

largely as they do in their intercourse with those of Great Britain. This is the effect of the law of proximity. If it be a monopoly, it has emanated from no human power, but from a much higher source. Far from repining at the dispensation of Providence, nations contented with the portion of his bounty which has been allotted to each, would do well to acquiesce, with cheerful submission, in the arrangements of the Universe, which in his wisdom, he has thought proper to order.

The United States have never made it a subject of serious complaint, that for the indulgence which their laws have granted of unrestricted liberty of importation or exportation of whatever is produced or manufactured in the United States, or in the British Colonies respectively, they had been met in return, with a long catalogue of prohibitions and restrictions, including some of the staple commodities on both sides. Although they have desired the abolition of those restrictions, they have left it to the sole and undisturbed consideration of the British Government, whether the prosperity of their Colonies themselves, would not be best promoted by the application to the intercourse of those liberal principles which have obtained the sanction of the present enlightened age. The Government of the United States has contented itself with insisting that, circumscribed as the trade has been, according to the pleasure of British Government, the regulation of the navigation employed in it should be founded on principles of reciprocity, so as to allow fair competition between the vessels of the two countries.

The position now assumed, that Colonial trade with foreign states is not a fit subject for negotiation with those States, but belongs exclusively to the regulation of the parent country, is entirely new. It is not sustained by the practice of other powers having colonies. It is not sustained by the practice of Great Britain herself; and this brings me to the consideration of what has passed between the two Governments in relation to this trade.

They negotiated on that subject, to go no further back, in the year 1794. Their negotiations resulted in the 12th article of the treaty of Amity, Commerce and Navigation, which was then concluded. The very act of treating, between two independent States, implies the right in each of considering and determining the mutual propositions which may be offered. The two Powers again negotiated on the same subject in 1796, and because the government of the United States did not conceive that the concessions of Great Britain, contained in the 12th article of the treaty of 1794, were equivalent to the concession on their side, it was annulled. They again negotiated in 1815, and actually entered into stipulations which, as you well know, from a part of the convention of the third of July of that year, for the regulation of the British East India trade; but not being able to come to any agreement, in regard to the British West India trade, it was left to the two countries to regulate this subject by their respective laws. On that occasion, it was stated by Lord Castlereagh, that the British Government would not regard as unfriendly, any measure which the United States might think it expedient to put into operation for the regulation of that trade. And, to guard against all misconception, it is, moreover, expressly provided in the treaty itself, that "the intercourse between the United States and his Britannic Majesty's possessions in the West Indies, and on the continent of North America, shall not be affected by any of the provisions of this article, but each party shall remain in the complete possession of its rights with re-

spect to such an intercourse." With what propriety, then, can it be affirmed, that "to withhold from the ship of a country having colonies, trading from the mother country a foreign State under a regular treaty between the two countries, the right of clearing for another port belonging to that mother country, in another part of the world, is an injury"—an injury "undoubtedly in deviation from the spirit of treaty." The regular treaty referred to, excludes, by its positive terms, all regulation of the intercourse between the United States and the British colonies in the West Indies. And yet it is contended, that Great Britain has the right, according to the spirit of the treaty, not only to the benefit of the applications of its provisions, to a subject which it alone professes to regulate, but to have them applied also to another subject which is expressly declared not to be regulated, and as to which both parties are left in the "complete possession" of all their rights. And this is insisted upon, in behalf of Great Britain, without any corresponding privilege on the part of the United States.—If the treaty be competent to carry a British vessel through the British West India ports to the United States, and vice versa, whilst, under similar circumstances, those ports are to remain shut, by British authority, against a vessel of the United States, it would equally entitle such British vessel to pass through the ports of any and every country upon the globe, to and from the United States. The United States might without any violation of the convention of 1815, interdict all intercourse with the British West Indies, direct or circuitous. And surely the right to adopt the stronger and more comprehensive, includes the choice of the weaker measure, that of prohibiting to be done by British vessels, what Great Britain prohibits, under analogous circumstances, American vessels from doing. It is alleged that that right, from the enjoyment of which we are interdicted by British regulation, nevertheless existed in Great Britain antecedently to any treaty, and at a period when no claim to any trade with British Colonies had ever been whispered by the United States. As a right it never existed one moment, since the independence of the United States. If the privilege were exercised it was from their moderation and by their sufferance. Since that epoch we are unaware of any period of time, when the United States did not claim a reciprocal intercourse with the British Colonies. The two countries again unsuccessfully negotiated in relation to the Colonial trade, in 1817, when Lord Castlereagh submitted a draft of four articles, which did not prove acceptable, and in 1818, and 1819, and finally in 1824. What was the footing on which the intercourse had been placed, by the laws of the two countries, at the period of opening that last negotiation, you will see by adverting to the instructions of my predecessor, under date 29th June, 1823, with a copy of which you have been furnished. The long and arduous discussions which took place between Mr. Rush and Messrs. Huskisson and S. Canning, in 1824 brought the parties very near together. Each exchanged with the other the proposal with which he would be satisfied, but, as they could not then agree upon either, it was concluded to suspend the negotiation, with a distinct understanding, on both sides, that it should be again resumed at some convenient day, [see protocol of the 25th conference, page 132 of the printed pamphlet.] From a comparison of the American and British proposal [see the former annexed to the protocol of the third conference, marked A. page 133 of the same pamphlet, and the British counter-project, marked L. page

142—see also the British paper marked W page 135] it will be seen,

1. That both parties were willing to abolish all discriminating duties on either side.

2. That the British Government was satisfied and actually offered that the intercourse should continue restricted to the direct voyage, as it then was by the respective laws of the parties; that is to say, that an American vessel clearing from the British West Indies with their produce for an American port, should be required to land her cargo in such port; and on the other hand, a British vessel, clearing from the United States, with their produce, for a colonial port, should be required to land her cargo in such port.

But, thirdly, the point on which the parties could not then agree, was, that the United States insisted that American produce should be admitted into British colonial ports, upon the same terms as similar produce received from any where else; that is, either from a British possession, or any foreign country.

Such an equal admission of our produce was contended for, in pursuance to the enactment of the Congress of the United States in the act of March, 1823.

Thus the two parties amicably separated, I repeat, with the perfect understanding of each, that the negotiation, in which such encouraging progress had been made, should be resumed and brought to a final conclusion, at some future day. To that renewed negotiation, the United States had invariably looked with the confident hope that when the parties again met, they would be able to reconcile the only difference which obstructed an adjustment. They never could have dreamt that without the smallest previous notice, and at the very moment of the arrival in England of a new American Minister, fully prepared to resume the negotiation, it was to be suddenly arrested, and the new ground for the first time taken, that the subject itself was of a nature to admit of no negotiation. Entire confidence being reposed on the resumption of the negotiation, as the means on which both parties relied, upon the recall of Mr. Rush in the Spring of 1825, Mr. King was sent to replace him, fully empowered to treat on all the subjects (including the colonial trade) of the previous negotiation. He was instructed, in the first instance, as being a subject of more pressing urgency, to invoke the interposition of the British Government, to remove the impediments to the execution of the St. Petersburg Convention, which had been created by the British commissioner at Washington. And he was informed, that his instructions on the objects of the suspended negotiation, should be transmitted to him in time again to open it. They would have been so transmitted, but that upon his arrival in England, in the month of June, 1825, he was indisposed, that he learnt that his Britannic Majesty was ill, and that Mr. Canning, was also unwell; and, moreover, that the British Cabinet was dispersed over the island, or upon the continent in the pursuit of health and recreation. Happily, his Britannic Majesty and his principal Secretary of Foreign Affairs were restored to health. The British Cabinet did not reassemble until the Autumn of 1825, and Mr. King unfortunately remained feeble and unwell up to the period of his return to the United States, in consequence of his indisposition. If his instructions were not forwarded to him, it was because it was known that he was engaged in discussions respecting the St. Petersburg Convention, and it was believed that his languid condition did not admit of his entering upon the discharge of the more arduous duty of resuming the suspended negotiation. It would

now seem to have been altogether useless to have transmitted them, the British Government having made up their mind from the passage of the act of Parliament of July 1825, to close the door of negotiation. Such a purpose was never hinted to the Government of the United States. On the contrary, as late as 22d March, 1826, Mr. Vaughan addressed an official note to this Department, in which he stated, "I have received instructions from his Majesty's Government to acquaint you, that it is preparing to proceed in the important negotiations between that country and the United States now placed in the hands of the American Minister in London; Mr. Huskisson has been already introduced to Mr. R. King, as his Majesty's Plenipotentiary, and the Minister of State, having the department of Foreign Affairs, has received his Majesty's commands to associate Mr. Addington, late his Majesty's Charge d'Affaires in America, with Mr. Huskisson, as joint Plenipotentiary on the part of Great Britain.

"The negotiations will therefore be forthwith resumed, and it will be for the Government of the United States to judge whether, considering the state of the health of Mr. Rufus King, which Mr. Canning laments to say has been, since his arrival in England, far from satisfactory, will join any other negotiator in the commission with him." If the British Government had then intended to bar all negotiation, in respect to the colonial trade, no occasion could have been more fit than the transmission of that note to communicate such intention. So far from any such purpose being declared, it is formally notified to the American Government that the British Government is preparing to proceed in the important negotiations &c. and that the negotiations will be forthwith resumed, [of course including the colonial trade.] It appears from the same note, that the British Government was perfectly acquainted with the feeble condition of Mr. King, and therefore made the friendly suggestions of associating some other person with him to conduct the negotiation. Mr. Vaughan was verbally informed that we should prepare, as soon as practicable, to renew the negotiation, and that the state of Mr. King's health would be taken into consideration. The President did deliberate on it, and your willingness to be associated with Mr. King, in that public service was ascertained.

In the mean time, and before the necessary arrangements could be made for your departure, a letter from Mr. King, under date the 21st day of March, 1826, was received, desiring permission to return, which was promptly granted, and you were immediately appointed, by and with the advice and consent of the Senate, to succeed him. Without any unnecessary delay, you proceeded on your mission, charged with instructions, framed in the most amicable spirit, to renew the suspended negotiation on all points.

[To be Continued.]

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