TO THE SECRETARY OF STATE.

Consular Privileges.

ASSURANCE OF PARDON.

The district attorney may assure a counterfeiter who shall disclose his accomplices, and produce the plates and counterfeited paper, of a pardon; but the mere disclosure is not enough.

PHILADELPHIA, November 18, 1797.

Sir: I concur with you that Pardon Smith may be pardoned by the President, if he will previously disclose to the attorney of the United States in Massachusetts district the name of the offender at New York who was particeps criminis in the counterfeiting, and will also cause to be produced and delivered to the attorney the plates and paper which he says are concealed and may be obtained by him. The district attorney may be instructed to assure, by promise, a pardon to him when these conditions shall have been performed; and may be directed to do what is necessary for obtaining the plates and paper. Merely to discover the name of the offender in New York is not enough, in my opinion, to entitle the convict to pardon; and the grant of pardon should be deferred till an answer shall be received from the attorney of the district, informing you of the result of the intended discovery of the plates and paper.

I am, &c., &c.,

CHARLES LEE.

To the Secretary of State.

CONSULAR PRIVILEGES.

A consul is not privileged from legal process by the general law of nations, nor is the French consul-general by the consular convention between the United States and France.

Though a consul, for a transaction in which he acted as the commercial agent of his government, the President has no constitutional right to interpose his authority, but must leave the matter to the tribunals of justice.

PHILADELPHIA, November 21, 1797.

Sir: I have taken into consideration the letter of citizen Letombe, consul-general of the French republic in the United States of America, bearing date the 16th instant, with the several papers which accompanied it.

The United States have acknowledged citizen Letombe in the character of consul-general; and thus only they know him. As such, he is not privileged from legal process, either by the
general law of nations, or by the consular convention between the United States and France; and, if he is authorized to represent the republic of France in any ministerial character, he has never yet so offered himself or been received. The second article of the convention seems to me to preclude all doubt respecting the suability of the consul-general. The immunities and privileges annexed to his office are there distinctly enumerated; and, in all other respects, he is subject to the laws as our own citizens are. Though the transaction which has given rise to the suit instituted by John Coffin Jones was not of a private character, but of a public nature, which concerned the republic of France, and in which the consul-general acted as the commercial agent of the republic; yet the President of the United States has no constitutional right to interpose his authority, but must leave the matter to the tribunals of justice.

It does not belong to me, in my public capacity, to advise how the consul-general may proceed to relieve himself from the obligation of giving bail; yet, having a wish that every inconvenience may be avoided by him, consistent with the laws of our country, I will venture to suggest that the right to hold him to bail, or to recover the debt from him, cannot, in my opinion, be maintained; and as to the former, any one of the justices of the Supreme Court is competent to decide at his own mansion, whenever application shall be made. The reason for this opinion is, that it evidently appears the contract was founded on the credit of the French republic only, and not on the private credit of citizen Letombe.

I am, &c., &c.,

CHARLES LEE.

To the Secretary of State.

CONDEMNATION OF PRIZE.

A captured vessel must be brought within the jurisdiction of the country to which the captor belongs, before a regular condemnation can be awarded.

DECEMBER 19, 1797.

The Attorney General has considered the case of the English ship John, as represented in the note of the Secretary of State dated yesterday.