

COLONIAL INTERCOURSE.

DOCUMENTS

From the Department of State, (accompanying the President's Message to Congress.)

From the National Intelligencer.

MR. CLAY TO MR. GALLATIN.
Extracts from General Instructions, No. 1,
dated 19th June, 1826.

Continued.

You will observe that the instructions now given, respecting the colonial trade, amount to an authority on the part of this Government to you, to agree in substance to the modification of Mr. Rush's proposal, which was required by the British Plenipotentiaries. You will endeavour to make a lively impression on the British Government of the conciliatory spirit of that of the U. States which has dictated the present liberal offer; and of their expectation to meet, in the progress of your negotiations, with a corresponding friendly disposition. The object of this part of your instructions may be accomplished, either by inserting the articles respecting the colonial trade in the general convention for regularizing the commerce between the two countries, which would be their most fit position, or in a separate convention. Whether the two articles proposed by Mr. Rush or the two first, proposed by the British Plenipotentiaries, or others differently constructed, should be inserted in the convention which you are empowered to conclude, will depend upon the footing on which you may ultimately agree, under your instructions, to place the colonial trade. If you should not be likely to bring your negotiations, on the entire subject of the commerce between the two countries and their respective territories, to a conclusion, in time to present the convention, in which it is expected they will issue, to Congress, during its next session, it will be desirable, and you are accordingly directed to endeavour to make a separate arrangement of the colonial question, so as to enable the President, at least, to present that before the adjournment. As to the duration of any general or particular commercial convention to which you may agree, it may be limited to a period of about ten years; to which it is advisable to add an article similar to the eleventh article of our Danish treaty, stipulating that the convention shall continue in force beyond the particular period agreed upon until one party notifies the other in writing, of his desire to put an end to it.

MR. GALLATIN TO MR. CANNING,
69, Upper Seymour street, 26th August, 1826.

The undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, had not seen the Order in Council, of the 27th of July last, on the day (the 17th inst.) when he had the honor of an interview with Mr. Canning, His Majesty's Principal Secretary of State for Foreign Affairs.

Had he then been aware of the precise import of the order in question, and of the provisions of the several acts of Parliament to which it refers, the undersigned would have thought it his duty to make the observations to which he now begs leave to call Mr. Canning's attention.

It appears that His Majesty's Government was vested with two distinct authorities, applicable to the intercourse between his Majesty's Colonies and the United States.

By the 4th section of the act of Parliament, of the 5th July, 1825, it was enacted that the privileges granted by the law of navigation to foreign ships to trade with the British possessions abroad, should be limited, with respect to countries not having colonial possessions, to the vessels of such as should place the commerce and navigation

of Great Britain, and of her possessions abroad, upon the footing of the most favoured nation, unless his Majesty, by his Order in Council, should in any case, deem it expedient to grant the whole, or any part of such privileges, to the ships of any foreign country, although the said conditions should not in all respects be fulfilled by such country.

And, by two other acts of Parliament passed in the fourth and fifth years of the reign of his present Majesty, authority was given to levy additional or countervailing tonnage duties on vessels, and additional or countervailing duties of custom, on goods imported or exported in vessels belonging to any foreign country in which higher duties were levied on British vessels, or on goods imported or exported in British vessels, than on vessels of such country, or on similar goods when imported or exported in vessels of such country.

Both authorities have been resorted to in the Order in Council of the 27th July last.

On the ground that the condition referred to in the act of Parliament of 5th July, 1825, having not in all respects been fulfilled by the Government of the United States, the privileges so granted to foreign ships cannot lawfully be enjoyed by ships of the said States, unless specially granted by his Majesty in Council, the said privileges are again thus granted by the Order in Council, but with the express proviso that the said privileges, or, in other words, the intercourse in American vessels between the United States and the British Colonies, shall absolutely cease on the 1st of December next, so far as respects South America, the West Indies, the Bahama Islands, Bermuda, and Newfoundland, and, on some other subsequent days, so far as respects the British possessions on the Western coast of Africa, the Cape of Good Hope, Mauritius, Ceylon, New Holland and Van Dieman's Land.

And inasmuch as British vessels entering the ports of the United States, from British Colonies, are charged with additional tonnage duty of ninety four cents per ton, and with an addition of ten per cent. on the import duty payable on the same goods when imported in American vessels, a countervailing duty, deemed equivalent in amount, is by the Order in Council, laid, during the time that the intercourse is permitted to continue, on American vessels and on goods imported in American vessels entering the ports of his Majesty's possessions in North and South America, and in the West Indies.

There is not, if the undersigned is rightly informed, a single act of the Government of the United States which can, in the view taken of the subject by that of his Majesty, be considered as not fulfilling the condition contemplated by the Act of Parliament of 5th July 1825 as not placing the commerce and navigation of Great Britain, and of her possessions abroad, upon the footing of the most favoured nation, excepting only the continuance of the discriminating tonnage duty of ninety four cents per ton on British vessels, and of the addition of ten per cent. on the ordinary duty charged on goods imported in British vessels entering the ports of the United States from the British Colonies. Both the measures embraced by the Order in Council, the countervailing duties and the discontinuance of the intercourse, are founded on one and the same fact—the continuance of the United States' discriminating duties. And the countervailing duty deemed equivalent thereto, which has by the Order in Council been laid on American vessels, and goods imported in American vessels entering the ports of the British Colonies, was alone sufficient to place the British and American vessels, employed in the intercourse between those Colonies and the United States, on the footing of the most perfect equality.

It does not belong to the undersigned to question the policy of the measures which Great Britain may think proper to adopt respecting the trade with her colonies.

He only infers, from the acts of Parliament passed on that subject during the last four years, that the intercourse between the United States and the British colonies in the West Indies, South America, and other places, to the extent authorized by those acts is considered, by His Majesty's Government, as beneficial to those colonies and the British empire at large.

With this conviction, and the only inequality supposed to exist having been removed by the countervailing duties, the undersigned has been unable to discover the motive for interdicting altogether, after a short time, so far as respects the British possessions in the West Indies, South America, and several other places, an intercourse beneficial to both parties, and which might, in conformity with the act of Parliament, have, if deemed expedient, been indefinitely continued with those colonies, in the same manner as has been done, as respects the British possessions of North America.

Wholly unable, therefore, to assign a cause for the contemplated suspension of the intercourse in question, the undersigned apprehends that, for the very reason that the object in view cannot be understood, it may be misconstrued.

Having no instruction on a contingency which was not foreseen, he can at this time, only express his regret, that a measure which cannot be viewed favourably by his Government, should have been adopted, at the moment when he was authorized to renew the negotiations on that subject, and with a well founded hope, from the liberal tenor of his instructions, that an arrangement, founded on principles of mutual convenience to both parties, might be concluded.

It is well known that the delay in that respect was due to causes not under the control of the United States, principally to the state of health of Mr. King, which has ultimately deprived them of his services.

The reasons of the marked preference given by the Government of the United States to an arrangement by treaty instead of regulations adopted by both countries, are sufficiently obvious. It is highly important for all the parties concerned, essential for the security of commercial or agricultural operations, that the intercourse should be placed on a more permanent and explicit footing than it can be by reciprocal laws, liable to be modified or revoked at any time, at the will of either party, and not always easily understood by those on whom they operate. And the obstacles which have prevented the United States from accepting the intercourse contemplated by the act of Parliament, which could only be done in toto, and by complying with terms on which they had not been consulted, may, it is believed, be easily removed by modifications essential to them and which will not, it is thought, be found inconsistent with the interest of Great Britain.

The undersigned has taken a view only of the general tenor of the Order in Council, and does not think it necessary to advert to some of its details. He believes the omission of a special mention of the trade with the British Provinces in the East Indies, in that clause which makes a special exception as respects that with the British possessions in Europe to be purely accidental. And he takes it for granted, that it is not intended to extend the countervailing duties to the intercourse by land or inland navigation, between the United States and the British possessions in North America, if it shall be found, as the undersigned believes it to be the fact, that the discriminating duties of the United States do not apply to that intercourse.

The undersigned avails himself of this opportunity to pray Mr. Canning to accept the assurance of his perfect consideration.

ALBERT GALLATIN.

The Right Hon. GEORGE CANNING, &c.

MR. CANNING TO MR. GALLATIN.

The undersigned, His Majesty's Principal Secretary of State for Foreign Affairs, has the honour to acknowledge the official note of the 26th ultimo, addressed to him by Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, on the subject of an Order in Council, issued by his Majesty on the 27th of July.

The undersigned feels himself greatly indebted to Mr. Gallatin for the full and frank exposition, which that note contains of his own opinions, and those of his Government, upon the whole matter to which the Order in Council relates; and for the opportunity thereby afforded to the Undersigned for entering into an explanation, equally unreserved, of the opinions and intentions of his Majesty's Government on that matter.

It will be highly advantageous to dispose at once of a subject which stands apart from all the other important subjects which Mr. Gallatin is authorized to discuss with the British Government—a subject which is to be argued on principles, and to be decided on considerations peculiar to itself.

Mr. Gallatin will allow the undersigned to take the liberty of remarking that this peculiarity of character seems to have been overlooked by Mr. Gallatin, in his note of the 26th of August. Throughout that note there seems to be one pervading error. Mr. Gallatin treats the question as if it had turned altogether on this single point: "what are the equal and reciprocal conditions, under which a trade between the United States and the British W. India colonies, should be carried on?" assuming as a sort of axiom, that such trade is as open to the United States as any other trade in the world, and never inquiring whether some compensation might not be due from the U. States to Great Britain for the concession of a privilege, which it is her undoubted right to give or withhold.

The undersigned is prepared to shew, that, even if the liberty to trade with the British West India Colonies were gratuitously conceded by England to the United States, still the footing on which the trade, so permitted, is now carried on by the United States, is unequal and unfair.

But as the objection which the British Government feels to the proposition for such partial equalization of condition, as Mr. Gallatin's instructions appear to be intended to establish, lies deeper than Mr. Gallatin's proposition goes, the undersigned thinks it right to explain, in the first instance, the nature and grounds of that fundamental objection.

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