

**The Free-Trade Doctrine and U.S.-Brazil Diplomacy
of Condé Ragué (1784-1842)**

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of Condy Raguet (1784-1842)

Condy Raguet (1784-1842) was the first Chargé d'Affaires from the United States to Brazil and a conspicuous author of political economy from the 1820s to the early 1840s. He contributed to the era's free-trade doctrine as editor of influential periodicals, most notably *The Banner of the Constitution*. Before leading the free-trade cause, however, he was poised to negotiate a reciprocity treaty between the United States and Brazil, acting under the authority of Secretary of State and protectionist apostle Henry Clay. Raguet's career and ideas provide a window into the uncertain relationship of reciprocity to the cause of free trade.

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Introduction

On the third of January, 1829, a new newspaper began publication in Philadelphia. Its editor, Condy Raguet, expected it to rival Hezekiah Niles's digest of political news and congressional and executive proceedings, *Niles' Weekly Register*. Niles was a thorough chronicler, but he was also a biased one: he stood with Mathew Carey and Henry Clay in the first rank of advocates of the protective tariff. The "Tariff of Abominations" of 1828 demonstrated the need for a competitor – one who could answer Niles and his ilk with sophisticated free-trade arguments informed by the science of political economy. Raguet was the man, and *The Free Trade Advocate and Journal of Political Economy* was his vehicle.

Raguet combated protectionist arguments with energy, skill, and command of empirical facts. The last quality was essential, as the opposition of his theory to the relevant facts was a charge he often had to answer. "The friends of the monopoly or restrictive system, are always

calling out for *facts*,” he observed. They wished to know, for example, when a merchant sent word from Rio de Janeiro of American coarse cottons being in great demand at a good price, was not the free traders’ beautiful theory refuted? The theory held that the United States’ advantages lay in agriculture and commerce. Did not the salability in foreign markets of U.S. manufactures, fostered by protection at home, signal the superiority of the protectionist doctrine?¹

Raguet was uniquely suited to answer. He was a man of practical experience: he had just returned from serving as the first U.S. Chargé d’Affaires in Brazil. His counterargument was built carefully on evidence, and, to those who were not already fixed in opposition, might have been persuasive. But it did not put to rest the purported dichotomy of free-trade theory and fact. He felt obliged to refute it for the rest of his life.

His refutation was complicated by one source of tension between theory and fact that Raguet, as a diplomat as well as a free trader, knew well. Free trade promoted the advancement of national industry, construed broadly, and wellbeing. So held the theory. But the fact was that completely free trade, as Raguet understood it, could only be achieved by two methods. One was a combination of diplomacy and tariff legislation that coaxed or coerced trade partners to relax their trade barriers as the United States relaxed its own. The other was to await an extraordinary coincidence: the United States and its partners relaxing their barriers independently. Failing both methods, the free-trade vision could be fulfilled only partly at best.

From that discouraging fact two others followed. First, partial fulfillment of the free-trade vision, by foregoing the material benefits for some of the potential beneficiaries, could be politically untenable. Second, if free traders tried to achieve the vision through diplomacy and coercive tariff legislation, then they risked appearing to accept, or even coming to accept, a notion that was antithetical to their theory. It was the notion that one country’s reductions of

trade barriers were in the nature of concessions. As concessions, they were prejudicial to the country's interests. They were granted only in exchange for compensating reciprocal concessions.

The dilemma was the same one that proponents of trade liberalization face today (e.g. Bhagwati, 2002). Raguet is interesting in light of the peculiar circumstances in which he faced it. During his mission in Brazil he was instructed to negotiate a treaty of commercial reciprocity with the Emperor's ministers. His instructions came from Henry Clay, who was then Secretary of State, and who also happened to be the chief political architect of the protectionist doctrine. A tantalizing opportunity for trade expansion could only be seized, it would have seemed, by compromising free trade and accommodating protectionism. What was a free trader to do?²

In brief: Condy Raguet was a leading contributor to free-trade doctrine in the United States. At one time he was also in an uncommon position of responsibility to translate the doctrine into policy. But the policy at issue, reciprocity, had an uncertain place in the doctrine: it was proposed by protectionists, too. Raguet had to negotiate theoretically the dilemma of unilateralism versus reciprocity. He also had instructions to negotiate, in hard fact, a reciprocity treaty. This essay aims to show how he did both.

Reciprocity before Raguet's mission

The years preceding Raguet's mission in Brazil were a time of protectionist ascendancy. The growth of U.S. imports after 1815, following the end of the War of 1812 and the European Wars that fomented it, depressed American manufacturers. The Panic of 1819 only increased the clamor for protection. Conventions and societies for the encouragement of manufactures by way of tariff protection sprouted up, and a Congress favorable to a protective policy was elected with

Henry Clay as Speaker of the House (Rothbard, 1962/2002, p. 148; Stanwood, 1903, vol. 1, pp. 169, 179-180; Taussig, 1892, p. 68).

The same years were also a time of rapid development of ideas and policies promoting “reciprocity” in American trade policy. Tariff protection was controversial, but reciprocity, as it was then understood, was not. Although a protectionist tariff bill that Henry Clay ushered through the U.S. House of Representatives in 1820 lost in the Senate by a single vote (Stanwood 1903, vol. 1, pp. 192-193), other bills that were framed as devices for tit-for-tat imposition or reduction of discriminatory duties on merchandise and tonnage passed both chambers with little controversy. While the tariff bill foundered, a bill providing for countervailing tonnage duties on French ships and vessels sailed through Congress (3 *US Stat.*, p. 605; *Annals of Congress*, 16th Cong., 1st Sess., pp. 696, 2246). It was but the latest in a series of similar acts in the war’s aftermath.

Most of the acts were aimed not at France but at Great Britain. The Reciprocity Act of March 3, 1815 promised to abolish discriminatory duties on the tonnage of a partner’s ships as compared to U.S. ships, and on merchandise imported in a partner’s ships as compared to U.S. ships, pending a reciprocal act by that partner (3 *US Stat.*, p. 224). Exactly four months later, with that act guiding their negotiations, U.S. plenipotentiaries completed a reciprocity treaty with Great Britain (Setser, 1937, p. 186; Malloy, 1910, vol. 1, p. 624). Its main achievements were, first, to provide for the reciprocal repeal of all duties discriminating between British and U.S. ships sailing directly between the two countries (i.e. national treatment in direct navigation); second, to provide reciprocal assurance that neither country would levy duties discriminating between imports of the other’s merchandise and imports from the most-favored alternative partner (i.e. most-favored-nation treatment in trade).

Subsequent reciprocity acts were drawn up mainly to rectify what Americans perceived as the lack of reciprocity in the latter treaty. Because it did not provide for national treatment in *indirect* trade between the two countries (via the British West Indies, where U.S. ships were prohibited from trading), British ships in fact had a considerable advantage. Their exclusive access to the triangular trade allowed them to undercut U.S. ships plying directly across the Atlantic (Benns, 1923, p. 35). So Congress acted. An act of April 27, 1816 levied discriminatory duties on (among other things) cotton cloths originating beyond the Cape of Good Hope (3 *U.S. Stat.*, p. 310), meaning the British dominions in the East Indies. An act of January 14, 1817 imposed a \$2 per ton duty on ships embarking from ports where U.S. vessels were not allowed to trade – exempting ships enjoying privileges that might be granted by treaty with an amenable partner (3 *U.S. Stat.*, p. 344). More complicated but less subtle was an act of March 1, 1817, prohibiting the importation in non-U.S. ships of any merchandise except that which originated in the country to whose citizens the ship belonged, excepting ships of any foreign nation that had not adopted a similar regulation (3 *U.S. Stat.*, p. 351). In effect, the act prohibited British ships from carrying non-British cargoes to U.S. ports so long as Great Britain excluded U.S. ships from trading in the West Indies. More acts in the same vein followed every year from 1817 to 1820 (3 *U.S. Stat.*, pp. 369, 460, 510, 602).

Like the bill for countervailing tonnage duties on French ships and vessels, reciprocity along these lines was uncontroversial (Benns, 1923, pp. 52-53). Even such a navigation act as was passed on April 18, 1818 – which added “teeth” to the already biting one of March 1 of the previous year – passed with minimal opposition in both the House and the Senate (Setser, 1937, p. 227). The appeal of the policy cut through doctrinal allegiances to free trade and protection.

Such was the terrain of the tariff and reciprocity debate for roughly the decade up to 1822. Raguet's contributions, which were peripheral during these years, may be read in detail in Meardon (2011, pp. 5-19). Here, the briefest sketch will do.

The son of a French immigrant and merchant, Condy Raguet graduated from the University of Pennsylvania, studied the law, and then became a ship's supercargo and a merchant himself until the War of 1812. He enjoyed the status of a Captain and then Lieutenant Colonel in the Pennsylvania militia. Thereafter he was a founding member of the Philadelphia Athenaeum, a Federalist member of the Pennsylvania House and Senate, president of the Pennsylvania Company for Insurance on Lives and Granting Annuities, principal founder of the Philadelphia Savings Fund Society, and, in all those capacities, an enthusiastic reader and aspiring contributor to the developing science of political economy. He composed economic reports for the Pennsylvania legislature, corresponded with David Ricardo on banking and free trade, and counted the influential American protectionist Mathew Carey among his friends.³

Like the counsel he kept in matters of political economy, Raguet's views on trade policy, and more specifically on reciprocity, were a mixture of doctrines. He championed countervailing duties, not only on foreign tonnage but also foreign goods, for different purposes over different time horizons. In the short run, he wished to prop up domestic manufacturers; in the long, to encourage free trade. Henry Clay professed the same purposes. But in the latter one, Raguet, unlike Clay, was probably sincere.

Thus Raguet had some differences of opinion from protectionist proselytizers and politicians, but they were not so great as to disqualify him from service in the administration of the President James Monroe, an avowed friend of protection (Stanwood, 1903, vol. 1, 161). Indeed they were so narrow that his "taint of federalism," as Secretary of State John Quincy

Adams would later put it archly (Adams, 1875, vol. 6, 285), was of little account. Raguet hoped for an appointment in Latin America, where independence from Europe augured new consular positions and where he felt “a great interest in the Patriot cause” (Camurça, 1988, p. 184). Conveniently, the South American diplomacy of President Monroe and Secretary Adams was of a piece with the reciprocity policy: both sought to establish the United States’ commercial prerogatives and dismantle exclusive privileges favoring one country or another. In peacetime, the privileges at issue were preferences for goods and ships of the Old World in the ports of the New. (The U.S. pressed for an equal footing.) In wartime, they were the rights of belligerents to search and seize ships and merchandise bound for enemy ports. (The U.S. sought to enlarge the rights of neutrals.)

Raguet had other qualities, besides, that recommended him for service in Monroe’s administration, especially in some consular or diplomatic capacity. He had traveled abroad in commercial pursuits; he had been trained in the law and had practiced politics; he had influential friends and knew how to keep them despite shades of difference of opinion. And yet his standing in commerce, law, and politics was not so great as to startle the European countries that were watching closely. As Monroe explained privately, his appointees to South America were not to be marked by any “*distinguished eclat*” lest they stir up European apprehensions about U.S. designs (Monroe to Jonathan Russell, 12 March 1822, in Hamilton, 1902, vol. 6, p. 211). So wrote the President one day after submitting Raguet’s name to the Senate for its advice and consent regarding a possible appointment as U.S. Consul at Rio de Janeiro (*Sen. Exec. J.*, 1822, p. 278).

The Brazil mission

Raguet's duties upon his arrival at Rio de Janeiro in September of 1822 were not, at least by official sanction, of a diplomatic character. They were supposed to be of the commercial and informational kind usually befitting U.S. consuls.⁴ But circumstances soon called upon Raguet to act above his pay grade. The regent of Brazil, Dom Pedro, had declared his country independent of Portugal just the day before Raguet's ship landed on September 8. War with the colonial master followed, and with it came obstructions of foreign commerce and impressment of foreign seamen. Raguet attended diligently to U.S. interests by interceding repeatedly with the Brazilian government. He was soon promoted to "agent of the United States for commercial affairs" – a diplomatic position that would *not* signal U.S. recognition of Brazil's independence. When at last the U.S. determined to send that signal, in March 1825, Raguet was promoted to Chargé d'Affaires.

Raguet's promotion was one of the first acts of John Quincy Adams's Presidency, and his instructions among the first penned by Henry Clay as Secretary of State (Robertson, 1915, p. 210; Manning, 1918, p. 126). The instructions continued seamlessly Adams's reciprocity policy. To Clay, after all, reciprocity was not merely a passing enthusiasm: it was part and parcel of his "American System."

Clay's system looked at once outward to U.S. leadership and trade in the hemisphere and inward to the protection of domestic industry. The aims were not contradictory. The new countries of the hemisphere, Clay expected, would supplant European despotism with American republicanism, provide a market for U.S. grain and manufactures, and offer in exchange raw materials and consumables that did not compete with domestic products. But commanding the trade of the hemisphere depended crucially on U.S. ships entering the ports of the hemisphere on

equal terms with foreign rivals. Where they did not, “perfect reciprocity” required reciprocal restrictions of trade – with the offer, perhaps, of reciprocal abandonment of restrictions. Clay endorsed forcefully the United States’ policies along those lines in relation to the West Indies trade (Clay 1824/1843, v. 1, p. 253). He had long had, and still had, greater hopes for trade with South America (1818/1843, v.1, p. 92; 1824/1843, v. 1, pp. 227, 243). So he dispatched to Rio de Janeiro a warning to the newly invested Chargé Raguet: “France and Great Britain will probably strive to obtain for themselves peculiar advantages in the trade with Brazil ... You will resist, firmly, and constantly, any concessions to the Commerce or Navigation of either of those two powers, which are not equally extended to the Commerce and Navigation of the United States” (Clay to Raguet, 14 Apr. 1825, in U.S. Department of State, 1801-1906, All Countries, vol. 10, p. 267). He also gave Raguet the prerogative to propose a treaty of amity, commerce, and navigation. Its general aims would be to give Brazil better terms in navigation in return for eliminating the preference, to the extent of 9% ad valorem, that Brazilian customs gave to British goods over American ones.⁵

The treaty was a project that would consume much of Raguet’s attention but deliver few positive results. Impeding him were, first, the untimely receipt and strange paucity of his diplomatic credentials and instructions from Washington and, second, the outbreak of war between Brazil and the United Provinces of the Rio de la Plata over the disputed territory of the Banda Oriental in present-day Uruguay. The impediments were consequential not only to the effectiveness of Raguet’s diplomacy, but also to his later career and thought as a political economist and polemicist.

At the moment Clay wrote Raguet’s instructions, conditions were ripe for the negotiation of a commercial treaty. By Raguet’s account, beginning in February 1825 the Brazilian

government anticipated the arrival of the British diplomat, Sir Charles Stuart, to mediate between itself and Portugal. Although Brazil's independence was not in doubt, the new nation might have drawn some advantage from being able to "boast, as least, of having been recognized by one Foreign Power" ("To the Public," *Banner*, vol. 1, no. 17, 13 Feb. 1830, p. 129). The arrival of Raguet's credentials as Chargé d'Affaires would have served that end; the more concrete evidence of U.S. recognition manifested by a treaty would have served even better. But a mishap at sea caused the credentials to be waylaid in Buenos Aires. They did not reach Rio de Janeiro until the 23rd of October, by which date Charles Stuart had already done his work, Brazil's independence from Portugal was recognized by the mother country, and U.S. recognition "was no longer a matter of any sort of consequence" (ibid.).

Raguet followed his instructions nonetheless, and, proposing a treaty, found the Brazilian government willing if not eager to proceed. He informed Clay of the fact, adding some observations about the disadvantages Americans suffered from Brazil's discrimination in favor of Great Britain (Raguet to Clay, 23 November 1825, in Raguet, 1824-1827, vol. 2, pp. 5-18). Because he had been given permission only to propose a treaty, not to negotiate one, as he was plainly eager to do, he could do no more than leave the matter at that and await additional credentials and instructions. Meanwhile, the eruption of hostilities between Brazil and Buenos Aires made the treaty's prospects more remote. Brazil declared war and a blockade of all enemy ports in December 1825 (Manning 1918, p. 129). The remainder of Raguet's mission would be devoted mainly to remonstrating against Brazilian violations of professed U.S. commercial rights.

At the beginning of the blockade, his remonstrations were courteous assertions of principle. Informed by a careful reading of U.S. diplomatic correspondence with European

governments, Raguet explained to the Brazilian Foreign Minister immediately and at length the international law of blockades as construed by his own government. Because a blockade was not to be proclaimed capriciously or enforced arbitrarily, in order to be legal it had to be effective. A merely “paper blockade,” consisting of proclamations but not warships in harbors, amounted to the belligerent’s threat to harass neutral seamen and merchants unpredictably with “advantages not due to the positive force of his arms.” The United States denied the legality of an ostensible *general* blockade of Argentina by a country such as Brazil because the besieged had too many ports, and the besieging too few ships, to make the blockade *generally* effective. What was more, even if the blockade were legal, in order to capture or confiscate legally any ships violating it, the belligerent had to have given prior warning of its existence. Not even the “refinements of modern sophistry,” averred Raguet, could shake “this just and equitable rule” (Raguet to Visconde de S. Amaro, 13 Dec. 1825, in *American State Papers: Foreign Relations* [hereafter *ASPR*], vol. 6, pp. 1023-1025).

Because he was not expressly instructed to write such a letter, the assuredness of Raguet’s tone was, by his own account, greater than he felt. He “accordingly waited with much anxiety” for confirmation from Clay of the correctness of his position he adopted (“To the Public, No. II,” *Banner*, vol. 1, no. 18, 17 Feb. 1830, p. 137). Correspondence with Washington took about two months each way, give or take a couple of weeks – yet he received no word through August of 1826. At the end of that month, still without a word of approval from Clay, he faced a severe test of the principles he had expounded the previous December.

On August 29th, the brig *Ruth* of Philadelphia, bound originally for Buenos Aires, was led into the harbor of Rio de Janeiro by a Brazilian warship that had intercepted it at sea. The *Ruth*’s course, according to the testimony of its supercargo, had already been diverted to Montevideo

after intelligence of the blockade was received from a passing ship. But because it was intercepted hundreds of miles east of both ports, there was no independent evidence of its being bound for one or the other. It was captured nonetheless and a “prize crew” of twelve Brazilians boarded to steer it in convoy to Rio. During the passage, all of the *Ruth*’s crew except the cook, ten men in total, were taken prisoner on the warship; the supercargo claimed that some were pressed temporarily into service onboard. Upon reaching Rio’s harbor all ten were transported to a Brazilian prison ship, the *Prézéganga* – “the common receptacle of convicts, murderers, and pirates,” as Raguet put it to the Minister of Foreign Affairs – there to confront “the most revolting scenes of vice, profligacy and misery, which the human mind can imagine” (Raguet to Minister of Foreign Affairs, 9 Sept. 1826, *ASPFR*, vol. 6, p. 1037; Raguet to Clay, 23 Sept. 1826, in Raguet, 1824-1827, vol. 2, p. 141).

From the American point of view, here was an incident of illegal blockade, and more. The norms of executing blockades were violated in detail, from removing the crew from their vessel to impressing them on another vessel to imprisoning them under poor conditions after reaching safe harbor. Particularly shocking to Raguet was the base treatment of the *Ruth*’s captain, mate, and above all its supercargo, whose position he had occupied in another time and place and whose status he must have identified with closely. Upon learning of the incident he tracked down the Minister of Foreign Affairs at a tea party, reminding him that Americans valued their liberty “at a greater price than all property; and that if Brazil was desirous of avoiding a war with the United States, she must respect that liberty” (Raguet to Clay, 1 Sept. 1826, in Raguet, 1824-1827, vol. 2, pp. 131-132). Not even the Brazilian who ranked highest in his esteem was spared his fury. To José da Silva Lisboa, a distinguished political economist and apostle of Adam Smith whom Raguet had presented recently for membership to the American

Philosophical Society, and who also happened to be the Minister's chief clerk, he pledged that if the crew of the *Ruth* were not released without delay, he "would go to the end of the world" to prove Brazilians "not to be a civilized people" (p. 133).⁶

That such harsh language was extraordinary in diplomatic discourse, and that it was likely to offend the Brazilian government, Raguet knew well. He also knew that it might incur the censure of his own government. But, then again, so might a lack of zeal or effectiveness in support of its interests, which he thought to be under extraordinary assault. Without instructions to the contrary, and mindful that "publick duty should outweigh all calculations of private interest," he resolved to continue to express himself unflinchingly "in the language of truth" (Raguet to Clay, 23 Sept. 1826, in Raguet, 1824-1827, vol. 2, p. 145). To his hazard, he would do so not only to the Brazilian Foreign Ministry but also to Secretary Clay.

To Raguet, the incident of the *Ruth* was no unique occurrence. It was the last straw. "My residence in this country, of four years," he wrote to Clay, had been "nothing but a continued record of wrongs inflicted by this Government and its officers, upon our commerce, our citizens, and our national honor, in return for numerous acts of kindness and forbearance." The inflictions could be stopped only by a show of determination from the President and Secretary of State that had been conspicuously lacking. What were needed were "positive and determinate instructions, as would enable me to speak to this Government in the only language that can cause respect for our rights, I mean, language addressed to its fears." For such instructions he had waited expectantly. But, he added pointedly, "in this expectation, I have thus far been disappointed." He had not received "a single line" from Clay, or anyone else in the State Department, for nearly a year and a half. And without being able to say credibly that his government backed specific "decisive measures" – such as his own recall and a rupture of relations if the Brazilian

government should not immediately surrender and pay damages for all U.S. vessels seized illegally – he despaired of his ability to defend U.S. interests, to say nothing of advancing them (Raguet to Clay, 23 Sept. 1826, in Raguet, 1824-1827, vol. 2, pp. 142-144). Presenting the argument in a more positive light, but no less urgently, he exhorted:

Now is the moment to make *our* nation respected by *this*. *Now* is the moment to make this Government *feel* the influence, which we are destined to maintain in this hemisphere of liberty – and if it be desirable to negotiate [sic] a treaty of commerce, perhaps *now* is the moment, when the footing of the most favoured nation might be obtained as the price of a reconciliation ... (ibid.)

One can hardly imagine a more forceful expression of the principle of reciprocity. It was couched, too, in words that might have been expected to appeal to Clay, as they echoed Clay's past speeches in Congress. But it would take some time to learn whether the exhortation worked. Before that happened, Raguet was embroiled in what became his final dispute with the Brazilian government.

A former U.S. warship that was under private ownership, the *Spark*, arrived in Rio on January 27, 1827, for the purpose of its sale to the Ministry of Marine. When the Minister saw fit to buy only its guns, not the ship, the captain determined not to sell and instead to set sail for Montevideo in search of another buyer. Cleared by customs, and receiving the customary visit for inspection and approval of paperwork before final departure, the *Spark* exited the harbor. Several miles from land, it was intercepted and boarded by the commander of an armed Brazilian steamboat under orders of the Minister of Marine – in whose mind its usefulness as a warship, its large crew, and its destination “for the waters of La Plata” aroused suspicions concerning its “true character” (Minister of Foreign Affairs to Raguet, 7 March 1827, *ASPF*, vol. 6, p. 1065).

Most of the *Spark*'s crew was taken prisoner aboard the steamboat and a prize crew was substituted for the short trip back to the harbor. There it was subjected to a rigorous and damaging inspection, resembling to Raguet "the ransacking of a vessel by a band of freebooters," and Raguet himself was called upon to controvert "the strong suspicion of her being a privateer bound for Buenos Ayres." (Raguet to Clay, 12 March 1827, in Raguet, 1824-1827, vol. 2, p. 240; Minister of Foreign Affairs to Raguet, 7 March 1827, *ASPFR*, vol. 6, p. 1065).

In its barest details, the interdiction of the *Spark* was bound to appear to Raguet as a violation of American maritime principles similar to that of the *Ruth*. In fact he considered it worse. It was "one of the most deliberate and high-handed insults against our flag and national honour." It was committed, moreover, "by the express orders" of the Brazilian government. And he read the request that he should explain the ship's character as an "official insult" (Raguet to Clay, 12 March 1827, in Rauget, 1824-1827, vol. 2, pp. 236, 245). (Raguet deigned reply that although he would have complied cheerfully before *Spark* had been cleared to sail, "in the present state of the affair ... he declines giving any explanations" [Raguet to Minister of Foreign Affairs, 7 March 1827, *ASPFR*, vol. 6, p. 1065].) The aggravating circumstances related mainly to the timing of the Minister of Marine's orders to the intercepting steamboat: Raguet claimed they had been formulated well in advance of the *Spark*'s disembarkation. If the claim was correct, then the *Spark*'s clearance for departure would appear to be merely a ruse to facilitate its interdiction at sea and subsequent ransacking; and the only motive he could conceive for that was to render the ship unfit for use by either enemy or friend.

Seeing "not a shadow of doubt" that the Brazilian government had plotted to confiscate and damage American property, harass American citizens, and cover its tracks with official lies, Rauget notified the Foreign Minister of his withdrawal from the Court of Brazil and requested

his passports (Raguet to Clay, 12 March 1827, in Rauget, 1824-1827, vol. 2, p. 241, 246; Raguet to Minister of Foreign Affairs, 8 March 1827, *ASPFR*, vol. 6, p. 1065). To Clay, he wrote that he had no dignified alternative: his action was “the *ultima ratio* of a People which sincerely desires to preserve the relations of peace with all the world upon honourable terms.” Although he was lauded roundly by Rio’s expatriates, he was uncertain enough of his superiors’ sharing their sentiments – or perhaps he had enough political intuition – that he saw fit to affirm his preparedness “to meet all the consequences, even though one of them should be, my being offered up as a sacrifice on the altar of publick good” (Raguet to Clay, 17 March 1827, in Rauget, 1824-1827, vol. 2, p. 251).

A short while later, on the eve of his departure for the United States, Raguet received the first unhappy indication that his intuition was correct. Clay’s response to his report on the *Ruth* affair reached him on March 30th. Without denying the “strong character of some of those injuries” for which Raguet had demanded redress from the Brazilian government, Clay observed that “it is the fate of all maritime nations, neutral in maritime wars, to find their commerce and navigation often exposed to serious vexations.” If the United States believed such vexations to warrant war, as Raguet had intimated to the Minister of Foreign Affairs, then its history would have been marked by hardly a year of peace. Nor was that the only reproof that Clay had the “painful duty” to convey. The President “would have been better satisfied,” he went on, if Raguet had avoided such “provoking and irritating expressions” as the one about “civilized people” that he had tried with José da Silva Lisboa. As to the point that “decisive measures” were needed to countervail the catalog of wrongs committed against the United States, Clay reminded him that the decision rested with the President, who was “enabled, at this distance, to take a calmer view” (Clay to Raguet, 20 Jan. 1827, *ASPFR*, vol. 6, p. 1067).

Among the few authors who have assessed Raguet's diplomacy, most stand nearer to Adams's and Clay's point of view than to the disappointed chargé's. They behold the failed diplomacy of a man of flawed character.⁷ But these authors credit mainly witnesses who were interested in putting the onus for the diplomatic fracas on Raguet – above all Adams, who complimented him backhandedly for his “zeal” while gauging him to be a man of “temper and want of judgment, who took blustering for bravery and insolence for energy” (Manning, 1918, pp. 144-145).

It requires no doubt of Adams's sincerity to suppose that a fair assessment would balance his impressions with others. Of these there were several. At the end of Raguet's mission, his most distinguished compatriots in Rio lauded him for having been “patient and temperate” and expressed their “unqualified and perfect approbation” of his conduct. His most thorough biographer to date, a Brazilian, observes, “it is known that Condy Raguet was not a man who lost his temper easily. Quite the contrary, he was known by his contemporaries as a gentleman of kind and sober manners” (Camurça, 1988, p. 218).⁸ In the final analysis, temperament is a dubious explanation of Raguet's threats to the Brazilian government and his requests for threats from Washington. A likelier explanation is that they were consequences not of his personal disputatiousness but his principles of diplomacy.

Months before the incidents of the *Spark* and *Ruth*, Adams declared to Congress *his* principles. “In the intercourse between nations,” he said, “temper is a missionary, perhaps, more powerful than talent. Nothing was ever lost by kind treatment, Nothing can be gained by sullen repulses and aspiring pretensions” (Adams 1826, 116). The declaration manifests the standard by which Adams sized up Raguet. It also presents a debatable proposition. Is indeed *nothing ever* lost by kind treatment? If kindness is shown to a recalcitrant friend or hostile foe, one loses at

least an opportunity to signal that recalcitrance or hostility will not be received kindly. Reciprocity, as the policy was understood in the early nineteenth century and advocated by Raguet no later than 1819, was justified by the belief that the opportunity should not be lost. Adams subscribed to that belief, at least in theory. In fact, he was more ambivalent about it than Raguet, who, during his Brazil mission, embraced it completely.

From diplomat to doctrinaire

When Raguet arrived at New York on May 31, 1827, after six weeks at sea, the political climate was considerably more poisonous than that which he had left five years before. One toxin was the alleged “corrupt bargain” in the alliance between Adams and Clay that denied Andrew Jackson the presidency in 1824. By the summer of 1827 it had not dissipated in the least.⁹ Another, which also dated from 1824, was the tariff act of that year. F. W. Taussig (1893, p. 74) has called it “the first and most direct fruit of the early protective movement”: it achieved most of the protectionists’ aims in the skirmishes of 1819 to 1822. Its opponents protested bitterly. Southerners in particular warned of “governmental usurpations” (Boucher, 1916, 2); the Virginia General Assembly resolved that the act, which transferred property from one portion of the country to another, was “unconstitutional, unwise, unjust, unequal, and oppressive” (“Virginia Resolutions,” *Niles’ Weekly Register*, vol. 32, no. 814, 21 Apr. 1827, p. 139). The unconstitutionality of the tariff was a new and ominous allegation.

Yet protectionists pressed their cause still further, especially in respect to woolens. Mathew Carey was co-ringleader of a convention assembling in Harrisburg, Pennsylvania, in July of 1827 to support a bill “for the promotion of manufactures and the mechanic arts,” especially woolens (“General Convention, Of Agriculturalists and Manufacturers, and Others

...,” *Niles’ Weekly Register*, vol. 32, no. 830, 11 Aug. 1827, p. 388). The convention and its address provoked the opposition of a committee of Boston free traders: their 196-page counter-report, authored by Henry Lee, an affluent Boston merchant and political economist, took on the larger purpose of refuting systematically the American System. Lee assailed Henry Clay as much as Mathew Carey, and, in so doing, advanced a version of the unconstitutionality argument that had lately been heard in the South (Lee, 1827, pp. 78-99).

In short, in many quarters, and not only in the South, the grievances against the administration of John Quincy Adams had reached a fever pitch. They were heightened by a widespread belief that the political maneuvers and public legislation of Adams, Henry Clay, and their abettors were virtually, or even literally, unlawful.

As the election of 1828 approached, Raguet was trying determinedly to change the public impression, which was colored by Adams’s impression, of his diplomatic service. His case took on symptoms of the same fever. Anti-administration newspapers like the *New York Evening Post* and the *New York Argus* took his side against the likes of the *National Intelligencer*, which was friendly to Adams.¹⁰ By his own account, Raguet “resolved, that if access to the Legislature of the nation, and through it to the bar of public opinion, could only be obtained through a party channel, to such party channel would I apply” (Raguet 1828). He pled his case to the Jacksonian opponents of the politicians who had cut him loose. Although the plea could not have improved appreciably the odds of restoring his diplomatic status (not, at least, in an administration led by Adams and Clay), it opened up different opportunities.

To the majority of Jackson’s supporters in the presidential campaign of 1828, especially those in Northern entrepôts and Southern plantations, the Hero of New Orleans’s victory in the Electoral College in early December came with urgent necessity of undoing the highly

protectionist “Tariff of Abominations” of the previous May (Belko, 2010, 11-13). To undo it would require constant proselytizing against the protective system in the manner that *Niles’ Weekly Register* had long done in support of it. Anyone discerning or desperate enough might have seen an opening, in a notoriously unlucrative profession, for a man with a certain combination of qualities: disciplined in the epistolary arts, knowledgeable of government, well read in the new science of political economy, and ready to enter the bruising fray of political controversy against the advocates of protection (most notably Henry Clay). Raguet had demonstrated the first three qualities even before his Brazil mission; circumstances during and after its end could not have failed to instill in him the fourth; and he was indeed both discerning and desperate.¹¹ He founded in Philadelphia and began writing and editing *The Free Trade Advocate and Journal of Political Economy*, the first issue of which was dated January 3, 1829.

From his first paragraph Raguet left no doubt about his aim. It was to demolish, through a searching examination of its “labyrinth of error,” the policy that had “latterly been distinguished by the appellation of ‘The American System’.” The policy error he had in mind was not U.S. government expenditures for internal improvements, nor was it encouragement of republican governments throughout the hemisphere. He meant the American System’s other part: the imposition of high or prohibitive duties on foreign manufactures “for the express purpose of thereby affording, what is called *protection* to those individuals, who propose to manufacture similar commodities within the United States” (“On the Principles of Free Trade,” *Free Trade Advocate*, vol. 1, no. 1, 3 Jan. 1829, p. 1). The synecdoche was, presumably, a way of also taking aim at Henry Clay without naming him.

The *Free Trade Advocate*’s general arguments against protective duties drew from the common stock of early nineteenth century political economy. They followed the tradition of

Adam Smith, as refined by David Ricardo and Jean-Baptiste Say; their gist was expressed in the newspaper's banner, which read "LAISSEZ-NOUS FAIRE." To wit, "legislative interference in favour of any particular pursuit of industry, necessarily forces capital and labour from one occupation to another." The new occupation, being an "artificial" one, was necessarily less productive of national wealth than the old and "natural" one. Besides being inefficient, such interference was immoral. Tariffs in particular were "inseparably connected with an act of injustice, by which a tax is levied upon one portion of the people, for the benefit of another portion" (ibid.).

These were but the previews of Raguet's arguments that he set out in the first issue. In subsequent issues he spun them out in myriad ways. Nobody has credited him with originality in doing so – not even Raguet, who could hardly be accused of forgetting that he was chiefly an "advocate." His talent was for disseminating political-economic ideas more than devising them.¹²

For this essay's purpose, Raguet's unoriginality in propounding the principles of free trade matters little. What matters is how he proposed to achieve free trade when, as a matter of fact, not only the United States but also its partners practiced protection. The theory that Raguet appropriated from Smith, Ricardo, and Say spoke mainly to the question of why free trade should be established, not how.¹³

Raguet's answer to the question during his Brazil mission has been noted. In the thick of the *Ruth* controversy, he had advised Clay that "the footing of the most favored nation might be obtained as the price of a reconciliation." At a calmer moment a few months later, before the incident of the *Spark*, he had offered further that "no hesitation can be made to the immediate opening of a negotiation" for a commercial treaty. The negotiation "would at all events enable us to ascertain how far the american system [sic] would be likely to be embraced by this

Government” (Raguet to Clay, 23 Sept. 1826, in Raguet 1824-1827, vol. 2, p. 144; Raguet to Clay, 9 Jan. 1827, *ibid.*, p. 224).

To Raguet, no doubt, the American System had not then been freighted with the same meaning he saw in it in 1828. He had used the term, presumably, in reference to the treaties Clay had supported and the United States had signed with Colombia in 1824 and Central America in 1825.¹⁴ Those treaties were variations of the model that Raguet had expected the United States to propose with Brazil. The first was centered on the most-favored-nation (MFN) principle for trade in each nation’s goods and for navigation, the second on MFN for trade in each nation’s goods and the national-treatment principle for navigation. As far as commercial treaties went, they were among the most liberal in the world. But Say’s admonition still applied: even the Colombian and Central American treaties, and any other that might be modeled after them, could be rendered effectual only by an implied threat. Simply put, *without a treaty the concessions would not be granted; if they were not granted, then the partner would suffer discrimination*. As Chargé d’Affaires, Raguet had approved of that prospect. He did so not in submission to his boss, but earnestly and by his own deliberation.

Exactly two years later, as founder of the *Free Trade Advocate*, he appeared to disapprove. “There are some who will admit the truth of our position in the abstract,” he observed in his introductory essay, “but who will maintain, that the free trade policy is only advantageous when generally adopted, and that where it is departed from by one nation, it is for the interest of others, with whom she trades, to follow her example.” Raguet would not countenance any contradiction of principles by facts. “To adopt the restrictive system merely because another nation has adopted it,” he countered plainly, “would be as absurd, as a man to tie his hands, that he might diminish his power to work, merely because other persons, with whom

he dealt, had the folly to tie theirs” (“On the Principles of Free Trade,” *Free Trade Advocate*, vol. 1, no. 1, 3 Jan. 1829, pp. 10-11). But the “restrictive system” that Raguet resisted in his introduction was one calculated, by his description, to levy duties on British manufactured goods in order to countervail the British Corn Laws. Would he hold to the same principles with respect not only to goods but also to navigation?

In the event, Raguet would not, at this time, positively repudiate as a free-trade doctrinaire what he had sought as chargé. But he did not restrain himself merely for pride in his past position or consistency with past deeds, and he did not fail to devise a painstaking justification. To accept the reciprocity principle and the corollary of countervailing and discriminating duties, in navigation if not goods trade, was indispensable for advancing the cause of free trade. For a while at least. The occasion for Raguet’s justification of reciprocity was the publication, first in the *National Intelligencer*, of a pair of letters by former President Madison dated September and October, 1828, on the awfully fraught question of the constitutionality of protective tariffs.

Those who argued the unconstitutionality of tariff protection grounded their argument in a strict reading of Article I, Section 8. In clause 1, Congress’s power “to lay and collect Taxes, Duties, Imposts and Excises” was qualified by the stipulation that it should be used for three legitimate purposes: “to pay the Debts and provide for the common Defense and general Welfare of the United States.” Protection for domestic producers was not specified. In clause 3, Congress’s power “to regulate Commerce with foreign Nations” was circumscribed by the word “regulate,” which some disbelieved to mean levying duties, because that had already been disposed of in the foregoing clause; and “Commerce,” which some disbelieved to encompass any more than the transportation of goods, not their production. The first and third clauses of Article

I, Section 8 came closest to granting Congress the power to levy tariffs for the protection of domestic producers. If the power did not exist there, then it did not exist anywhere. On that everyone agreed. But in the weighty opinion of President Madison (a Virginian at odds with the Virginia General Assembly, and an author of the Constitution besides), the power did exist. He focused on the third, or commerce, clause.

His focus was not altogether sharp. He misquoted the clause repeatedly, saying that it granted the power to regulate “trade” with foreign nations. According to common usage, claimed Madison, “to regulate trade” connoted not only regulation of the act of trading but also encouragement of the production of tradable things, particularly manufactures. (He could have made the same claim with respect to “commerce” but it might not have rung as true. That word had come to be associated rather more with the act of trading than the stuff traded: e.g. Say, 1821, p. 5). As for the notion that “to regulate” did not mean to levy duties, he brushed it aside, observing that the distinction could hardly be maintained in practice. Finally, and compellingly, he observed that his interpretation was not his alone: it had been around since the first congress, wherein a number of fellow sons of Virginia, of both the Federal and anti-Federal parties, “did not hesitate to propose duties and to suggest even prohibitions in favour of several articles of her production,” from coal to hemp to beef (“Letters of Mr. Madison,” *Free Trade Advocate*, vol. 1, no. 3, 17 Jan. 1829, p. 35).

There rested Madison’s legal case against the unconstitutionality argument. To it he added a pragmatic case. If it were not admitted that the power to regulate trade embraced encouragement of domestic production, then neither food staples nor “the essential implements for the public safety” would be ensured a home market. Stretching the point, he proffered that, given the “Let us alone” theory animating the unconstitutionality argument, “it would follow that

no monopolizing or unequal regulations of foreign nations could be counteracted.” Other countries’ ships would be protected by navigation laws that the United States would be powerless to countervail; the merchant marine, the bulk of the navy during wartime, would wither away. In sum, acceptance of the argument would be tantamount to rejection of reciprocity, which was “the only rule of intercourse among independent communities” (ibid., pp. 35-36). The consequence would be a humiliating subservience to foreign powers.

Madison’s pragmatic case conflated goods and commerce, just as his legal case did. But it was shrewd. It presented those making the unconstitutionality argument as proponents of national weakness. It thus confronted free traders with a dilemma: maintain the argument and appear craven in the public view, or renounce the argument and rely on the same stock that had notably failed to turn the public against protection. After the protectionist mobilization of 1827 had begotten the Tariff of Abominations of 1828, the dismay of the prior year had turned to alarm. Political scion, lawyer, and reformer Henry D. Sedgwick of New York City and Stockbridge, Massachusetts, declared that “the people have not listened to the proof that this system is baneful – they are bound to listen to the proof that it is illegal” (Sedgwick, 1830, 9). Plenty of free traders put their hopes in that prospect, but plenty more feared it. If not only the wisdom but also the legitimacy of the federal government’s power to levy tariffs were denied, then what other powers would be denied? And what other state prerogatives affirmed?

Raguet understood the peril. He devoted twelve pages of his newspaper to reprinting and analyzing Madison’s letters, maneuvering carefully around both horns of the dilemma. His approach was inspired unmistakably by Smith and Say. Pledging to subject Madison’s arguments to “the maxims of the science to which they relate,” he would avoid direct engagement with the legal case (which did “not appertain to the province of political economy”) and proceed to

examine the pragmatic one (“Mr. Madison’s Letters,” *Free Trade Advocate*, vol. 1, no. 3, 17 Jan. 1829, p. 40).

Where Madison argued that countervailing duties were necessary for the support of the merchant marine, Rauget acknowledged that he was, perhaps, right. But the reason had nothing to do with “*economical principles*,” in light of which such duties were always unwise. Retaliation against foreign restrictions would cause trade to be more restricted, and “what would be thought of a man in want of provisions, who should insist upon it, that no bread was better than half a loaf?” The reason for retaliatory duties could only be seen in light of “*national policy*.” If naval glory and power hung in the balance, then a country might decide (“and very justly too we think”) that some “sacrifice in her economical calculations” were appropriate. The appropriate instrument, then, would be a countervailing duty on the tonnage of foreign ships. Although it would undoubtedly be prejudicial to the economic interests of the country, it could possibly be expedient as a “way to maintain a navy for the defence of her commerce and her harbours.” And it was precisely this instrument, Rauget added (violating for a moment his promise not to treat questions of law), that the Constitution afforded in Article I, Section 8, clause 3, “to regulate Commerce with foreign Nations ... ” (ibid., p. 42).

On its face, Rauget’s argument would seem to have helped free traders to dodge the charge of cravenness at the cost of forfeiting the contest. But he added two qualifying points. First, even as “national policy,” it was “manifestly unwise and impolitic to retaliate upon a nation, which it was certain would retaliate again.” This dubious point he defended by substituting one purpose for another. The purpose that he had already accepted as legitimate, in agreement with Madison, was to provide for a national merchant marine; now he assumed it was “to let the offending nation see the folly of her measures, and to induce her to abandon her

selfish and illiberal policy.” If the offender would see no folly, then retaliation was worse than useless. Whether in such a case retaliation would be useless for protecting the merchant marine, he did not say (*ibid.*).

Second, the possible expediency of countervailing tonnage duties did not apply to countervailing goods duties. Great Britain, the presumptive offending nation, had in fact lowered its duties lately on American cotton. But, Raguet allowed, suppose that it had not. Or consider the offense of Britain’s Corn Laws, which hindered exports of American flour. Either way, what would be achieved with a retaliatory refusal to buy British manufactures? “It has not the character of national policy to recommend it, which attaches to the countervailing duty on tonnage,” Raguet answered; “the protection of commerce and the defence of the nation, cannot be urged as reasons for its adoption” (*ibid.*, p. 44). His defense of this point, too, was conspicuously silent on an obvious question. What if manufactures imported from Britain were, as Madison had put it, “essential implements for the public safety”? To put it plainly, if duties on foreign tonnage were justified in order to encourage the American merchant marine, and so in wartime to float a navy, then why not impose duties on foreign woolens in order to encourage the American textile manufactory, and so to clothe an army?

Madison’s argument was built upon on an opportune conflation of goods and commerce, Raguet’s upon a questionable distinction between them. Still, if one accepted Raguet’s distinction then his accomplishment was impressive. He trimmed the unconstitutionality argument so as to spare its advocates from the brunt of Madison’s criticism. But he did not wholly refute it: if the exigencies of “national policy” were to be found only in navigation, not other branches of industry, then neither economic nor national considerations could be cited to justify protection for manufactures. One could agree with Raguet and proceed to argue that,

because protection of such goods did not provide for either the common defense or the general welfare, and because it did not relate to “commerce,” it was unconstitutional. Or one could agree with him and proceed to make only economic and moral arguments against protection. If the protective system was to be overturned (and Raguet to build his list of subscribers) then free traders of different convictions on the constitutionality question would have to share some common doctrinal ground. Raguet had just surveyed it. The doctrine embraced: (1) unilateral repeal of protective duties on goods irrespective of their constitutionality; (2) reciprocity and countervailing duties in navigation when expedient.

Reverses of free-trade reciprocity

Underlying the ground that Raguet had staked out for a free-trade consensus were numerous circumstances that were bound to change. As they did, the ground shifted, particularly in respect to free traders’ limited embrace of reciprocity.

When Congress convened in December 1829, Raguet’s prospects were improving and his influence increasing. He had moved his editorial efforts to Washington, D.C. and expanded them under the aegis of a new periodical, *The Banner of the Constitution*. It was ampler in scope than its predecessor: it was designed to supply more numerous and varied facts in support of true theories. But the overarching principles were the same: individuals were held to be better stewards of their interests than governments, exchange was mutually beneficial, and, notably, it was “an error to suppose ... that the interests of a country are to be promoted by counter restrictions” (Editorial, *Banner*, vol. 1, no. 1, 5 Dec. 1829, p. 8).

Because he took credit for the reciprocity treaty with Brazil signed lately by his successor (“I cannot but think that the treaty ... was the fruits of the course I pursued” (“To the Public, No.

II,” *Banner*, vol. 1, no. 18, 17 Feb. 1830, p. 137)¹⁵), Raguet undoubtedly had in some exceptions to the erroneousness of counter restrictions. Sorting the valid exceptions from invalid ones in light of free-trade doctrine would require his constant attention. Tariff reform was high on the agenda of the 21st Congress, but no realistic reform would be a pure free-trade measure. He would have to decide what kind of reform was adequate to gain his endorsement.

Among the several reform bills introduced, his opinions on two of them, both founded upon reciprocity, are especially significant. The first was unveiled in February of 1830 by Congressman Cambreleng of New York City, chairman of the House Committee on Commerce. Cambreleng issued a lengthy report detailing the state of American trade and navigation and supporting new legislation. His chief concern was trade between the United States and Great Britain, which was “embarrassed with restrictions” (U.S. Congress 1830, p. 29). Most of the restrictions, he determined, were of the United States’ own making: while Great Britain had lately been dismantling its prohibitions and substituting moderate duties, “we have been substituting restrictions for free trade” (p. 26). Among the more egregious were U.S. tariffs on woolens, cottons, glassware, and rolled iron, which had risen in some cases (depending on the particular product) to 168%, 125%, 70%, and 180%, respectively (p. 67). Cambreleng’s proposal: to create a maximum duty on all goods imported from any particular partner of 30% *ad valorem*, which duty would apply whenever it was determined that the partner had done the same (pp. 43-48). The proposal would have created, in effect, a two-column tariff for all goods whose tariffs stood above 30%. The low-tariff column would have applied to countries remaining in the United States’ good graces from year to year as well as those wishing to cement their “reciprocating commercial privileges” with a treaty (p. 47). Raguet reprinted Cambreleng’s entire 72-page report in serial form throughout six issues of *The Banner of the Constitution* (vol.

1, nos. 23-28, 6, 10, 13, 17, 20, and 24 March, 1830). He did not neglect to append his own editorial comments.

Raguet's comments were wholly and effusively positive. He judged Cambreleng to have produced "*the most able and masterly* exposition of the practical operation of restrictive laws, that has ever been submitted to Congress." Whereas Adam Smith, Jean-Baptiste Say, and Benjamin Franklin had explicated ably the principles at issue, he continued, Cambreleng had demonstrated them with particulars. The congressman had not only maintained "in an argumentative, sound, and logical manner, the grand essential *theories* of free trade" but had also proved them "by the adducing of the most conclusive *facts*, collated in the form of tables" (Editorial, *Banner*, vol. 1, no. 22, 3 March 1830, p. 176). Later Raguet commented specifically on the report's two-column tariff-reciprocity proposal when it was introduced as a bill for debate in the House (H.R. 449, 21st Cong., 1st Sess., 30 April 1830). It was meant to appeal to the "*moderate* portion of the tariff party," he admitted, but that fact did not counsel against it. The moderates advocated a restrictive policy only "upon the ground of retaliation," which was legitimate. The bill, which was designed upon the same ground, was "completely calculated to prepare the way for that kind and friendly intercourse with foreign nations which all Christians [sic] and philanthropists ought to desire" (Editorial, *Banner*, vol. 1, no. 41, 8 May 1830, p. 328).

The second bill eliciting Raguet's opinions did not rank as high in his estimation. Senator Thomas Hart Benton of Missouri proposed similarly to reduce or abolish duties on imports of numerous goods, and on the tonnage of ships, from countries offering equal favors to the United States; and to levy a tariff of 33 and 1/3 percent on a smaller number of goods, namely furs and raw hides, imported from countries that did not reciprocate the United States' free admission of them by giving "equivalent advantages" ("Abolition of Unnecessary Duties – Acquisition of

Equivalents,” *Banner*, vol. 1, no. 22, 3 March 1830, p. 170). In the case of the republics of South America, which exported furs and hides and could not be expected to want similar goods from the United States, the “equivalent advantages” would consist of tariff concessions for some other U.S. products. If they did not offer concessions, “the penalty of their own election falls upon them” (*ibid.*, p. 171). Like Cambreleng’s proposal, Benton’s required a determination of other countries’ reciprocal tariff reductions in order to activate reductions in U.S. tariffs. Like Cambreleng’s, Benton’s would therefore create a two-column tariff, the high-tariff column being framed as a set of countervailing duties. The difference was that, for two goods of particular interest to Western states, instead of a partner’s reciprocal treatment resulting in U.S. duties being lowered to 30%, the partner’s non-reciprocal treatment would result in U.S. duties being raised to just over 30%. To Raguet, the difference mattered. Although Benton’s proposal was founded upon “a great deal of sound and orthodox reasoning,” the part concerning furs and hides did not “correspond with the views maintained by this Journal” (Editorial, *ibid.*, p. 175).

In his next issue Raguet restated those views. It was common with advocates of high duties, he began, “and even with some who strongly incline to the doctrine of free trade,” to argue for restrictions of trade with countries that restricted trade with the United States. A simple example would show the fallacy of the argument. “The proposition, we are to combat, asserts, that if the Buenos Ayrean Government should lay a duty on flour, it would be good policy in our Government to lay a corresponding duty on hides, that is, that we should be benefitted by such countervailing duty.” If Buenos Aires imposed a duty on U.S. flour of 50%, or perhaps even higher, then a Pennsylvania farmer would sell less flour there and could afford to buy fewer hides. But he could still afford to buy some hides – say, half the original number. If the U.S. government retaliated with a duty on Buenos Aires hides, then he could afford less than half. The

government's action "would be precisely like that of a man, who, by way of retaliation upon another for a supposed wrong, should fall to work and pull his hair out of his own head, as some foolish children do." Repeating his argument against Madison from the year before, Raguet concluded that a countervailing duty was justifiable only if there was good reason to believe the original offender could be "coerced into an abandonment of his error." If not, then it would only cause mischief. Anyway, "as a permanent system, it is always to be avoided" (Editorial, *Banner*, vol. 1, no. 23, 6 March 1830, p. 183).

The homily was directed unmistakably against Benton's bill.¹⁶ The crux was that while Cambreleng's countervailing-duty proposal was a Christian and philanthropic boon, Benton's was a foolish bungle. The gap between the proposals was rather narrow for such widely different assessments. But Raguet wished to promote the closest approximation to a free-trade bill that the politics of the moment would permit. In such circumstances a narrow gap could seem, or could be made to seem, wide indeed.

As an exercise of Raguet's growing influence, more important than his endorsement of Cambreleng's reform proposal was his spearheading, the next year, a massive convention of free-traders from fifteen states ranging from Maine to Mississippi. Between 150 and 350 delegates, according to different accounts, convened at the Musical Fund Hall in Philadelphia between September 30 and October 7, 1831. The call for participants was issued from Raguet's own house by a coterie of southern and northern free traders, the latter group including (in addition to their host) Henry D. Sedgwick, his brother Theodore, and Clement C. Biddle, among others (Belko, 2010, pp. 15, 17). The convention, they declared, would "be the reverse of the Harrisburg Convention" of 1827. It would gather and disseminate information promoting tariff reform; specifically, it would produce "a petition or memorial, to be addressed to the next

Congress, for the purpose of obtaining a modification or repeal of the existing Tariff” (“Anti-Tariff Convention, From the *New York Evening Post*,” by “A Lover of His Country,” *Banner*, vol. 2, no. 30, 22 June 1831, p. 233; “Anti-Tariff Convention,” unsigned, *ibid.*). In the event, Raguet was the convention’s secretary (Raguet, 1831, p. 7).

Another author has told ably the story of the Philadelphia Free Trade Convention (Belko, 2010). What remains to be said here concerns its implications for free-trade and protectionist doctrines and their treatment of reciprocity. Two weeks before the convention, Raguet reiterated the views that had led him to applaud the rumors of trade negotiations with Great Britain and to support Cambreleng’s bill. To the question of whether the Constitution’s commerce clause (Article I, Section 8, clause 3) permitted the levying of duties on tonnage and imports, at least for purposes of retaliation, Raguet answered, “unhesitatingly, yes.” He also stated explicitly what he had implied when applauding the rumored negotiations with Great Britain and Cambreleng’s bill: contrary to his own argument against Madison, retaliatory duties could target not only a country’s shipping but also its goods. But the constitutionality of such duties depended crucially on Congress’s purpose. Congress was permitted to “regulate” commerce, not to diminish it – so, if the commerce clause were to authorize a tariff act, “the act must be instituted for no other purpose than to secure a removal of the offensive provision.” According to Raguet, the Tariff of 1828 did not meet that requirement: “for, had this been the case, our laws would have been special, not general: their provisions would have been specifically applied to particular nations, regulating the duties with some reference to those against which they were retaliatory” (Editorial, *Banner*, vol. 2, no. 42, 14 Sept. 1831, p. 333).

On the eve of the Free Trade Convention, its chief organizer was arguing that the Tariff of 1828 was unconstitutional because it was insufficiently discriminatory! The convention was

badly needed not only for its stated aims but also to help free traders to think through their position.

The need was underscored by a dueling tariff convention held in New York from October 26 to November 1, including Carey, Niles and over 500 others, who pounced on the Philadelphia convention's weaknesses. In their public address, protectionists mocked the free traders' concessions. So a bunch of tariff skeptics held protection to be unconstitutional but accepted Congress's powers to give protection incidentally and to countervail foreign legislation. "Are not these concessions," goaded the tariff advocates, "inconsistent with the main proposition?" Protectionist tariffs, they claimed, were usually designed precisely to protect manufacturers from the unequal competition of other countries. They were "no other than so many acts passed *to countervail the injurious commercial regulations of foreign states*" ("Address of the New York Convention, To the People of the United States," *Niles Weekly Register*, vol. 41, no. 1051, 12 Nov. 1831, p. 205). Given the claim, it followed that the unconstitutionality arguments bandied about in Philadelphia were irrelevant. As for the practical wrongs of protectionist tariffs, which the protectionists now equated with countervailing duties, the New York address called attention to the longstanding system of countervailing duties on tonnage embraced similarly by foreign countries and the United States. The system was not especially controversial. Thus it would appear that "those who have taught us their theory of free trade, are too wise to practise it." The appearance held even where countries reduced their duties reciprocally: far from acknowledging the benefits of free trade, they were demonstrating that "trade can only be carried on between nations by mutual agreement; and mutual protection leads to reciprocity as the only equitable arrangement" (*ibid.*, p. 211).

Theodore Sedgwick, for one, saw the muddle that free traders had gotten themselves into. To Henry Lee, who had partial responsibility for composing a memorial to Congress on behalf of the Philadelphia convention, Sedgwick expressed doubt that free traders had expressed plainly enough what “free trade” meant – or that they even knew what they meant. “This produces confusion in the minds of the people,” he continued, “and gives our adversaries a great advantage.” Sedgwick offered what he meant by the term: “*equal duties and no preferences, no protection.*” And he offered correspondingly a suggestion for writing the memorial. “I hope my dear Sir, that we shall no longer tamper with this subject – any half way will I think now be considered, and ought to be, as mean & timid – it will do no good, it will be unintelligible to the people” (Theodore Sedgwick to Henry Lee, 5 Dec. 1831, Lee Family Papers).

In Sedgwick’s view, compromises to expediency were, in fact, inexpedient. Whether the compromise pertained to the legal, practical, or moral argument for free trade, the same conclusion held. Acceptance of discriminating duties in any industry, for any purpose, in any circumstances, undermined the free-trade cause.

As it turned out, the task of composing the Philadelphia convention’s memorial was altered from the original plan and divided into parts. Former Treasury Secretary Albert Gallatin, another of the convention’s leaders, composed a “Memorial of a Committee Appointed by the Free Trade Convention” in close consultation with Raguet and some others. It was a document of 55 pages presenting already a fairly comprehensive statement of the free traders’ case. Lee went further, writing an *Exposition of Evidence in Support of the Memorial to Congress* that was more than three times longer. True to their titles, the documents complemented each other. While both manifested a wish to hew generally to Sedgwick’s advice, both departed from it in crucial particulars.

“Equal duties” was indeed their plea. The memorialists called “for a uniform duty,” whatever would be its rate, so that “all the sections of the country, classes of society, and individuals” would maintain approximately the same relative positions they would have had with no duties at all. The memorialists were not, however, indifferent as to the rate: they suggested 20 to 25 percent ad valorem in place of the current duty that amounted on average to perhaps 40 percent (Gallatin, 1832, pp. 5-6). If their suggestions had been offered without important qualifications and accompanied by calls for (1) a domestic excise equal to the tariff, and (2) a ban on differential treatment of imports from different countries, then, even with a tariff of 20 to 25 percent, Sedgwick’s advice would have been followed to the letter. Equal duties, no protection, and no preferences, without any “half way.”

But they added qualifications in every respect. Equality of duties, they admitted, need not apply to items necessary for the national defense, nor to luxuries or raw materials. Import duties that were not balanced by domestic excises were regrettable, but “the people prefer, in time of peace, duties raised on the importation of foreign merchandise to any internal tax,” and they would not quarrel with the people on that count. Finally, retaliatory laws and the differential treatment they entailed were an evil – except when they were not! “Retaliatory measures may be resorted to with more or less success, according to circumstances; and as they may be more or less adapted to the object in view, for the purpose of inducing a nation to alter her policy or conduct” (ibid., pp. 6, 23-24). If retaliation did have that object in view, then, elaborated Lee, it only “met taxation by taxation – not to restrict and restrain trade, but to make it more free” (Lee, 1832, p. 5). (“Most capital,” Raguet commended Lee on the part of the *Exposition* containing that last point (Raguet to Lee, 26 Jan. 1832, Lee Family Papers).) These arguments had already been tried and turned against their proponents. They could hardly be relied upon to clear up the

“confusion in the minds of the people” that Sedgwick apprehended and, according to him, the likes of Carey and Niles exploited.

Gallatin’s memorial and Lee’s *Exposition*, which were together supposed to constitute a decisive free-trade manifesto, did not put to rest Sedgwick’s apprehensions or the protectionists’ rebuttals. What did so at last was not persuasion but precipitation of a crisis. South Carolina’s nullification of the tariff in November 1832 threatened disunion and disaster unless a compromise was struck. Henry Clay introduced the compromise in the Senate on February 12, 1833 (Stanwood, 1903, vol. 1, p. 397). The free list was to be enlarged and all other duties were to be reduced, by stages, to a maximum 20% *ad valorem* in 1842. After that year, duties were to be laid as necessary to raise revenue for “an economical administration of government” (4 *U.S. Stat.*, p. 630). This was rather less a compromise than an utter capitulation to the position staked out by Gallatin and Lee for the Philadelphia conventioners. Its cause, by Clay’s own account, was the prospect of an even worse outcome for tariff advocates and the country if the controversy were allowed to linger (Stanwood, 1903, vol.1, pp. 399, 410).

After the enactment of the Compromise Tariff on March 2, 1833, in nearly the form that Clay first introduced it, protectionists and free traders alike were loath to disturb it. They had retreated from the brink, and most did not wish to return anytime soon. The tariff controversy quieted down.

The quiescence was not without its costs. In the midst of the nullification crisis, in December 1832, Raguett had discontinued *The Banner of the Constitution* to prepare the ground for an even more ambitious undertaking: a daily paper promoting the same principles (“To The Friends of State Rights and Free Trade Throughout the Union,” *Banner* vol. 3, no. 57, 31 Dec. 1832, p. 445). Yet the events of the following months made not only the bigger undertaking, but

also the *Banner* itself, unviable. Scaling back his plans, in August 1833 he established a bimonthly periodical, *The Examiner, and Journal of Political Economy*, devoted “to the advancement of the cause of state rights and free trade” (“Address To the Friends of State Rights and State Remedies,” *Examiner, and Journal of Political Economy* [Philadelphia: hereafter *Examiner*], vol. 1, no. 1, 7 Aug. 1833, p. 1). Unfortunately for Raguet, the value of publishing even as frequently as that was questionable. By the end of 1834 he acknowledged that the paper could not be sustained (“To Subscribers,” *Examiner*, vol. 2, no. 11, 24 Dec. 1834, p. 173). He kept it afloat until the next summer and finally sold it to the owner and editor of the *United States Telegraph*, Duff Green, who held similar state-rights convictions and, since late in Jackson’s first term, a similar animus against the President (Belko, 2006, pp. 243-247).¹⁷

The tariff question lay dormant through the Panic of 1837 and its immediate aftermath. It reawakened around 1840, when the end of the initial nine-and-a-half year term of the Compromise Tariff loomed two years ahead. In a debate of that year on public expenditures, Senator Calhoun of South Carolina warned his colleagues that when the moment to adjust the tariff arrived, he would “resist all attempts to draw more money from the pockets of the people than is absolutely necessary, with rigid economy, to the just and constitutional wants of the Government.” He would insist, in other words, that his colleagues continue to honor the compromise. Although Clay professed his intention to do just that, his remarks to the effect that he would nevertheless “meet prohibitions with prohibitions” aroused suspicion (*Cong. Globe*, 26th Cong., 1st Sess., Appendix, pp. 441, 443).

The suspicions of free traders grew in 1841. Rep. Henry A. Wise of Virginia saw designs afoot to reinstate protection, albeit under a different name that would not openly controvert the Compromise Tariff. “Gentlemen will not violate the compromise,” he observed; “Oh no! they

will not violate the compromise as they understand it; yet they can do all the mischief I dread within the terms of their comprehension!" (*Cong. Globe*, 26th Cong., 2nd Sess., Appendix, p. 290). The comprehension at issue was that duties could be raised ostensibly for purposes of retaliation. To do so was arguably consistent with the "economical administration of government" because it would convince foreign countries to drop their barriers to U.S. exports. What could be more economical than that? An article reproduced in *Niles' National Register* presented the argument ably. The United States imported from France double the value of goods that traveled in the opposite direction, while subjecting French goods to one-third the duties. Duties on silks and linens, of which France was a leading exporter, had been eliminated by the Compromise Tariff; they should be revised upward to the maximum 20%. Duties on wine had been cut in half by the Tariff of 1832; they should be restored. Such "reciprocative and retaliative duties" would be just; they would be consistent with the compromise; they might cause the French government to change its ways; and if they did not, then "we have the ability to produce ourselves" the same goods. To be sure, those statesmen whose understandings of political economy were based on "fine spun theories" would not like the proposal, but anyone who applied the test of "practical experience" would see its virtue. Not as a protective measure, of course, but merely as a means of inducing foreigners "to extend to us the same liberality we have *ever* manifested toward them" ("Reciprocity of Trade: From the Mobile Journal of Commerce," by "Commerce," in *Niles' National Register*, vol. 10, no. 12, 22 May 1841, pp. 183-184).

The proposal was the core of the tariff law enacted in September 1841 (*5 U.S. Stat.*, p. 463). Raguet, now President of the Philadelphia Chamber of Commerce and ailing gravely from bronchitis, responded as the author of the foregoing newspaper article expected a theoretician to

do. He did so despite the awkward fact that his own occasional argument for reciprocity was not so different from the one that now piqued him.

The response was his last published work. To compose it, he recycled his countervailing-duties article, cited previously, from *The Banner of the Constitution* of March 6, 1830. There were differences: instead of a 50% tariff, he now supposed that Buenos Aires imposed a 20% tariff on U.S. flour, and he went on to apply his lesson particularly to the case of France. Instead of likening the retaliating country to a child pulling out his own hair, it was now a man cutting of his nose to spite his face. But the substantial difference lay in the exceptions that Raguet admitted to “the impolicy of countervailing duties.” In 1830, he had admitted the desirability of retaliation if there were “*a reasonable probability* that the original aggressor ... can be coerced into abandonment of his error” (Editorial, *Banner*, vol. 1, no. 23, 6 March 1830, p. 183, emphasis added). A decade later, it was “too dangerous to be resorted to, without something like *a positive conviction* that it will be successful” (Raguet, 1842, p. 21).

The danger that Raguet referred to was the obvious one: an endless war of mutual retaliation. There was another danger that he did not name but that he acknowledged, intentionally or not, in this final adjustment of his doctrine. Allowances for reciprocity, as Theodore Sedgwick had warned, undermined the free-trade argument. They cleared they way, perhaps, for achieving immediate and possibly important political objectives and diplomatic triumphs. But they also fostered the argument and the legislation that Raguet expended his last efforts in resisting.

Conclusion

A final element of Raguet's last article is worthy of note. He reserved his severest scorn not for the "impolicy" that was his main subject, but rather for his longstanding *bête noire*, the supposed opposition of theory and practice. What ignoramuses and quacks, he scoffed, were those self-professed "*practical men*" who offered "with an air of triumph, as if they put an end to all doubt on the subject, 'one fact is worth a thousand theories'" (Raguet, 1842, p. 11)!

It is an irony of Raguet's life, and of the early-to-mid-19th century tariff and trade controversies, that he was so provokable by the theory-versus-fact trope. The long sweep of his career, encompassing his words and deeds as state politician, diplomat, newspaper editor, and executive, does not manifest any theoretical rigidity. Try as he did repeatedly to demonstrate that there was no necessary discrepancy between theory and fact, his record demonstrates it better – albeit in a way he would not have cared to admit. In Raguet's hands, the free-trade doctrine of the time was a malleable thing. In light of the problem of reciprocity, it admitted, often with unintended consequences, continual adjustments to political and economic facts.

Notes

¹ Editorial, *Free Trade Advocate and Journal of Political Economy* (Philadelphia), vol. 1, no. 21, 23 May 1829, p. 335.

² The scant historical literature on Raguet does not take up the question. The works published on Raguet since his death include a long-ago biographical essay by authors personally acquainted with him (Biddle & DeCharms, 1843); a pair of late-twentieth century journal articles (Martin, 1987a, 1987b); prominent mentions in a pair of books several decades apart on early American political economy (Conkin, 1980) and banking theories (Miller, 1927, as cited in Besomi, 2010, pp. 63, 72), to which Raguet also contributed; and several paragraphs more in Dorfman (1946). Useful unpublished (or soon-to-be-published) works on his life and activities include a dated M.A. thesis in political science (Ahearn, 1938) a pair of Ph.D. dissertations in history (Trask, 1998) and education (Camurça, 1988), and a recent book manuscript about the Philadelphia Free Trade Convention of 1831, which Raguet organized (Belko,

2010). None of these, however, is concerned with the particular combination of tasks that contributed to the formation and evolution of his trade doctrine. This essay draws upon the foregoing works but, on the whole, covers different ground.

³ Raguet's correspondence with Ricardo may be found in Hollander (1932, p. 201); with Carey, in Raguet (1819-1830).

⁴ Kahler (1968, pp. 228-241) describes in detail the duties and distractions of U.S. consuls in Brazil, including Raguet.

⁵ Raguet's explanation of the correspondence may be found in "To the Public, No. II," *The Banner of the Constitution* [Washington, D.C.: hereafter *Banner*], vol. 1, no. 18, 17 Feb. 1830, p. 137.

⁶ Lisboa's political economy and his contributions to Brazilian commercial policy have been discussed recently Cardoso (2009). Camurça (1988, 134) notes Raguet's appreciation of Lisboa and recommendation of him for membership in the American Philosophical Society.

⁷ See Manning (1918, pp. 134-135), Hill (1932, pp. 54-55), Ahearn (1938, p. 17), and Wright (1972, p. 178-179).

⁸ Such contemporaries included his most distinguished compatriots in Rio, who took some pains to make known their opinion of the character of Chargé Raguet. At the end of his mission, during a public dinner in his honor, a committee of five of them headed by William Wright, then U.S. consul, offered their "testimonial of their unqualified and perfect approbation" of his conduct. In carrying out his official duties, they declared, Raguet had been "patient and temperate" ("To the Public, No. III," *Banner* 1, no. 19 (20 Feb. 1830): 145).

⁹ See the claims and counterclaims by Jackson and Clay in July 1827: "Mr. Clay and General Jackson," *Niles' Weekly Register* 32, no. 830 (11 Aug. 1827): 399; "Mr. Clay's Speech," *Niles' Weekly Register* 32, no. 829 (4 Aug. 1827): 375.

¹⁰ The *National Intelligencer* identified its opponents in the matter of Raguet as "the Evening Post, the New York Argus, and others of the same kidney" ("Relations with Brazil," vol. 16, no. 4799 [17 June 1828]: 3).

¹¹ Biddle & DeCharms (1843, p. 271): "After his return from Brazil, Mr. Raguet had to endure severe trials and many privations. Those who, like him, have been suddenly deprived of wonted means of support, alone know how difficult it is immediately to strike out into new ways of employment: and it is only such as have experienced them, that can appreciate the trials and difficulties of those sudden revulsions of fortune, in which men are at once reduced from affluence, or competence, to comparative destitution."

¹² Stanwood (1903, p. 297) says aptly that Raguet “was a strong and a keen writer, quick to see the weakness in an adversary’s position and persuasive in presenting his own views.”

¹³ The canonical authors upon whom Raguet relied were not silent on the question of reciprocity and countervailing duties, but they spoke to it only briefly. They were not sure that it was, after all, a question of political economy. To Smith, countervailing duties were not within the realm of (as he put it in this instance) “the science of the legislator.” They were the province of “that insidious and crafty animal, vulgarly called a statesman or politician” (Smith, 1784/1979, vol.1, pp. 467-468). Say wrote similarly but more stridently. If tariff retaliation induced a partner to abandon its own duties and prohibitions, then it would prove to be expedient “as a matter of mere policy,” but one should keep in view that it was an act of vengeance that worked in the first place against oneself. As for treaties intended to reverse the damage by way of reciprocal concessions, they were the proper objects of “odium,” because “the concession to one can only be rendered effectual by refusal to others” (Say, 1821, 161-163). Raguet, it bears mentioning, knew particularly well the edition of Say’s *Treatise on Political Economy* from which the foregoing passages are drawn. It was produced in 1821, with a new translation of the introduction and additional notes, by his intimate friend, fellow political economist, and constant interlocutor, Clement C. Biddle. He thought well enough of it to give a copy while in Brazil to José da Silva Lisboa, the economist and diplomat whom he esteemed so highly (Raguet to Bento da Silva Lisboa, 3 May 1825, in Raguet 1824-1827, vol. 1, p. 124). One wonders what Lisboa thought, as he perused the book, about Raguet’s overtures for a commercial treaty.

¹⁴ So Raguet later said explicitly: see “To the Public, No. II,” *Banner* 1, no. 18 (17 Feb. 1830): 137.

¹⁵ The completed treaty provided for reciprocal MFN treatment for trade in goods and national treatment in navigation. It may be found in Malloy (1910, vol. 1, pp. 133-143).

¹⁶ The bill that Benton proposed originally was introduced finally as three separate bills, S. 123, S. 124 and S. 125, all on the same day (21st Cong., 1st Sess., 8 March 1830). The part of the proposal that Raguet disliked became S. 124.

¹⁷ The transaction with Duff Green is evidenced in “*From the United States Telegraph: The Political Examiner*,” *Examiner*, vol. 2, no. 26, 22 July 1835, p. 412.

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