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Patrick Henry Speech: Virginia Convention 18 June 1788

Gentlemen say, that the King of Great-Britain has the same right of making treaties that our President has here. I will have no objection to this, if you make your President a King. But I will adduce a difference between an American treaty, and an English treaty. Recollect the case of the Russian Ambassador: He was arrested contrary to the rights of his master. The Russian Emperor demanded the man at whose instance his Ambassador was arrested, to be given up to him, to be put to instant death. What did the Queen say? She wrote him, that that was something paramount to what she could do:—That it exceeded her power to comply with his demand, because it was contrary to the Constitution and laws.¹ But how is it here? Treaties are binding, notwithstanding our laws and Constitutions. Let us illustrate this fatal instance:—Suppose the case of the Russian Ambassador to happen here. The President can settle it by a treaty, and have the man arrested, and punished according to the Russian manner. The Constitutions of these States may be most flagrantly violated without remedy. And still will Gentlemen compare the two cases? So great was the anxiety of Queen Anne, that she wrote a letter to the Russian Prince with her own hand, apologizing for her inability to comply with his demands. The Parliament was consulted, and a law made to prevent such arrests for the future. I say again, that if you consent to this power, you depend on the justice and equity of those in power. We may be told, that we shall find ample refuge in the law of nations. When you yourselves have your necks so low that the President may dispose of your rights as he pleases, the law of nations cannot be applied to relieve you. Sure I am if treaties are made, infringing our liberties, it will be too late to say that our constitutional rights are violated. We are in contact with two powers: Great-Britain and Spain. They may claim our most valuable territories, and treaties may be made to yield them. It is easy on our part to define our unalienable rights, and expressly secure them, so as to prevent future claims and disputes. Suppose you be arraigned as offenders and violators of a treaty made by this Government. Will you have that fair trial which offenders are entitled to in your own Government? Will you plead a right to the trial by jury? You will have no right to appeal to your own Constitution. You must appeal to your Continental Constitution. A treaty may be made giving away your rights and inflicting unusual punishments on its violators. It is contended, that if the King of Great-Britain makes a treaty within the line of his prerogative, it is the law of the land. I agree that this is proper, and if I could see the same checks in that paper which I see in the British Government, I would consent to it. Can the English Monarch make a treaty which shall subvert the common law of England, and the Constitution? Dare he make a treaty that shall violate Magna Charta, or the Bill of Rights? Dare he do any thing derogatory to the honor,

or subversive of the great privileges of his people? No, Sir. If he did it would be nugatory, and the attempt would endanger his existence.

The King of France calls his Parliament to give him power to make what regulations with regard to treaties, they may think conducive to the interest of the nation. In the time of *Henry* the Vth, a treaty with Sigismund, King of Poland, was ratified by the Parliament. You have not even as much security as that. You prostrate your rights to the President and Senate. This power is therefore dangerous and destructive.

1. According to William Blackstone, Peter the Great's ambassador to Great Britain was arrested for a debt of fifty pounds in July 1708. Instead of claiming diplomatic privilege, the ambassador posted bail and was released, after which he protested to the British Crown. The attorney general then charged the persons involved in the arrest, and a jury convicted them of the facts, but the criminality of the defendants' actions was never determined. In the meantime, Peter demanded that the officials who made the arrest be executed. Queen Anne replied "that she could inflict no punishment upon any, the meanest, of her subjects, unless warranted by the law of the land." To appease Peter and various foreign ministers, Parliament passed a law making it a punishable crime to arrest diplomats who were entitled to the diplomatic immunity under the law of nations.

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