

[Letter from James Madison, Secretary of State, Henry Dearborn, Secretary of War, and Robert Smith, Secretary of the Navy, to the Judges of the Circuit Court of the District of New York (Jul. 8, 1806), *reprinted in* United States v. Smith, 27 F.Cas. 1192, 1194 (C.C.D.N.Y. 1806).]

To the Honorable the Judges of the Circuit Court of the District of New York: We have been summoned to appear, on the 14th day of this month, before a special circuit court of the United States for the district of New York, to testify on the part of William S. Smith and Samuel G. Ogden, severally, in certain issues of traverse between the United States and the said William S. Smith and Samuel G. Ogden. Sensible of all the attention due to the writs of subpoena issued in these cases, it is with regret we have to state to the court, that the president of the United States, taking into view the state of our public affairs, has specially signified to us that our official duties cannot, consistently therewith, be at this juncture dispensed with. The court, we trust, will be pleased to accept this as a satisfactory explanation of our failure to give the personal attendance required. And as it must be uncertain whether, at any subsequent period, the absence of heads of departments, at such a distance from the scene of their official duties, may not equally happen to interfere with them, we respectfully submit, whether the objects of the parties in this case may not be reconciled with public considerations by a commission issued, with the consent of their counsel and that of the district attorney of the United States, for the purpose of taking, in that mode, our respective testimonies. We have the honor to be, with the greatest respect, your most obedient servants. James Madison. H. Dearborne. R. Smith. City of Washington, 8th of July, 1806.