter misunderstood, or misrepresented.

It must be admitted, that the occurrences, stated to you in my letter of the 12th of April, were of a nature to merit the attention of Government, and even to involve the President of the United States (who is bound to take care that the Laws be faithfully executed) in a high constitutional responsibility. It was essential, therefore, that those occurrences should be made known to him: And although it would have been more satisfactory, on every account, if the communication had proceeded directly from yourself, the President can see no cause to censure those public Officers, who, without departing from a just respect for your character and services, have regarded it as a duty, to transmit to him an

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uncontroverted statement of facts. No secret intelligence has been conveyed, nor has any man appeared as your accuser; and, whatever may be the sources of information, you will not, I am confident, deem it personally offensive, or injurious, that an enquiry should be made into circumstances, which have led to an extraordinary exercise of military authority.

The President has seen with satisfaction, Sir, that your justification of the measures, particularly contemplated, rests exclusively upon the ground of “a necessity, not doubtful, but apparent from the circumstances of the case”; and that when you call them “measures of necessity”, you mean measures, “without which the country must have been conquered, and the Constitution lost.” The position thus taken is candid and explicit: just, as it respects your own responsibility; and safe, as it respects the liberties of the nation. The military power is clearly defined, and carefully limited, by the Constitution and laws of the United States; but the experience of the best regulated Governments teaches us, that exigencies may sometimes arise, when (as you have emphatically observed) “constitutional forms must be suspended, for the permanent preservation of constitutional rights.” If, therefore, a crisis of that nature existed at New-Orleans, the President could feel no disposition to condemn the measures, that were adopted as indispensable, to rescue the Country, from impending danger; nor does he even deem it material, at this time, to enter into a critical examination of the evidence, which is adduced to prove the existence of the crisis. Some difference of opinion will naturally occur, on such occasions, as to the extent, or the duration, of the alledged necessity; but where no difference of opinion can occur, as to the purity, or the sincerity, of the motive to action; where the exigency was great, and where the triumph has been compleat; the judgment of a responsible and distinguished officer, merits implicit confidence.

But the case of necessity which creates it's own Law, must not be confounded with the ordinary case of military service, prescribed and governed by the established law of the land. In the United States there exists no authority to declare and impose Martial law, beyond the positive sanction of the Acts of Congress. To enforce the discipline and to ensure the safety, of his garrison, or his camp, an American Commander possesses

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indeed, high and necessary powers; but all his powers are compatible with the rights of the citizens, and the independence of the judicial authority. If, therefore, he undertake to suspend the writ of Habeas Corpus, to restrain the liberty of the Press, to inflict military punishments, upon citizens who are not military men, and generally to supercede the functions of the civil Magistrate, he may be justified by the law of necessity, while he has the merit of saving his country, but he cannot resort to the established law of the land, for the means of vindication.

Having thus briefly stated the President's general view of this interesting subject, I renew with pleasure the assurances of his confidence and esteem. Indeed, you have found in his late Acts, relative to the military peace establishment, the best proofs of respect for your character, and of his recognition of your services.

I am, very respectfully Sir,