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STATE PAPERS.

DOCUMENTS

Transmitted by the President to the Senate with the Convention of Commerce between the United States and Great Britain.

Extract of a letter from Messrs. Clay and Gallatin to the Sec. of State, dated London, May 18 1815.

Having had reason to believe, that the British government had abstained from answering the communication of the joint commission at Ghent, of the 11th day of December, 1814, until they received official information of the American ratification of the Treaty of Peace, we thought it advisable, soon after the event was known to us, to repair to this city, in order that we might ascertain the disposition of this government as to the commercial intercourse between the two countries.

Shortly after our arrival here we were invited by Lord Castlereagh to an interview with him. A minute of the substance of the conversation which took place on that occasion, as drawn up and agreed to by the parties, is enclosed. We communicated to Mr. Goulburn, the next day, our answer upon the three subjects to which the conversation related.

In the interview with Lord Castlereagh, he had stated, that four or five days might be necessary on their part, to prepare for the proposed conversation.—Nearly three weeks having elapsed without hearing further on the subject, we took what appeared to us, a fit occasion to intimate our intention of leaving London.—A few days after, we received an invitation from the vice president of the board of trade, Mr. Robinson, to call at his office on the 11th instant, we accordingly attended, and were received by him and Messrs. Goulburn and Adams, two of the British commissioners, who had negotiated the treaty of Ghent.

They opened the conversation by adverting to what had led to this interview, and professed themselves to be ready to receive any propositions we might choose to make. We observed, that in the treaties which America had heretofore made, particularly with this country, regulating commercial intercourse, there were generally comprised two subjects, one, which respected commercial regulations, applicable to a state of peace as well as of war; the other, which respects the rights and duties of the parties; one being at war, and the other remaining at peace. Accordingly, our government had instructed us to bring forward both those subjects. As to the commercial intercourse, without at this time going into details, or minor points, which it might be necessary in the progress of the negotiation, to adjust, we would content ourselves in this unofficial conversation, with touching on the most important topics, which it seemed to us desirable to discuss and arrange.

These were, that the two countries should respectively be placed on the footing of the nation the most favored; that in the trade between America and the British European dominions, all discriminating duties, on tonnage and on merchandize, either imported or exported, should be abolished; that the trade between America and the British West-Indies, should be regulated and placed on some more permanent basis than the occasional acts of the colonial authorities; that the nature and kind of intercourse between America and the adjoining British provinces, should be defined and provided for; and that the trade with the British India possessions, should be opened to America on liberal principles.

In regard to the discriminating duties, we remarked that a proposition to abolish them, first came from Great-Britain, and a provision to that effect, was inserted in the unratified treaty of 1806. Congress had taken up the matter at their last session, and passed an act, which we explained. We thought it desirable that they should be abolished, in order to prevent those collisions, and that system of commercial warfare, in which the two countries would probably be involved by an adherence to them.—As an example, we mentioned the great extra duty, to which, as we understood, the article of cotton was liable, by the British laws, when imported in foreign vessels, and which, if persisted in, would certainly be met by some countervailing regulations.

With respect to the trade with British India, we observed, that we had no equivalent to offer for it; that it was for Great-Britain to consider, whether a commerce, consisting as it did, almost entirely in the exchange of our specie for India produce, was not of a nature to deserve the most liberal encouragement; but, that we had rather enter into no stipulation on the subject, than be restricted to a direct intercourse, as had been proposed by the unratified treaty, both on the outward and return voyage.

On the other subject, the rights and duties of the parties, one being at war, and the other in a condition of peace, we proceeded to remark, that whilst the prospect of a long European peace appeared to exist, as was the case when the treaty of Ghent was concluded, it was less important to provide for questions arising under this head. But it was impossible to shut our eyes to the demonstrations every where making of a new war, which, if it should assume a maritime character, might again menace the harmony and good understanding between the two countries. It was desirable, therefore, to anti-

cipate & provide for the evil. The first and most important point was that of impressment. Great Britain had always professed a willingness to receive and consider any proposition which America should be disposed to make on that subject. It perhaps would be unprofitable at this time to go into a discussion of the right, as to which we would merely remark, that it was impossible that there could be a stronger conviction on the part of Great Britain, that it was with her, than there was on the part of America, that it was on her side.—It was better to look to some practical arrangement, by which without concession of right by either party the mischiefs complained of on both sides might be prevented. To this end the attention of our government has been turned. We believed that Great-Britain had never heretofore contended that the American government was bound to prohibit the merchants of the United States from employing foreign seamen, any more than it was bound to forbid their shipping contraband articles. America, was however, now willing to take upon herself such an obligation, and to exclude British seamen from her merchant service, and we believed such an exclusion might be as effectually executed as our revenue laws. Here we called their attention to the act which Congress had passed on that subject, and to the message of the President to that body towards the close of its last session, upon the supposition, that if the exclusion of British seamen should be absolute and entire, there would no longer exist any ground for the claims of impressment, and of course no objection to its abandonment. We stated that besides the motive which existed with our government of guarding against collision with Great-Britain, another powerful one operated, that of encouraging our native seamen, and of not being obliged to rely on the uncertain supply of foreigners. To this system as a substitute for that of impressment, it did not appear to us that Great-Britain could object, unless it was thought to be impracticable in its execution. We had no doubt ourselves, that even admitting that there might be, as in cases of smuggling, occasional instances of evasion of the system of exclusion, it would nevertheless be upon the whole much more favorable in its result to Great-Britain. This system would apply to, and operate upon, every American vessel; whilst that of impressment reached only the cases of those vessels with which it accidentally came in contact. We were aware of the difficulties which had heretofore opposed a satisfactory arrangement on this subject. Still it was one of such vital importance, so tending to bring the two countries into collision, that it was impossible it should receive a consideration too earnest and too anxious.

The next point which it seemed to us important to settle, was the trade of America with the colonies of the enemies of Great-Britain.—Towards the end of the last European war, questions growing out of that trade had been terminated by the conquest of those colonies by Great-Britain, but many of them having been restored at the peace, the disputes which heretofore existed might again arise. The former arrangements on this subject might, with some modifications, serve as a basis.

We then stated, that we did not intend, in this preliminary and unofficial conversation, to discuss the other points belonging to this branch of the subject. A definition of blockades was desirable and could not, it seemed, be attended with much difficulty, as we believed that there was no real difference between the two countries with respect to the abstract principle. But we apprehended that the disputes which might hereafter take place on that subject, would arise almost exclusively from questions of fact, which no previous definition could prevent.

As in the event of war, Great-Britain might desire to know the disposition of our government on the subject of privateers and prizes, we would only now say, that the principle which might be adopted with respect to Great-Britain, whether of admission or exclusion, must equally and impartially apply to all the parties to the war.

These were all the topics noticed by us, and we enforced and illustrated them by various other observations.

The British gentlemen, professing not to have expected those points to be brought forward which applied to a belligerent state of one of the parties, expressed a wish to know whether, in our view, the two subjects were inseparable, and whether we could not come to an agreement on those topics, which were probably less difficult to be adjusted, leaving others for further consideration and future arrangement? We replied, that heretofore they had always been blended together by our government and that we intended to bring them all for consideration; that at present, however, we only presented them for consideration—as it would be premature at this time to make any of them a *sine qua non*—and that whether a treaty, omitting some of them, would be acceptable, must depend on its general tenor, and upon the extent and importance of the subjects which might be comprehended in the arrangement.

They proceeded to remark, that some of the subjects had been always found to involve extreme difficulty, particularly that of impressment; that Great-Britain was certainly prepared at all times, to receive and to consider any proposition that America might be disposed to make in relation to it; but one of the gentlemen remarked, that from the deep interest which was felt by Great-Britain in it, she must view with great jealousy, by which he said he meant vigilance, any such proposition—that the enquiry which they had just made as to our willingness to separate the two subjects, proceeded from a wish to ascertain whether it were likely that any practical result could be speedily obtained, if they entered upon the negotiation at this time.

On the subject of discriminating duties mentioned by us, they said their government would receive favorably the proposition for a mutual abolition of them. As to the trade with India, their government was not at all disposed to shut us out from it.—In regard to the trade to the West-Indies, considering the difficulties which had heretofore presented themselves in placing it, by treaty, upon a footing satisfactory to both parties, they feared it would not now be practicable to enter into any stipulation respecting it, which should meet the views of the two countries.

The interview terminated by their stating, that they would report to the cabinet the substance of what had passed between us, and by their pledging themselves to do all in their power to afford us an early answer.

On the 16th instant, having been again invited by the vice-president of the board of trade to call at his office, we accordingly attended, and were received by the same gentlemen.—They stated that they had reported to the cabinet what had passed at the last interview, and were now prepared to give us an answer on the several topics to which the conversation related. In doing this, they would observe the order which had been marked out by us.

1st. On the commercial intercourse between the two countries, they were authorized to state, that their government was ready to treat with us on the footing of the most favored nation—and were also willing to enter into any arrangement by which all discriminating duties on importations and tonnage should be mutually done away. They were willing to admit us to the enjoyment of the trade with British India, unobscured by the restriction on the outward voyage contained in the unratified treaty, but must still insist on that contained in the treaty of 1794, on the return voyage. Considering that we had candidly stated, that we had no equivalent to offer, except what was to be found in the trade itself, they would expect for this concession, a spirit of accommodation on our side, in other parts of the commercial arrangement, the fur trade, or some other.

The trade with the British West Indies, they stated, had always been a subject of great difficulty, and their government was not prepared to make any change in that colonial policy, to which they had so long adhered; but they would hope that this would not form any obstacle to the negotiation.

With respect to the trade with their North-American possessions, they were ready to receive and discuss any propositions we might have to offer, with an anxious desire to place it on a footing mutually satisfactory.

2dly. On those subjects which related to a state in which one of the parties should be at war, and the other in peace, it was not necessary to disguise that they had been always attended with great difficulties. Still they were willing, in a spirit of amity, and with candor, to receive and discuss any propositions we might offer.

With regard to blockades, they could not think it necessary to enter into any treaty definition of them, as the questions which might hereafter arise on that subject (according to our own statement) would relate rather to the fact, than to the principle, on which the two governments seemed to agree. Indeed, they thought that such a definition might tend to weaken, as implying a doubt of the correctness of the principle.

In relation to the trade with enemies, besides the intrinsic difficulty of the question, as heretofore experienced in all attempts to arrange it, there was another, arising out of their want of information, as to whether France had adopted any, and what, system of colonial policy, since the restoration of the colonies. It might be, that she had opened their trade to foreign nations in peace as in war, in which case the questions that had heretofore existed could not be agitated again.

Impressment had, they continued, of all this class of subjects, been found most difficult to arrange. They were aware how important it was considered in both countries, and how, in both, it touched public sensibility. As heretofore, they were now ready to receive and consider any proposition our government might make respecting it. And even without any treaty stipulation, their government was now anxiously engaged in devising means to prevent the abuses of which we complain. If the law which we had mentioned, at the last interview, should be effectual in its object, it would doubtless do away a great motive with them for impressment. Still they were bound to consider, with the most vigilant attention, any proposition for the abandonment of what they must consider a right essential to their safety. That law did not, however, as they understood, settle the question, who were to be considered as British subjects, a question on which the two countries might not be able to come to understanding.

With regard to our ideas respecting privateers and their prizes, they were certainly fair and unexceptionable.

As they had hinted at some accommodation in the fur trade, or in other parts of the commercial arrangement, for their supposed concession respecting the India trade, we thought the occasion suitable for stating that we were positively instructed not to consent to the renewal of the trade between British subjects and the Indians within our territories. We stated that the disposition of our government on this subject did not proceed from commercial, but political considerations. They did not insist upon it, nor seem to think, that the determination of our government would prevent an arrangement of the Canada trade. One of them inquired, whether we expected, in like manner, to be excluded from the trade with the Indians in their territories? To which we replied, certainly.

We explained the law for the exclusion of foreign seamen from our service, and mentioned that the naturalization of seamen would be almost altogether prevented in future by the necessity of a continued residence of five years. We stated, that we were authorized to enter into stipulations that would forbid the employment of such British seamen as might, under our laws, be hereafter naturalized, but that we could not do it with respect to those who were already naturalized. We had thought, that as to them, an exception might be made, permitting, on both sides, the voluntary employment of such seamen, natives of one country, as might have heretofore been naturalized under the laws of the other country. We added, that the number of British seamen already naturalized, which could constitute, as it appeared to us, the only difficulty in an arrangement, was very inconsiderable. Dr. Adams concurred in the opinion, that they were not many.

We made some further explanations, and finally told them that, considering the dispositions which we had been happy to meet with in them, we would now say, that we would enter upon the negotiation, reserving to ourselves, however, the right, as our powers were several, as well as joint, to withdraw from it, if circumstances should make it eligible to do so, and to leave to Mr. Adams, whom we daily expected, to conclude it.

The interview closed, by their undertaking to provide themselves immediately with the necessary powers to proceed in the negotiation; and by an assurance, that they would continue to do all in their power to bring it to a speedy and successful issue.

Extract of a minute of a conversation which took place at Lord Castlereagh's, between his Lordship and Messrs. Clay and Gallatin, April 16, 1816.

Lord Castlereagh then called the attention of the American commissioners to a communication made by them at Ghent relative to their power to treat on the commercial intercourse between the two countries. He said, before he gave an answer to that communication, he should be glad, if it were agreeable to the American commissioners, that there should be an unofficial conversation between them and the British commissioners, who negotiated the treaty of peace, together with Mr. Robinson, whom he would associate with them for that purpose, to ascertain if it were likely, that some general principles could be agreed upon to form the basis of a treaty of commerce. He should prefer, that this conversation, like that which he understood had taken place in the former negotiation between Lords Holland & Auckland, and Messrs. Monroe and Pinkney, should be free from official forms, and thought such a course best calculated to ascertain if it were likely that the two governments could come to any practical result on this interesting subject.

It was observed by one of the American commissioners, that such a conversation would be on terms of inequality, the American commissioners being invested with powers, and the other gentlemen having none; unless it was understood, not only that it should be considered as entirely unofficial, but that the same gentlemen should afterwards be commissioned to conclude a treaty, if it were thought that one could be formed. Lord Castlereagh remarked in reply, that such was certainly his intention.

The conversation ended in an understanding that the American commissioners would consult together upon the three copies mentioned by Lord Castlereagh, and communicate on the following day to Mr. Goulburn the result of their deliberations.

The American Plenipotentiaries to the Secretary of State.

LONDON, JULY 3, 1815.

SIR—We have the honor to transmit a convention for regulating the commercial intercourse between the United States and Great Britain, which we concluded this day with the British plenipotentiaries.

Messrs. Clay and Gallatin's despatch of the 18th May last, has informed you of the preliminary steps taken by them on that subject. Mr. Adams arrived in London on the 20th of May, and on the 5th of June, we were invited by Messrs. Robinson, Goulburn and Adams, to meet them on the 7th. At this conference after a mutual exhibition of our powers, and some general observations, we delivered to them our project of a commercial convention, a copy of which, (marked 1) is herewith enclosed. They promised to take it into immediate consideration; and on the 9th, informed us that they would prepare and transmit to us a *contre projet*.

Believing that there was no prospect of an immediate arrangement on the subject of seamen, and knowing that without it no treaty, defining the rights and duties of belligerents and neutrals was admissible, we excluded all that related to that branch of the subject from our project and confined it to objects purely commercial.

We took the 3d article of the treaty of 1794, respecting the intercourse with Canada, as the basis of the corresponding article, omitting, according to our instructions, whatever related to the Indian trade. In drawing the other articles we were principally guided by the unratified treaty of 1806, by the instructions given in relation to it by the secretary of state, in his despatch of May 20, 1807, and by the act of congress of 3d of March last, for abolishing all discriminating duties. From the previous explicit declaration of the British plenipotentiaries, we deemed it useless to offer any article on the subject of the intercourse with the West-India islands, and only inserted a clause, to prevent the application to that intercourse of the provisions contemplated by the convention.