

*To President of the Tribunal May 21*

CONSULATE OF THE UNITED STATES  
OF AMERICA.

*May 21-1899.*

To M. Lasguez

Vice-President de Tribunal Civil de Bordeaux.

Monsieur, le Vice-President.

I have the honor to inform you that on the 10th day of April last you authorized a writ of saisie-gagerie, directed against me as Consul of the United States.

As the <sup>result</sup> of such ordonnance, the hussier Rousse with a company of people in attendance upon him, came to the villa Trocadero at Arca-chon, where I at that time <sup>had</sup> resided, and for some months, ~~had resided~~, and where a great part of the business of my office was done and its records kept; and being denied admission or leave to execute said ordonnance by the seizure and distraint of my property in said villa, procured the assistance of the commissary of Police of Arca-chon, and forced an entrance to the same, by the exercise of violence against the person of the Consul, uttered insulting language against the Consular flag which was duly displayed over the main entrance of my dwelling, examined the consular records and property, against my protest, resistance and denial of their rights so to do.

*therefore*  
I have the honor to submit,--

1--That the issue of a writ of distraint against a Consul of the United States of America, without notice and upon *ex parte* evidence only, is <sup>a judicial</sup> violation of consular rights according to the common law of nations.

2--That by the treaty of February 23d 1853, between France and the

(2)

United States, it is expressly provided (Article II~~X~~) that such Consul may place the flag of his country over the door of his "dwelling" and shall enjoy all the privileges and immunities of consuls of "the most favored nation".

3--By article III of said convention, it is provided, (a) That "the consular offices and dwellings shall be inviolable"; (b) That "the local authorities shall not invade them under any pretext." (c) That "in no case shall they examine or seize papers therein deposited."

4--The like privileges and immunities are granted to the consuls of France in the United States.

Because of these facts, it becomes my official duty to suggest to you--

1--That the issue of such a writ without notice or opportunity to defend and show as I would <sup>readily</sup> have done, the fraudulent character of the claim against me, was a judicial invasion of the privileges of <sup>a</sup> the consul of the United States for the Consular District of Bordeaux, which district embraces the ten departments of southwest France, in either one of which I had a right to have a "dwelling," the undisturbed enjoyment of which is guaranteed to me by the exequatur of the Republic of France.

2--That the acts of the Commissary of Police and the huissier charged with the execution of your mandate, in forcing an entrance into my dwelling, exercising violence against my person, examining the papers and records deposited therein, was the natural and logical result of such ordinance.

3--The contemptuous allusions made by the Commissary of Police and the huissier against the flag of the United States hanging above the door

(3)

of the consular dwelling while engaged in executing said ordonnance, though not a necessary result of the grant of such ordonnance, were public insults to the flag of a friendly nation, made by officials representing the power and armed with the mandate of the Tribunal.

Believing these violations of treaty-rights to have been, so far as the action of the Tribunal was concerned, the result of inadvertence rather than any unfriendly purpose, and being ~~disposed~~ desirous to report it to my government as an incident amicably adjusted in such manner as to call for no international action, a thing which at <sup>this</sup> ~~any~~ time might be peculiarly deleterious, I stated in connection with my preliminary report, that I had filed a formal protest with the President of the Tribunal and the Prefet of the Department of the Gironde. In response to this formal protest the President of the Tribunal courteously informed me that the ordonnance having been ~~validated~~ validated by your action, any movement looking to its revocation must proceed under your initiative.

This being the case, I beg to suggest whether the proper course is not to annul said ordonnance by a decree of the Tribunal of equal dignity and formality, and also to formally disavow and condemn the action of the officers charged with its execution in violating the consular dwelling, using personal violence to the consul and examining papers and records of the consulate, there <sup>are</sup> deposited.

In adopting this course, my action has been especially ~~recommended~~ commended by the ambassador of the United States at Paris, as being of a character calculated not only to preserve amiable relations between the two governments but also to avoid giving unnecessary publicity to an act

which cannot be justified by any possible interpretation of international law or with any regard for treaty-rights. Not having plenary powers, I am not authorized to discuss the incident except in writing, and can only suggest rather than demand such reparation as would be deemed satisfactory.

Permit me to suggest, therefore, M. le Vice-~~President~~, whether the formal annulment of said ordonnance, the disavowal of any purpose to assert such jurisdiction, and the express condemnation of the acts of the officers engaged in its execution would not be consistent with the dignity of the Tribunal and <sup>constitute</sup> such reparation as you would expect and desire a French Consul in the United States to ask and an American court to cheerfully accord. Having been for many years the President-judge of a court of Superior jurisdiction and being still a professor of law in one of our great universities, I think I am not assuming too much in saying that such action on the part of an American tribunal might be assumed as a matter of course.

Hoping that you may find your <sup>sense of duty may</sup> ~~duty~~ to be in accord with my suggestions and that I may receive at an early day, duly certified copies of such reparative <sup>to accept</sup> ~~action~~, I beg you, Monsieur le Vice President, my sentiments of the very highest consideration.

*consul des Etats-Unis  
à Bordeaux, ancien juge  
de la tribunal supérieur, et docteur  
en droits de l'Université  
de New York.*

*insulted. As I have removed from the list of  
cadets, this can be done at the consulate.*  
(2)

Because of this you will perceive, M.le President, that I cannot en-  
gage in anything like a prosecution of the huissier Rousse. Indeed, I  
*having no feeling of resentment towards him*  
have no desire to do so. The matter is in no sense, a personal one with  
me. Except his derogatory words and gestures toward the flag, I am unable  
to see that he did anything more than the Tribunal by its formal order  
directed him to do. While therefore, it is the universal rule of interna-  
tional law that the subordinate be directed to salute the flag he has in-  
sulted in the over zealous performance of a required duty, I can only  
suggest to the authority which issued the order what was the resulting  
affront and leave it to their sense of obligation to a friendly power  
to rebuke it in such manner as to them may seem proper. *I have no*

*diversion except as to the sufficiency and*  
I can only express the hope that it may be so full as to give me  
*some idea of the reparation offered*  
the pleasure of reporting *the matter* to my government as an unpleasant incident  
most amicably and pleasantly closed.

It is for this reason, that I do not see my way clear to act upon  
your suggestion in regard to making complaint to the Procureur de la Re-  
publique of the conduct of the huissier. I do not seek his punishment  
but only such rebuke as the Tribunal whose order he was executing may  
see fit to administer. Should it direct him to salute the flag he in-  
sulted, I have no doubt he would comply and be very careful about again  
committing such offence. It seems to me *indeed* ~~however~~, that I would be guilty  
of a grave discourtesy to the Tribunal should I demand another branch of  
of the government the punishment of one engaged in the execution of an  
order directed to him as its executive officer. *Besides, I have no*

*little sympathy for this class of officials whose*  
I beg therefore, to leave the whole matter to the judgment of the  
*knowledge of law is not sufficient to guard*  
*them against occasional errors. The temptation*

*to make a display of authority no longer  
led him to make (3) For remarks he did*  
Tribunal, not doubting that they will grant such formal disavowal of an  
*without any clear comprehension of their*  
act you have with such gracious candor admitted to be extra-judicial, *and*  
*governing*  
and administer such rebuke to the huissier as the exceptional character  
of the act may require.

I am, Monsieur, le President, etc.

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