

TRADE—UNITED STATES AND BRITISH COLONIES.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING,

Pursuant to a resolution of the House of Representatives, of the 9th instant,

THE

Correspondence between the U. States and G. Britain,

UPON THE SUBJECT OF

THE TRADE BETWEEN THE UNITED STATES AND THE BRITISH
COLONIAL POSSESSIONS IN THE WEST INDIES AND NORTH
AMERICA, &c.

APRIL 23, 1828.

Read, and laid upon the table.

WASHINGTON :

PRINTED BY GALES & SEATON.

1828.

No. 1000
[illegible]

[Doc. No. 1000]

20th Congress
1st Session

TRADE-UNITED STATES AND WEST INDIES

WINDWARD

1850

PRESIDENT OF THE UNITED STATES

WASHINGTON

Presented to a resolution of the House of Representatives of the 20th Congress

Commerce and Navigation between the U. States and the British

WEST INDIES

THE TARIFF BETWEEN THE UNITED STATES AND THE WEST INDIES
COMMERCE AND NAVIGATION IN THE WEST INDIES AND NORTH AMERICA

1850
[illegible]

WINDWARD

1850

To the House of Representatives of the United States :

WASHINGTON, 28th April, 1828.

In compliance with a resolution of the House of Representatives, of the 9th inst., requesting a communication of the correspondence between this Government and that of Great Britain, on the subject of the trade between the United States and the British colonial possessions in the West Indies and North America, not heretofore communicated, I transmit to the House a Report from the Secretary of State, with the correspondence desired.

JOHN QUINCY ADAMS.

Report of the Committee of the House of Representatives
Washington, 1884-1885

In compliance with a resolution of the House of Representatives of the 46th Congress, a committee of the House of Representatives was appointed to investigate the relations of the United States to the Republic of Cuba, and to report thereon to the House of Representatives at the next session of the Congress. The committee has the honor to acknowledge the receipt of a letter from the Secretary of State, dated January 10, 1884, in reply to a communication of the committee, dated January 7, 1884, in which the committee requested that the Secretary of State would be pleased to furnish the committee with a copy of the report of the Secretary of State to the House of Representatives, dated January 10, 1884, in which the Secretary of State reported the results of his investigation of the relations of the United States to the Republic of Cuba.

JOHN QUINCY ADAMS

The Secretary of State, to whom has been referred a resolution of the House of Representatives, of the 9th instant, requesting the President of the United States "to communicate to the House, if the public interest will permit, the correspondence between this Government and that of Great Britain, on the subject of the trade between the United States and the British colonial possessions in the West Indies and North America, as far as the same has not been heretofore communicated to Congress," has the honor of submitting to the President the papers required by that resolution.

H. CLAY.

DEPARTMENT OF STATE,
April 28, 1828.

LIST OF PAPERS.

Mr. Canning to Mr. Gallatin,	13th November, 1826.
Mr. Gallatin to Mr. Canning,	28th December, 1826.
Mr. Canning to Mr. Gallatin,	27th January, 1827.
Mr. Clay to Mr. Gallatin,	11th April, do.
Mr. Gallatin to Lord Dudley,	4th June, do.
Same to same,	17th August, do.
Same to same,	30th August, do.
Same to Mr. Clay,	14th September, do.
Lord Dudley to Mr. Gallatin,	1st October, do.
Mr. Gallatin to Lord Dudley,	3d do do.
Mr. Clay to Mr. Vaughan,	17th March, do.
Mr. Vaughan to Mr. Clay,	18th do do.

Mr. Canning to Mr. Gallatin.

ALBERT GALLATIN, Esq. &c. &c.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, would willingly have abstained from offering any observations on the note addressed to him by Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States, on the 22d of September, in reply to the answer which had been returned by the undersigned to Mr. Gallatin's note of the 26th of August; the facts of the question agitated between Mr. Gallatin and the undersigned admitting of no dispute; and their previous correspondence having exhausted all the arguments on each side, of which the matter in discussion is susceptible.

But upon the reperlusal of Mr. Gallatin's note, after an interval of a few weeks, there appear to the undersigned to be two or three points, much relied upon by Mr. Gallatin, which it would be improper to leave unnoticed.

The first of these points, and that which affects more or less the whole of Mr. Gallatin's reasoning, is the question of *right*—the right of a mother country to monopolize the trade of its colonies.

Mr. Gallatin discusses this question much at length, and attaches himself, in that discussion, rather perhaps to the terms, than to the substance of the proposition intended to be put forward by the undersigned.

The proposition of the undersigned is, simply, that there is a right in a mother country, universally admitted among nations, to interdict to foreign nations, a trade with her colonies.

It may be true, (as stated by Mr. Gallatin,) that every country has the same "right" to interdict, to foreign nations, a trade with itself. But, be the abstract "right" what it may, this, at least, cannot be denied, that the exercise of that "right" has been so usual in one case, and so unusual in the other, that the difference of usage (if it be no more) amounts almost to a difference of principle.

Foreign nations might justly complain of the one interdiction—that of trade with the mother country—as an innovation; but they have no just ground of complaint (and no other nation than the United States has ever complained) of the interdiction of trade to the colonies; because, in all ages, all nations, having colonies, have maintained such an interdiction.

Mr. Gallatin, after having objected, in the beginning of his note, to the use of the word "right," as applied by the undersigned to the colonial trade of Great Britain, applies the same word himself, (inadvertently perhaps,) in a subsequent part of his note, to the interdiction, by the United States, of a trade, in British ships, between the United States and the British West India colonies.

That trade Mr. Gallatin describes as a trade which had been carried on merely by "permission;" "a permission which (says Mr. Gallatin) the United States had a *right* to grant, or to withhold."

Now, as, according to Mr. Gallatin's doctrine, the United States have, in strictness, a *right* to exclude British trade altogether from their ports, the undersigned cannot presume to contend that they have not the same "*right*" to prohibit a trade between those ports and the British colonies. But the undersigned ventures to affirm, that the right which they have exercised in the latter prohibition, has no peculiar and separate character, growing out of long and general usage, to distinguish it in principle from a prohibition of all trade whatever with the United States.

Up to the year 1818, Mr. Gallatin admits that the trade since prohibited by the United States, was enjoyed by British vessels, in common with those of all other countries. The interdiction, therefore, is not of ancient usage; and so far is it from being *generally* applied by the United States to foreign vessels, that it operates against Great Britain alone.

Is it not at least singular, that Mr. Gallatin should reserve for a practice thus novel and thus partial, the character of "*right*," which he denies to a usage as old as the establishment of colonies, and universal among all nations to which colonies have belonged? Is it not singular, also, that, while Mr. Gallatin denies any claim on the part of Great Britain to the continued enjoyment of a trade in the United States, which she is admitted, by Mr. Gallatin, to have enjoyed, uninterruptedly, up to the year 1818, Mr. Gallatin puts forward a claim, on the part of the United States, to trade with the West India colonies of Great Britain, on the ground of usage and practice?

The United States, says Mr. Gallatin, found their "*reclamation to participate in that commerce*," (the trade with the British West India colonies,) on this ground: "*That trade has been allowed by Great Britain, it may be said, from the beginning, and at all times; and has become, thereby, so far assimilated to that with the European dominions of Great Britain, that the United States did think that they had the same claim to a participation in both.*" "*As early as the year 1783, the Government of Great Britain, deviating from that principle of the colonial system, according to which, the colonies were prohibited from trading directly with any other country, allowed her West India colonies to trade directly with the United States of America in British vessels.*"

It may be observed, as to these facts, as stated by Mr. Gallatin himself, that no two things can be much more different than a permission, (on the one hand) given by Great Britain to *British* vessels, to trade directly between a British colony and another country, (the vessels of that other country remaining by law, and in fact, excluded from the ports of the colony,) and that "*participation*" (on the other hand) which implies a trade between the United States and the West India colonies, *in vessels of the United States*.

The relaxation, to which Mr. Gallatin refers, in fact did nothing more than permit British vessels to bring certain articles into colonial ports, *directly* from the place of their production, instead of bringing the like articles *circuitously* through the United Kingdom. The question whether these articles should be imported circuitously through

the United Kingdom, or directly from the place of their growth, was a mere municipal concern, which did not vary the exclusive character of the colonial system, so long as that importation was confined to *British* ships.

Undoubtedly, the United States might then, if they thought proper, have interdicted the trade to British vessels between their ports and the British West India colonies, unless American vessels were allowed to participate in it. But they did not.

The history of the usage, therefore, is, that, up to a certain period, a trade between the ports of the United States and the British West India colonies, in *British* ships, went on unquestioned; while, as Mr. Gallatin is aware, no *American* vessel could enter the ports of the British West India colonies, except under occasional and temporary suspensions of the colonial law. And yet it is upon *this usage* that Mr. Gallatin founds,

1st. A right in the United States to prohibit British vessels from clearing out from the ports of the United States to the British West India colonies.

2d. A claim on the part of the United States to participate in the colonial trade of Great Britain.

The things may be right or wrong in themselves: but *usage* surely points exactly the contrary way to that in which Mr. Gallatin applies it.

Mr. Gallatin has yet another ground on which to rest this claim of the United States to a participation in the colonial trade of Great Britain.

“During the European war, Great Britain found it convenient *occasionally*, but repeatedly, to open her West India ports to American vessels, at the same time that she was asserting the *principle*, *uniformly denied by the United States*, that a neutral was not authorized, by the law of nations, to carry on, in time of war, a trade with a colony, in which she was not permitted to participate in time of peace.”

First. If the ports were occasionally opened, the very terms of the proposition show that they were *generally* shut. It would be difficult to imagine, either a more complete proof of the acknowledged right to admit or exclude foreign trade from the colonies, as the governing authority might think fit; or a more perfect refutation of the plea of usage, in favor of a permanently open trade.

Secondly. The rule of 1756, appears to have had little application to the point in dispute. It might, to be sure, be, in all such cases, a question with the neutral, whether he would be tempted by the open ports of one belligerent, to run the risk of capture by the other. But the point in dispute is, whether, by *occasionally* opening her colonial ports, Great Britain virtually abandoned the right of closing them again, when she thought proper: and on this point, the merits of the rule of 1756 have not, so far as the undersigned can make out, the most distant bearing.

Thirdly. As it is intended to prove that the United States have a claim to participate in the colonial trade forever, because the ports of the colonies were *occasionally* opened during the war, Mr. Gal-

latin describes the ports as having been opened to *American* vessels : true ; but not to *American* vessels *only*, or *specifically*. The ports were opened to the vessels of *all friendly Powers*. The argument, therefore, as to the *special* claim of the United States, falls to the ground.

The truth, however, is, that, under the words "*right*" and "*claim*," so frequently recurring in this discussion, lies the real and fundamental difference of opinion between Great Britain and the United States, which has frustrated all attempts to settle the disputed question of colonial intercourse upon common principles, by conventional arrangement. When it is contended that the "*right*" by which Great Britain prohibits foreign nations from trading with her colonies, is the *same* "*right*" with that by which she might (if she thought fit) prohibit them from trading with herself; this argument, (which is employed by the United States alone) implies that the special prohibition is a grievance to the United States, if not of the same *amount*, of the same *kind* as the general prohibition would be.

This is a doctrine which Great Britain explicitly denies.

It seems to be admitted, indeed, that there was a time when the distinction between colonial trade and the trade of the mother country was tenable. But it has been assumed, in no obscure terms, on the part of the United States, that the colonial system is now virtually at an end.

Great Britain denies this assumption. Whatever relaxation Great Britain may think fit to introduce, for her own sake, and for that of her colonies themselves, into her colonial system, she holds her "*right*" to maintain that system, as with respect to foreign nations, to be unaltered and entire.

Great Britain, therefore, cannot consent to any diplomatic arrangement by which such "*right*" may appear to be relinquished, or by which the assertion of it can be understood to be, in any degree, qualified or controlled.

Hence the impracticability (already so repeatedly proved) of any treaty upon this subject between Great Britain and the United States.

Hence the necessity for Great Britain of doing whatever she means to do, in the way of relaxation of her colonial monopoly, by acts of her own legislature.

This deduction brings the undersigned to the last point in Mr. Gallatin's note, and that on which he is most anxious that there should be no misconception between them.

Mr. Gallatin speaks of a "*permanent* exclusion of the United States, by Great Britain, from a trade open to the rest of the world," as a measure different in character from a general exclusion of all foreign nations.

But is this a just description of the effect of the act of 1825 ?

Considerations (of which Great Britain alone is the judge) have induced her to open her colonial trade to other nations. She opened it to them, not as matter of special favor, or of special "*claim*," to every one, but on specified conditions, common to all nations who

might think fit to subscribe to them, and to the United States among the rest.

If some of the nations of the world have taken advantage of the opening thus offered to them, by accepting the conditions annexed to it, and others have omitted to do so; and if the United States are (by their own choice) in the latter class, surely it is not a correct description of the consequence of this, their own voluntary omission, to say that the United States are "excluded," by Great Britain, from a trade which, on the contrary, Great Britain invited them to share.

Exclusion of foreigners from the colonial trade, is the general principle of colonial policy; admission to that trade is the exception; an exception which, in this instance, Great Britain was willing to grant to all those who were ready to purchase it, on terms tendered equally to all.

The United States cannot mean to put forward the pretension, that what is granted to others on terms, should be granted to them unconditionally.

If not, it seems difficult to imagine how they can feel it to be unjust or unkind (it certainly is not so felt, or intended, on the part of this country,) that the United States, having, upon a free and (as is known from the public proceedings of their Legislature) deliberate consideration, declined to subscribe to the terms on which exception from colonial prohibition was tendered impartially to all nations, should find themselves, in common with such of those nations as have decided like themselves, liable to that exclusion which is, and always has been, the general principle of colonial trade.

The undersigned has the honor to renew to Mr. Gallatin the assurance of his high consideration.

GEORGE CANNING.

FOREIGN OFFICE,

November 13, 1826.

Mr. Gallatin to Mr. Canning.

The Right Hon. GEO. CANNING, &c. &c.

The undersigned, Minister of the United States, did not fail to transmit to his Government the note which Mr. Canning, His Majesty's Principal Secretary of State for Foreign Affairs, did him the honor to address to him, on the 13th of November, in reply to the answer which had been returned, by the undersigned, to Mr. Canning's note of the 11th of September. But, unwilling to continue a discussion which did not seem likely to lead to any practical result, he abstained from making any further observations on the subject, until he should have received special instructions from his Government, in reference to a state of things which was altogether unexpected at Washington, at the time of his departure.

Having now received a despatch from the Secretary of State of the United States, the substance of which he is instructed to communicate

to Mr. Canning, the undersigned, in performing that duty, will, on those points to which he had already alluded in his former note, have but some explanatory remarks to add.

The right of Great Britain, which is that of every nation, to prohibit or allow foreign commerce with any part of her dominions, is unquestionable. That right, in reference to her colonies, has never been denied by the United States, any more than with respect to any other part of her possessions. And it is, also, admitted, that she may, within her own jurisdiction, prescribe the conditions on which such commerce shall be tolerated, and, at her will, again interdict altogether the intercourse thus permitted.

On the other hand, the United States, unless restricted by treaty, which, in this case, they are not, have precisely the same right to prohibit, to allow, and, within their own jurisdiction, to regulate foreign commerce with their dominions, whether that commerce be with the foreign country itself, or with its colonies or possessions abroad. It was not inadvertently that the undersigned used the word "right," as applied to the United States: he did not object to the *use* of the word, as applied to Great Britain. What he attempted to show was, that this right, which was admitted, and, although it might, at any time, be exercised, had no bearing on the questions which had been the subject of discussion between the two countries.

What has been contended for, is, that, since to any commerce there must always be two parties, the mutual consent of both is always necessary, in order that such commerce may at all exist; that, whatever its nature may be, whether of ancient or modern date, whether with colonies or with possessions of a different description, from the moment it does exist, it becomes a fit subject for negotiation; and that there is no reason why an agreement should not on that, as on any other species of trade, be founded on terms of just reciprocity, though relating to colonies, from an intercourse with which, foreigners had formerly been, and might again be excluded.

The various relaxations of the colonial system of Great Britain, as they never were, or could have been, intended for the benefit of the United States, and as they were always accompanied with restrictions, exclusively favorable to her, could not be viewed as a *boon* to them, and never were accepted as such. The extent to which the commerce, when not laid under too severe restrictions, was carried on between the United States and the British colonies, is an irrefragable proof, that it was equally advantageous to both parties. If equally advantageous, there had been no favor conferred on either side; there was no ground for a pretension, by either party, that the intercourse should be regulated by unequal conditions.

No such pretension had in fact been advanced. The proposals made by both parties, during the negotiations of the year 1824, were avowedly founded in a fair reciprocity, and brought the parties very near together. Unable still to agree on some points, it was concluded to suspend the negotiation, with a distinct understanding that it should be again renewed at some convenient day.

Mr. King was, in 1825, empowered to treat on all the subjects of the previous negotiation. He was instructed, in the first instance, as being a subject of more pressing urgency, to call on the British Government to remove the impediments which prevented the execution of the St. Petersburg Convention. If his instructions on other subjects were not forwarded to him, it was because he was engaged in discussions respecting that Convention; and it was believed that the state of his health did not admit of his entering, at that time, upon the more arduous duty of resuming the suspended negotiation. Of this His Majesty's Government appears to have been fully aware. On the 22d of March, 1826, Mr. Vaughan addressed an official note to the Secretary of State of the United States, in which he says: "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 Chargé 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 health of Mr. Rufus King, which Mr. Can- ning laments to say, has been, since his arrival in England, far from satisfactory, will join any other negotiator in the commission with him.*"

The President did deliberate on that friendly suggestion; and the nomination of a person to be associated with Mr. King, was contemplated, when a letter from him, dated the 21st of March, desiring permission to return, was received; upon which the duty of renewing those important negotiations devolved, to his great regret, on the undersigned alone.

His instructions were of a character authorizing the hope that their result would be satisfactory: his departure was hastened. On his arrival in England, the Order in Council of July last, had already been enacted. Indeed, it appears that the determination not to renew the negotiations on the colonial intercourse, and to regulate it exclusively by acts of Parliament, had been taken before July, 1825, when the acts to that effect were passed. Had Mr. King been provided with the same instructions which the undersigned received, they would have been equally unavailing. Of that determination, the Government of the United States had not the least notice. On the contrary, although Mr. Vaughan's communication offered the opportunity of making known the intentions of His Majesty's Government, positive assurance was given of its being prepared to proceed in the important negotiations, and that *the negotiations would be forthwith resumed*, without any suggestion that the colonial intercourse would form an exception. The acts of Parliament

of the year 1825, in which that intention was to be discovered, never were officially communicated. That of the 27th of June, passed only a few days before that of 5th July, and not specially repealed by it, was not calculated to elucidate the object in view; and several causes concurred to induce a belief that this last act was not intended to affect the trade between the British colonies and the United States, as carried on under the act of June, 1822. This belief, and the reasons for it, were distinctly expressed in a letter from the Department of State to a member of Congress, of the 25th December, 1825, copy of which is enclosed. That letter was published in the American newspapers; a copy was furnished to Mr. Vaughan, and he is understood to have transmitted it to his Government.

That opinion was corroborated by the construction ultimately put on the act by the British authorities. It was thereby provided, that certain privileges granted to foreign ships should be limited to the ships of those countries which should comply with the conditions therein stated, unless his Majesty, by his Order in Council, should, in any case, grant such privileges, although the conditions had not been performed; and the act was declared to come in full force and operation from the 5th of January, 1826.

It had, at first, been determined at Halifax, that the port should accordingly be shut against American vessels, after that day. This decision was afterwards revoked, although the condition had not been performed, and although no Order in Council had granted the privileges in question.

It now appears that the act of 5th July, 1825, (6 Geo. IV. ch. 114,) which contains no repealing clause of former acts, refers, under the name of "the law of navigation," to another act of the same date, (6 Geo. IV. ch. 109;) that this, although it contains, also, no repealing clause, is understood and construed as having superseded all former acts on the same subject; and that the actual repeal of the act of 1822, is to be found in another act, also of the 5th July, 1825, (6 Geo. IV. ch. 105,) entitled "An act to repeal the several law relating to the customs."

The intricacy of those several acts, and the difficulty of understanding their precise meaning, of ascertaining what parts of former acts were actually repealed, and what still in force—a difficulty which, in the case of the "Jubilee," seems to have led into error even one of the highest tribunals of Great Britain—may well account for the construction put upon those acts in the United States; affording, at the same time, a sufficient reason for having preferred a renewal of the negotiations, to a pure acceptance of the conditions contemplated by the act of 5th July, 1825, (6 Geo. IV. ch. 114,) had it been only for the purpose of ascertaining the true intent and meaning of the act.

Even so late as October last, Mr. Vaughan, as appears by his correspondence with Mr. Clay, was not provided with instructions that enabled him to give a satisfactory answer to the inquiries, whether, according to the British interpretation, American vessels

might trade between the British colonies and foreign countries, and whether discriminating duties of every species had been abolished.

The proposition made during the last session of Congress, and to which Mr. Canning has alluded, affords an additional proof of the imperfect understanding, owing to the complexity of the several acts of Parliament, which, at that time, prevailed, respecting their true object and intention. That proposition was only for a repeal of the discriminating duties, and, if adopted, would have been unavailing—since, not embracing a repeal of the restrictions on the circuitous intercourse, it is now understood that it would not have been accepted by the British Government as a compliance with the condition required by the act of 5th July, 1825.

It is not intended, by these facts and observations, to convey any reproaches against His Majesty's Government, on account of the unexpected resolution which it has taken. But they satisfactorily show that the United States could have entertained no doubt of the continued disposition of Great Britain to settle the colonial intercourse by an amicable arrangement, and that there were peremptory reasons for preferring that mode, rather than to legislate on the subject.

Supposing even that the determination of the British Government not to renew the negotiation on that point, had been communicated or known, the specific condition on which American vessels might be allowed to participate in the intercourse between the United States and the British colonies, was so expressed in the act of Parliament, as to have required explanations before it could be complied with.

The condition required from countries having colonies, was both distinct and reciprocal. Nothing more was asked, than that they should grant to British ships the like privileges of trading with their colonial possessions, which were granted to their ships of trading with the British possessions abroad. No regard was paid to the importance of such colonial possessions. Sweden, by permitting British vessels to trade with the island of St. Bartholomew, was allowed privileges which were offered to the United States on very different terms: and, with the exception of some of the German States, those terms applied to no other maritime Power than the United States. All this Great Britain had a right to do; no complaint is preferred on that account; it was the condition required from them, which they had to consider.

That condition was, that the United States should place the commerce and navigation of this country, (Great Britain) and of its possessions abroad, upon the footing of the most favored nation.

Had the condition been limited to the commerce and navigation of the British colonies; had it been so intended and expressed, as that the United States might have satisfied it, by placing the intercourse between their dominions and the British colonies on the same footing, in every respect, as the intercourse between the United States and the colonies of the most favored nation; the condition, though not altogether free of objection, would at least have been apparently reciprocal. To require, besides, that it should be extended to the commerce

and navigation of Great Britain generally; that it should embrace that intercourse between her and the United States, which is regulated by a special convention: that they should grant any privilege in that intercourse to British vessels, not stipulated by that convention, as the price for the permission of trading with the British colonies; was a total departure from the principles of a just reciprocity.

But it appeared also extremely difficult, if at all possible, to understand what was meant by placing that commerce and navigation on the footing of the most favored nation.

If Great Britain only asked to be placed on that footing, on giving the same equivalent which any other foreign nation may have given to the United States, in order to have privileges which she does not enjoy, the navigation law of the United States has already made provision in that respect. There is no privilege enjoyed in the United States by the commerce and navigation of any foreign nation, which Great Britain may not obtain, by allowing to them the same reciprocal advantages which they enjoy in the ports of such foreign nation, and on which such privilege depends. To comply with the condition thus understood, the United States would have had no new act to perform. This could hardly be presumed to have been the intention of the act of Parliament.

But if, by that act, it was intended to require, as the condition for allowing to American vessels the privilege of trading with the British colonies, that the commerce and navigation of Great Britain and of her possessions abroad, should, without any other equivalent, be generally placed on the same footing with the commerce and navigation of any other foreign nation, which, by reason of reciprocal advantages allowed to American vessels, may now, or hereafter, be entitled to greater privileges than Great Britain now enjoys, the condition was inadmissible.

British vessels and those of several other nations, may now, by virtue of treaty-stipulations, or of other reciprocal regulations, import into the United States articles of the produce or manufacture of the countries to which such vessels respectively belong, on the same terms, and on the payment of the same duties of tonnage and on the cargo, as if imported in American vessels. In every instance, the privilege is reciprocal, and will cease, with respect to any of those countries, whenever vessels of the United States, laden with produce of the United States, may cease to be admitted into the ports of such country on the same terms as its own vessels.

In conformity with the navigation law of the United States, the prohibition to import, in foreign vessels, merchandise not the produce of the country to which such vessels respectively belong, extends only to the vessels of such nations as have adopted a similar regulation. Great Britain is, accordingly, one of the few nations to which the prohibition applies.

In pursuance of the treaty concluded in December, 1825, between the United States and Central America, whatever may be imported into, or exported from, either country, in its own vessels, to or from

any foreign place whatever, may, in like manner, and on payment of the same duties, be imported or exported in the vessels of the other country.

If, therefore, it was meant, by the condition required, that the commerce and navigation of Great Britain and of her possessions abroad, should be gratuitously and generally placed on the same footing with those of the most favored nation, the United States, in order to comply with it, and as the price for the permission to trade with the British colonies, would have been obliged—1. to admit the importation of British merchandise in British vessels on the same terms, and on payment of the same duties, as if imported in American vessels, although the Convention of 1815 should have expired, and the corresponding privilege was no longer allowed to American vessels in British ports: 2. to admit the importation, in British vessels, of the produce of every foreign country, although the importation into British ports of the like produce in American vessels, should still be prohibited; 3. if the condition was intended to apply to privileges granted subsequent to the date of the act of Parliament, to admit the importation of such foreign produce in British vessels, even without being charged with any discriminating duties, and generally to allow to British vessels, without reciprocity, all the reciprocal advantages to which the vessels of Central America are entitled.

If this was not the intention of the act of Parliament; if the words "commerce and navigation of this country" were meant only to include the circuitous intercourse, the expressions used to convey that meaning must be admitted to have been much too general. This last interpretation has been suggested only by the observations that have occurred in the course of Mr. Canning's correspondence with the undersigned. If such, or any other admissible construction was intended, the most obvious way of preventing both an erroneous interpretation of the condition, and any unfounded expectations in reference to a renewal of the negotiations, would have been an official communication of the act of Parliament, accompanied with a full and free explanation of the condition required, and of the intentions of His Majesty's Government on the whole subject.

The Government of the United States is animated by the most sincere desire to maintain with that of Great Britain, not merely the forms of courtesy and amity, but to cultivate a cordial and lasting friendship; to settle every controverted question between them upon principles of justice and reciprocity; and, by an enlarged liberality in their mutual intercourse, to advance the real prosperity of both.

Entertaining this desire, it has learnt, with regret, the resolution of His Majesty's Government to close the door against those friendly explanations, and that free and mutual exposition of the wishes and views of the parties, so essential between two nations whose interests and happiness are so interwoven as those of Great Britain and the United States, and which can be but partially and imperfectly interchanged, if mutual legislation is substituted to negotiation and to the ordinary mode of treating.

As the only alternative which this course has left, it was the President's intention to lay the whole correspondence which has passed between the two Governments on that subject, including the instructions given to the several American Ministers near His Britannic Majesty, before Congress, at their present session. It will remain with that body to decide, whether the colonial intercourse shall be altogether closed, whether that portion of it left open by the Order in Council shall continue so, or on what conditions, compatible with the interests of the United States, that trade may be placed.

The undersigned has been further instructed to give, at the same time, to His Majesty's Government the assurance that, notwithstanding its late decision, that of the United States will be ready, at Washington or at London, to treat of the colonial intercourse, whenever it may be the desire or inclination of Great Britain to negotiate on that subject.

The undersigned requests Mr. Canning to accept the assurances of his high consideration.

ALBERT GALLATIN.

UPPER SEYMOUR STREET, *December 28, 1826.*

Mr. Canning to Mr. Gallatin.

ALBERT GALLATIN, Esq. &c. &c.

The undersigned, His Majesty's Principal Secretary of State for Foreign Affairs, has the honor to acknowledge the note addressed to him, on the 28th ultimo, by Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States; in replying to which, the undersigned will, as far as possible, conform to the example of Mr. Gallatin, in putting aside those points of the question in agitation between them, which have been already exhausted in argument, and the further discussion of which would not tend to any practical advantage.

The parts of Mr. Gallatin's last note, which appear to the undersigned to require any observation, relate to matters rather of fact than of reasoning.

Mr. Gallatin complains that the act of Parliament of 1825 was not officially communicated to the United States.

It is perfectly true that it was not: nor has it been the habit of the two Governments to communicate reciprocally to each other acts of their respective Legislatures.

The act of Congress of 1823, an act the provisions of which especially affected Great Britain, was not officially communicated either to the King's Minister at Washington, or to His Majesty's Government by the American Minister resident at this court. So far from any such communication being made, or any voluntary explanation of the bearing of that act being offered, it was not till after repeated

and pressing inquiries, that His Majesty's Minister at Washington succeeded in obtaining, from the American Secretary of State, the true construction of the most important clause of that act—the clause in which the United States claimed that their trade to the British West India colonies should be put on the same footing with the trade to the same colonies from “elsewhere;” and learnt, to his great astonishment, that under that word “elsewhere” was intended to be signified, not only the other dependencies of Great Britain, but “the mother country itself.”

The undersigned at the same time begs that it may not be supposed that the British Government withheld from the Government of the United States communication of the act of Parliament of 1825, from any notion of retaliation for the omission of the Government of the United States to communicate to that of His Majesty the act of Congress of 1823.

He refers to that instance of omission on the part of the American Government only in proof—

First, That the ordinary and natural course between States is not to make diplomatic communications of the acts of their respective Legislatures; and, secondly, that no inference could be drawn from such an omission on the one side, any more than on the other, of (what the undersigned disclaims for his Government,) an intentional want of courtesy or respect.

But the act of 1825 did not relate specially to the United States. It held out to all nations of the world certain benefits, (or what were believed by the British Government to be so,) on certain conditions.

If a communication of the act had been made to one nation, it must have been made alike to all. Such communication would have been liable to different misinterpretations. Some Governments might have considered it as a solicitation to which they were bound, in courtesy, to give some answer, explaining their reasons for declining (if they did decline) to avail themselves of the provisions of the act. Others might perhaps have taken umbrage at it, as an authoritative pretension to impose the legislation of this country upon other nations.

The simplest course was to allow the provisions of the act to find their way to general knowledge, through the usual channels of commercial information.

The undersigned has no reason to apprehend that this course has proved less effectual on the present than on former occasions.

The conditions of the act of 1825, have been accepted and carried into effect by some Governments. That of the United States has not thought it expedient to take advantage of them. But the undersigned cannot but be still of opinion, that the resolution proposed in the House of Representatives at Washington, at the beginning of the last session of Congress, for the express purpose of urging the Executive Government of the United States to come into the terms of the act of 1825; the debates which took place upon that proposition; and the final rejection of it by a majority of only two votes; show that it was not for want of a sufficient understanding

of the intent of the act of Parliament, that the conditions of it were not accepted by the United States.

To one piece of evidence, which proves the perfect understanding in America, not only of the purport and provisions of the act of Parliament of 1825, but of the conditions which it would be requisite for the American Legislature to perform, in order to entitle the United States to the benefit of that act, the undersigned might have scrupled to refer, (as not being of the nature of a diplomatic document,) if Mr. Gallatin had not encouraged him to bring forward any document tending to throw light on the matter in dispute, by citing, in support of his own view of that matter, a private letter from Mr. Clay to a member of Congress.

Early in the session of Congress of 1825-6, a petition from Baltimore was presented to both Houses of the American Legislature, in which petition it was distinctly pointed out that the British act of Parliament of July, 1825, had not only manifested the readiness of this country to remove all discriminating duties, but, also, to permit American ships to clear out from British colonies, not, as heretofore, to the ports of the United States only, but to all parts of the world—the United Kingdom and its dependencies alone excepted.

The petition, with equal distinctness, invited the attention of the American Legislature to the conditions on which these advantages might be secured to the United States; and prayed for the removal of the several restrictions imposed by the American act of 1823, not of the “discriminating duties only,” but of the prohibition of what is called, by Mr. Gallatin, “the circuitous intercourse in British ships:” the petitioners expressly submitting to Congress the “propriety of admitting British vessels, *from whatever ports*, on the same terms as the vessels of the most favored nations.”

It appears from the reports of the proceedings of Congress, that it was against the prayer of this petition (but without impeachment of any of its allegations) that the decision of the American Legislature, at the close of the session, was taken. It cannot be doubted, therefore, that the American Legislature had the whole purport and bearing of the act of 1825 full before their eyes.

The fact that some of the British authorities abroad took upon themselves to suspend the execution of the act of 1825, towards the United States, is undeniable.

But the only effect of this suspension was, the continuance of the benefits of the then existing state of things to the United States, for nearly a twelve month longer than they would otherwise have enjoyed it.

That continuance was permitted by the British Government, mainly in consideration of the then pendency in the Legislature of the United States of the resolution, hereinbefore mentioned, for conforming to the conditions of the act of 1825.

Immediately upon the receipt of authentic intelligence of these proceedings at Washington, an instruction was sent out to Mr. Vaughan, grounded on the belief of the British Government that

Congress would not separate without adopting the resolution then under their consideration. In that case, and upon receiving an assurance from the American Government that the restrictions and charges on British shipping and British colonial produce would be withdrawn by the United States, Mr. Vaughan was authorized to deliver a note to the American Secretary of State, declaring that the discriminating duties imposed upon American ships and their cargoes in the West Indies, should immediately cease. Mr. Vaughan was actually in possession of this instruction, when the resolution, on the assumed adoption of which, the instruction to Mr. Vaughan had been founded, was rejected. It was no part of Mr. Vaughan's duty to make any communication upon the subject to the American Government, before the result of the discussion was ascertained. After that result, (wholly unexpected in this country,) any such communication would have been not only useless, but might, perhaps, have been considered as an improper appeal against the formal decision of the American Legislature.

That Mr. Vaughan should not afterwards have been authorized to enter into any discussion of the provisions of the act of 1825, "so late as October last," is not surprising, when it is considered that Mr. Vaughan, immediately upon the close of the session of Congress, was instructed to announce the intention of His Majesty's Government to pass the Order in Council of July, consequent upon the decision of the American Legislature, by which the terms of the act of 1825 were virtually declined.

Mr. Gallatin accounts for the loss of the resolution proposed to the American Legislature, by the persuasion which, he says, the Government of the United States entertained, that the negotiation on the subject of the commercial intercourse between the United States and the British West India colonies would be renewed.

The undersigned is at a loss to understand on what ground it was assumed at Washington, that there would be, at all times, an unabated disposition on the part of the British Government to make the trade of its West India colonies the subject of diplomatic arrangement.

The circumstances of the case were entirely changed.

Repeated negotiation had failed to produce any material approximation of opinions upon that subject.

The last attempt at an adjustment had been made, with an evident conviction on both sides, that there existed between them, an unquerable difference of principle; and that it was by that difference, rather than by any decided irreconcilableness of interests, that a satisfactory arrangement was rendered hopeless.

The nature of that difference has been sufficiently discussed. It lies in the determination of the United States to dispute, and in that of Great Britain to maintain, the established distinction between general and colonial trade.

Great Britain had, therefore, an obvious motive for doing, thenceforward, whatever she might think it right to do in relaxation of her

colonial system, rather by the instrumentality of her own Legislature, than by compact with a State with which she disagreed in opinion as to the principles of colonial trade so widely, that it would have been impossible to construct a preamble to a treaty on that subject, in the enunciations of which the two contracting parties should have concurred.

But there was yet another reason for avoiding further negotiation upon the subject.

Hitherto, when the trade with the British West India colonies had been opened at all, it had been opened chiefly, though not exclusively, to the United States.

To no other country had it been opened by specific and positive convention.

But a time had now arrived, when, from motives of general policy, Great Britain thought it advisable to allow access to her colonies to all foreign Powers, without exception, on conditions tendered alike to all.

Such indiscriminate opening could only be effected by some process, common to all those who were permitted or invited to take advantage of it. Impartiality was thus maintained towards all parties, and the power of control over her own colonies was, at the same time, retained in the hands of the mother country.

The undersigned believes that he has now touched on every topic in the last note addressed to him by Mr. Gallatin, to which he has not had occasion to advert in former stages of their correspondence.

He will not allow himself to be drawn again into a discussion of topics already more than sufficiently debated.

The undersigned trusts that it is unnecessary for him, in concluding this note, to return to Mr. Gallatin's assurances of the friendly disposition of the United States of America, assurances, equally sincere, that there is the most cordial desire, on the part of Great Britain, to cultivate the friendship of the United States.

The ties of common origin, laws, and language, must always form strong bonds of national alliance between them. Their respective interests, well understood, harmonize together as much as their feelings.

But it has never yet been held a duty of international amity, (any more than of friendship in private life,) to submit to unequal compacts. Nor has it ever been held an offence against such duty, that a nation (any more than an individual) should decline to make uncompensated sacrifices.

Between two nations, as between two individuals, most friendly to each other, there may sometimes happen unfortunately to exist some known subject of incurable difference of opinion. In any such case, it is, perhaps, most advisable to keep that subject, as much as possible, out of sight, and to take care that it shall not interfere with the tenor of their general intercourse, and of their habitual relations.

The refusal to regulate the trade of our colonies by a commercial treaty, which the British Government may think (even if erroneously) disadvantageous to its interests, cannot give just cause of offence to any Power whatever.

In the present instance, the undersigned is most happy to be able to qualify such refusal with the declaration that it is not, in any degree, dictated by sentiments either unfriendly or disrespectful to the United States, or by any indifference to the amicable settlement of all other questions at present pending between them and Great Britain.

Of these questions, one has been already happily arranged since Mr. Gallatin's arrival in this country.

The undersigned looks forward with confidence, no less than with anxiety, to such an arrangement of the remainder, as, effacing all traces of past discussions, and satisfying all fair and reasonable pretensions on both sides, may secure, for a long period of years to come, reciprocal good understanding and good will between two kindred nations.

The undersigned has the honor to renew to Mr. Gallatin the assurance of his high consideration.

GEORGE CANNING.

FOREIGN OFFICE, *January 27, 1827.*

Mr. Clay to Mr. Gallatin.

No. 26.

DEPARTMENT OF STATE,

Washington, 11th April, 1827.

ALBERT GALLATIN, *Envoy Extraordinary
and Minister Plenipotentiary to Great Britain.*

SIR: In the letter which I addressed to you, on the 20th ultimo, I stated that it was my intention, in a few days, to prepare and transmit to you some instructions on the subject of the colonial trade. I shall now execute that intention; but, before I proceed to the specific directions required by the present state of it, some few observations appear to be called for, on the two notes of Mr. Canning, under date the 13th November of the last, and 27th January of the present year. In submitting these, it is not desired to subdue the repugnance which Mr. Canning expresses against being "drawn again into a discussion of topics already more than sufficiently debated." But, whilst the diplomatic relations between the two countries remain open, and sentiments of amity are professed on both sides, it would seem more consistent with that profession, and more in that spirit of candor as well as courtesy, which ought to animate the councils of friendly nations, to be willing both to give and to receive the correction of any misapprehension under which either may be laboring, than to permit such misapprehension to continue, perhaps, to the prejudice of both. The United States, at least, whose whole course on this subject has ever been sincere, direct, and open, who have never sought to arrogate to themselves any right or claim to question the power of Great Britain to give the law to her own colonies, nor advanced any other claim, on

their part, than the right to regulate their own commerce with foreign nations on fair and equal terms, owe it to themselves to disavow those peculiar and exorbitant pretensions which are intimated, in no very obscure terms, in the two notes of Mr. Canning; and to deny, in the most explicit manner, the rejection of any friendly overture from Great Britain, founded on equality with regard to this trade, which has ever been distinctly and intelligibly offered to their choice. To impute a contrary course of action to the Government of the United States, and to express, in the same paper, a determination not to be drawn again into the farther discussion of these topics, would seem to be closing the door studiously against all explanation, and not to harmonize very happily, either with professions of friendship, or with that natural respect and forbearance which have usually characterized the intercourse of equal nations in modern times. The United States, however, disposed rather to heal than to inflict wounds, and taking more pleasure in removing than in creating causes of dissatisfaction and complaint, are desirous that the Court of Great Britain shall be set right as to certain matters of fact, and certain principles of policy, maintained on our part, with regard to which, that Court is manifestly yet in error, and which seem to have had a material influence on their own decisions. Until those errors shall have been removed by a full and candid explanation, we shall not be satisfied that we have done all we ought to do to extirpate this germ of misunderstanding, and to restore those commercial relations between the two countries, which we are not less convinced than Mr. Canning that it is equally the interest of both to maintain.

The general proposition laid down by Mr. Canning, that there is a right in a mother country (universally admitted among nations) to interdict to foreign nations a trade with her colonies, never has been controverted by this Government. But that is a very different proposition from the question which has been under discussion between the two Governments; which is, whether, when the parent country, relaxing its colonial monopoly, chooses to open the trade of its colonies to foreign nations, these nations have not a right to examine, for themselves, the terms on which it is so opened, and to treat of such modifications of them as will secure reciprocity in the mutual intercourse. To contend that the parent country, in the case of such open trade, may exclusively prescribe the conditions on which it shall be carried on with foreign Powers, to which conditions, without regard for their interests, they must submit, would be, in effect, to assume a right of legislation, not for the colonies only, but for such foreign Powers. It is alleged by Mr. Canning, that "no other nation than the United States has ever complained of the interdiction of the trade to the colonies; because, in all ages, all nations, having colonies, have maintained such an interdiction." If Great Britain had maintained the most rigorous prohibition of all intercourse between her colonies and this country, we should have had no right to complain, and we never should have complained. Our rights begin at that precise point when she chooses to allow a trade between her colonies and the United

States. At that moment she departs from the principle of her colonial monopoly. At that moment a new party (the United States) is brought forward, and what before was under the exclusive control of one, becomes now a matter of consideration and arrangement between two. It is not at all extraordinary, that if, as is alleged by Mr. Canning, prior to the passage of the act of Parliament of July, 1825, no other foreign nation than the United States had any trade with the British colonies, there should have been no complaints in regard to the terms of intercourse permitted by the British Government, put forward by other foreign nations. Where there is no commerce, in fact, there can be no cause of objection as to the abstract conditions on which it is proposed. Besides, most of the commercial nations of Europe are, at the same time, colonial Powers; and it may be quite as convenient to them as to Great Britain, to assume the right to prescribe, exclusively, the terms on which the intercourse between their colonies and foreign States shall be allowed. We have seen, too, in the act of 1825, more favorable conditions offered by Great Britain to the colonial Powers than to other nations. It would have been very remarkable if any of those Powers had refused to accept such conditions. But the fact of acceptance implies the right of deliberation, and the consequent power of rejection.

So far as Mr. Canning places the right to trade between the United States and the British colonies, in British vessels alone, on the ground of usage, neither the principle nor the fact can be admitted to be with him. As to the first, a nation may find its interest in tolerating, even for a long time, a trade which is prosecuted on unequal or unjust terms. It may not be its policy to foster its navigation. It may find compensation in some branch of its foreign trade with other nations. But, from whatever cause it may choose to submit to the injustice, no length of time can so far sanction it, as to confer a right on the Power which puts forth unequal regulations, to insist upon their uninterrupted continuance: and it indisputably belongs to the party suffering under such injustice, to put an end to the unequal state of things whenever he thinks proper. As to the fact of this alleged usage, neither Power can fairly go back to any period beyond the 4th of July, 1776. The usage on which Mr. Canning rests the British monopoly of the colonial trade, as it existed anterior to that epoch, would tend as much to sustain our side of the argument as the British. But, as Great Britain then gave law to the thirteen Colonies, afterwards forming the United States, as well as to the British West India colonies, no argument can be rightfully drawn from the state of the usage prior to that period. During the war which succeeded, all commerce between the United States and the West India colonies was interrupted. Peace was restored on the 30th day of November, 1782. Now, if the usage contended for had existed, without disturbance, from that day down to 1818, the duration of time would have hardly been sufficient, in the affairs of nations, to create any right by prescription.

But how stands the fact? From the date of the peace, up to that

of the formation, in 1789, of the present Constitution of the United States, the history of the two countries presents frequent struggles on the subject of this very colonial trade. Several of the States sought, by their own separate legislation, to secure for themselves a participation in it. The powers of the Old Congress, under the Articles of Confederation, were incompetent to the adoption and enforcement of a system of regulations for the trade, which should counter-vail those of Great Britain; and this incompetency was one of the most operative inducements which led to the establishment of our present Constitution. From that time down to the close of the European war, the trade had been generally open to the navigation of the United States, by repeated acts of British authority. Since the establishment of our present Constitution, further, since the peace of 1782, the trade has been open to us a longer period of time than it has been shut; and, if the right were to be decided by the mere fact of the greater duration of the usage, one way or other, the right would be with us.

Mr. Canning states that these relaxations did nothing more than permit British vessels to bring certain articles into the colonial ports directly from the place of their production, instead of circuitously through the United Kingdom; and that it was a mere municipal concern, which did not vary the exclusive character of the colonial system. But they did something more. Whilst the supplies from the colonies, and their exports, were drawn through the mother country, the commerce of that mother country being open to the United States, their navigation could fairly participate in the trade. But, when British vessels were allowed a direct trade between the colonies and the United States, to the exclusion of American shipping, it put an end to the circuitous trade; and the navigation of the United States, if they submitted to the British monopoly of this direct trade, would be deprived of their fair proportion of the transportation of the subjects of colonial commerce, which they would have enjoyed through the parent country.

Whatever may be the abstract rights of Great Britain and the United States, in respect to the regulation of an intercourse between the British West India colonies and the United States, Great Britain did, in fact, consent to negotiate on that subject. She might have taken, and adhered to, the ground that she would not treat; but she did not. By consenting to treat, and by inviting the American Government to renew the negotiation, as late as March, 1826, more than eight months after the date of the act of Parliament, in July, 1825, we were forbidden to anticipate that, without any sort of intimation, the door of negotiation was to be suddenly closed. If we had no right to assume "that there would be, at all times, an unabated disposition, on the part of the British Government, to make the trade of the West India colonies the subject of diplomatic arrangement," it must be admitted that our surprise was quite natural that you, who were sent to England, among other reasons, in consequence of that very intimation in March, should, upon your arrival there in the succeeding July, and before the presentation of your credentials, be unexpectedly

met by the annunciation of a measure arresting, at the threshold, all negotiation on the colonial trade.

When two nations undertake to arrange a matter of common interest between them in a given mode, if one of them, not only without, but in opposition to, notice to the other, should itself proceed, exclusively, to regulate, by a different and less friendly mode, that interest, it cannot be denied that there is just ground of complaint. Undoubtedly, it is within the competence of a nation to refuse, after agreeing to negotiate, or to break a negotiation in any stage of its progress, without ascertaining the practicability of an amicable adjustment; but this is not according to prevailing usage among friendly States.

We must think that the frankness of friendly correspondence required of the British Government to communicate the change of its resolution as to the manner of regulating the colonial trade, and, at the same time, an official communication of the act of Parliament, of July, 1825. Had such communications been made, the American Government would have been prepared to consider, during the succeeding Session of Congress, the conditions offered in that act. And, upon receiving from the British Government those explanations which the ambiguity of the act rendered necessary, Congress could have passed an act which might have proved satisfactory to both parties. By the forbearance to make those communications, we remained in entire ignorance of the altered purposes of the British Government, and in full confidence that it was their desire, as it was our expectation, to arrange the intercourse by convention.

Although, as is alleged by Mr. Canning, it is not the habit of the two Governments reciprocally to communicate to each other *all* the acts of their respective Legislatures, when a particular act is passed which is intended to put aside a negotiation contemplated by both parties, there is an evident fitness, if not obligation, in point of frankness, to communicate it; and there is believed to be no example in which, under such circumstances, any Government has failed to communicate its act.

But, if it has not been the practice of the two Governments to interchange the whole body of their respective statutes, it has been usual, at least on the part of this Government, to communicate those which are the objects of negotiation. Repeated instances of such communications of acts of Congress imposing commercial restrictions, occurred during the late European war; and the convention of 1815, with Great Britain, was made in pursuance of an act of Congress, which was officially communicated to the British Government.

So far from being accurate is the statement that the act of Congress, of March, 1823, was not communicated to the British Minister, at Washington, that the bill, during its progress, in Congress and in the form in which it passed, was communicated to him by the Secretary of State, and it became the topic of official conference and correspondence, while on its passage, and of official correspondence between them, in less than a month after its enactment.

We do not mean, now, to allege that the omission to communicate

the British act, was an intentional discourtesy towards the American Government; but we do mean to aver that that omission, and the neglect to inform us that the act was to supersede all negotiation, combined with the explicit invitation of Mr. Vaughan to renew the negotiation, given as late as March, 1826, had the effect of misleading us in regard to the views of the British Government. It was to this end only that reference was made in your instructions of the 11th of November last, to the letter which had been addressed from the Department of State to a member of Congress. That letter which was never private, acquired, by being published in the gazettes of the day, and a copy of it having been, at the time, furnished to Mr. Vaughan, and transmitted by him to his Government, a public, if not diplomatic character—which fairly entitled it to be cited as evidencing the known views taken at Washington of the British act. The opinion expressed in that letter, that negotiation, and not legislation, was the instrument, in the contemplation of both Governments, by which they intended to regulate the colonial intercourse, was subsequently confirmed by the forbearance of the British Government to enforce the act of Parliament towards the United States. And yet, that very forbearance, which had the effect of deceiving us, though certainly not so intended, is now brought forward as a reason for declining to treat, and for closing the colonial ports. It is alleged, by Mr. Canning, to have been in consideration of the pendency of the proposition before Congress, for conforming to the conditions of the act of 1825. If that had been stated at the time, we should not have been deceived.

Although that act did not relate specially to the United States, but addressed itself to all the foreign Powers, the United States were the only Power with which Great Britain was negotiating on its subject-matter. And, as it now appears that it was intended to be a substitute for the negotiation, it is difficult to resist a conviction of the obvious propriety of its being communicated to the American Government, even admitting such a communication to have been unnecessary to other Powers.

Whilst the Government of the United States must ever insist that, so long as there is an intercourse between them and the British colonies, they have a clear right to participate in the regulation of that intercourse, their attachment to any specific mode of regulation has never been so strong as to exclude the accomplishment of that object in any other mode. They have preferred that it should be effected by convention; because, in that way, it would be more certain, binding, and durable, and, moreover, conformable to what they had just reason to suppose were the wishes of the British Government. Had they been apprized that it was the choice of that Government to regulate the trade by mutual acts of separate legislation, they could have had no difficulty in adapting their measures, in that respect, to those of the British Government.

Mr. Canning states: "that the act of 1825, offered like terms to all nations who were willing to purchase the right to trade with the colonies. Some have acceded to the terms. The United States

would not. They cannot feel it unkind or unjust that having, upon a free and (as is known from the public proceedings of their Legislature) deliberate consideration, *declined* to subscribe to the terms on which exception from colonial prohibition was impartially tendered to all nations, they should find themselves, in common with such of those nations as have decided like themselves, liable to that exclusion which is, and always has been, the general principle of colonial trade."

No exception need now be taken to the regularity of a foreign Government in referring to the proceedings of the Legislature of another nation, which have terminated in no affirmative act; although the practice of a foreign Government looking any where but to the established organ of international intercourse for the acts and resolutions of Government, might have a most mischievous tendency.

Independent of all other considerations, the danger is, if a foreign Government undertakes to enter the halls of domestic Legislation, in order to comprehend the votes and resolutions on measures which have not been matured into the form of any legislative act, that such foreign Government may misconceive the motives and bearing of those votes and resolutions. Native citizens often find it difficult clearly to comprehend all the causes, in numerous assemblies, which may have occasioned the failure or passage of any given measure, or to assign, with certainty, the specific reason which may have led to either of those results.

We are quite sure that Mr. Canning had no wish to misconceive the proceedings which took place in Congress, in the session of 1825-6, in relation to the colonial question; and yet he has greatly misconceived them. He is even mistaken as to the branch of Congress in which those proceedings were had. There was no resolution proposed in the House of Representatives, and, consequently, no debate and decision upon it, such as he describes. For the purpose of correcting the errors into which he has been unintentionally drawn, I will now take some notice of those proceedings.

It is perfectly true, that, although the British Government made no official communication of the act of Parliament of July, 1825, the American Government, nevertheless, obtained possession of a copy of it.

It is, also, true, that such a petition from Baltimore, as Mr. Canning describes, was presented to Congress.

But it should be remarked, that the petitioners were uninformed of the negotiations of 1824, or of the correspondence which subsequently passed between the two Governments on the colonial subject. And it is not, therefore, improbable that, if they had been aware that the American Government expected and were desirous to arrange the intercourse by treaty, they would have abstained from petitioning Congress.

The petition was referred, in both Houses, to the regular Committees. That of the House of Representatives made no report. The Senate's Committee reported, [a copy of their report is now trans-

mitted to you,] that, "from this view of the subject, and a cursory reference to the numerous acts which have been passed in relation to it during the last ten years, both by the United States and by Great Britain, evidence will at once be furnished of the complexity of the interests connected with it, of the difficulty satisfactorily to arrange them, and especially of the inefficacy of isolated legislation for the attainment of this international object; and, also, affording, as the Committee cannot but believe, a strong ground of preference for an arrangement being effected, if practicable, by a Convention between the two Governments, on a just and liberal basis, which, when agreed to, would be permanent and unalterable for the term of its duration." Again: "from the Committee having reason to believe that an adjustment of the commercial intercourse between the United States and the British colonial possessions, forms one of the special and prominent objects which have been committed to the Minister of the United States at the Court of London; that a corresponding desire to arrange it on a satisfactory footing appears to exist on the part of the British Government; and that the negotiations respecting it, are expected to come to a definitive issue before the next session of Congress; the Committee, although fully agreeing with the memorialists in the wish to cultivate and extend the trade in question, which they trust may be done to the mutual advantage of the parties concerned in it, are still unanimously of opinion that it is not expedient, at this time, to legislate on the subject; and, therefore, ask to be discharged from the further consideration of the memorial."

This report, it should be borne in mind, was made to the Senate on the 31st day of March, 1826, only nine days after Mr. Vaughan had invited the American Government to renew the negotiation.

This report was recommitted, with an understanding, on the part of the Senate, that the Committee of Finance should report a bill repealing the discriminating duties. A bill was accordingly reported on a subsequent day, (a copy of which is, herewith, transmitted,) containing a repeal, and nothing but a simple repeal, of those duties.

This bill was reported near the close of the session, and, amidst the pressure of other business, was laid upon the table; a parliamentary disposal of it, which, far from implying its rejection, admitted of its being again taken into consideration, during any hour of any remaining day of the session. There was, then, no decision on the merits of the bill, and there was no refusal, in either branch of Congress, to accede to the terms of the British act of 1825.

That there was no direct and final decision on it, has been alleged by the member of the Senate, who was most zealous in its support, to have been owing to the want of time. It is probable that that consideration had some influence; but it is most likely that the chief cause which prevented its passage, was the belief, generally entertained, that the colonial subject was in a course of negotiation, and would be satisfactorily arranged by treaty.

Had the bill passed, it would not have been in conformity with the expectations of the British Government, as they have been since communicated.

The first official information to this Government of the instructions transmitted to Mr. Vaughan, by which he was authorized, in the contingency of the passage of an act of Congress, to deliver a note declaring that the discriminating duties imposed upon American ships and their cargoes, in the West Indies, should immediately cease, is contained in Mr. Canning's note of the 27th January, 1827. No such information was communicated by Mr. Vaughan, during the session of Congress of 1825-6. If the bill which was before the Senate had passed into a law, it would not have been such a measure as was contemplated by the British Government; because it did not contain a repeal of the restrictions on British shipping, as to the circuitous voyage, which is now understood to be an indispensable requisite. We are altogether unable to comprehend why he was not instructed to communicate the offer of the British Government, during the session of Congress; or for what purpose an allusion is now made to instructions which were not disclosed to the American Government, and which, having been locked up in the *porte-feuille* of the Minister, might, for all practical purposes, as well have never been given.

It cannot, therefore, be alleged, with any sort of propriety, that the American Government refused to accede to the terms of the act of Parliament of 1825, nor that, upon a free and deliberate consideration, they have declined to subscribe to terms on which exception to colonial prohibition was impartially tendered to all nations. The American Congress has never had fairly before it, and, therefore, has never freely and deliberately considered the conditions of the act of 1825; and, consequently, it could not have, and has not, pronounced any decision on those conditions. Up to this day, we are far from being sure that we understand the terms on which that act tenders to foreign nations a participation in the colonial intercourse. Although Mr. Vaughan might not have been authorized to enter into any discussion of the provisions of the act, after the termination of the session of Congress, it was not unreasonable to expect that he was, at all times, prepared, by instructions, to explain the purport of its provisions.

The preceding review has been taken, not for the purpose of conveying reproach, but with the hope of satisfying the Government of His Britannic Majesty that the Government of the United States, ever animated by an anxious desire to preserve, extend, and strengthen amicable relations between the two countries, and always frank and open in its correspondence and intercourse with foreign nations, has not, in regard to the colonial trade, deviated from its established character for good faith and fair dealing. From a careful and dispassionate consideration of all that has passed between the two Governments, on that subject, supposing, which cannot be doubted, that each has been actuated by a sincere wish to effect a satisfactory arrangement of the terms of the intercourse, it is manifest that there has been a misconception of each other's views, as to the mode of accomplishing that desirable object. Whether the American Government ought, or ought not, to have confided in their belief that it was

the intention of the British Government, in the contemplated negotiation, to concur in the adjustment, by convention, of the conditions of the trade, the American Government did, in point of fact, so confide. Whether the British Government ought, or ought not, to have expected the passage of an act of Congress, acceding to the conditions of an act of Parliament of 1825, it did, in point of fact, so expect it. We have been disappointed in the negotiation which was anticipated : the British Government has been disappointed in the legislation which it anticipated. Both travelling to the same place, we have each failed to reach the point of destination, by misconception of the course of the other. It is, now, useless and unavailing to dwell upon the past, which cannot be recalled. It will be more profitable and consistent with a friendly understanding between the two countries, to survey our present mutual position, and to ascertain if it be now practicable, in any mode, to reconcile their respective interests, in regard to the colonial trade. It would not be very creditable to the councils of two great and enlightened nations, if they are substantially agreed as to the terms of that intercourse, and willing that it should be opened on these terms, that they should, nevertheless, put an entire stop to it, because they had differed on the point whether those terms should be inserted in the form of a convention, or in that of reciprocal acts of legislation ; or because they may not be able to agree on the abstract questions of *right*, *claim*, and *usage*, which Mr. Canning has discussed. To persist in closing the trade on those grounds, might create doubts whether they were ever sincere in their mutual professions that it should be open.

It has been already stated that we preferred, for reasons which appeared to us to be solid, an arrangement by convention, rather than one by law ; but that, at the same time, we were not so wedded to that mode of effectuating the object, as to prevent our surrender of it, in a spirit of compromise and conciliation, to the preference of Great Britain for a regulation of the intercourse by respective acts of legislative authority. We should have promptly yielded our preference, if we had been made acquainted with that of the British Government. There is one advantage in a legislative regulation, which an arrangement by treaty does not possess, and that is, that, if the amount of concession made in the law, to a foreign nation, is found, upon experiment, to be injurious to the domestic interests, the law can be, at any time, repealed ; whereas the treaty must be allowed to have its operation, whatever that may be, during the whole term to which it is limited. From this difference in the effect of the two modes of regulation, a Government may be induced to grant commercial privileges by law, which it would not consent to throw into the more permanent and obligatory shape of conventional stipulations. On the point, for example, of the circuitous trade between the United States and the United Kingdom, through the British colonies, the President would consent, with much reluctance, to a stipulation in a treaty by which British navigation should be allowed the enjoyment of that trade, to the exclusion of the shipping of the United States ; whilst he

would be willing that the experiment should be made, under reciprocal acts of the two Governments, revocable at the pleasure of either.

Under the influence of these considerations, the Government of the United States acquiesces in the decision which has been taken by the British Government, that the colonial trade shall be regulated only by law.

You will avail yourself of some fit occasion to communicate to the British Government the substance of this despatch, and the President's acquiescence in that decision; and you will, at the same, or some other more suitable time, ascertain the disposition of that Government to open the trade by separate acts of the two Governments.

The President is willing to recommend to Congress, at its next session, 1st, to suspend, as to the British Government, the alien duties on vessel and cargo, and to allow the entry into our ports of British vessels, laden with the same kinds of British produce, or British colonial produce, as American vessels can lawfully import; the British vessel paying no higher charges of any kind than American vessels are, under the same circumstances, bound to pay; and, 2dly, to abolish the restriction contained in the act of the 1st March, 1823, confining the trade to a direct intercourse between the colonies and the United States; the effect of which will be to leave Great Britain in the exclusive possession of the circuitous trade between the United Kingdom and the United States, through the British colonies. You will inquire whether, if Congress should pass a law to the above effect, the Order in Council of July last will be revoked; the discriminating duties operating to the disadvantage of our vessels in the British colonial ports, will be abolished; and our vessels suffered to enjoy the privileges of trade and intercourse, according to the enactments of the act of Parliament, of the 5th July, 1825?

Should the intercourse be opened on the above conditions, the American Government will have waived the demand heretofore made, that our produce should be received into the British colonial ports, paying no higher duties than similar produce pays in those ports, when imported from other parts of the British possessions. We should have regarded the above inquiry altogether unnecessary, and that, as a matter of course, the privileges of the act of Parliament would be extended to our navigation, upon the passage of such an act of Congress as the President now offers to recommend, but for the declaration contained in Mr. Canning's note of the 11th September last. According to that declaration, the British Government announced that, "after having been *compelled* to apply to any country the interdict prescribed by the act of 1825, it cannot hold itself bound to remove the interdict, as a matter of course, whenever it may happen to suit the convenience of the foreign Government to reconsider the measure by which the application of that interdict was occasioned."

If this Government had, upon full consideration, with a clear knowledge of the intention of Great Britain to regulate the colonial trade by law, and not by treaty, rejected the terms of the act of Parliament, after fully comprehending the import of those terms,

and, thereby, *compelled* Great Britain to apply to the navigation of the United States the interdict of the act of Parliament, the determination of the British Government, communicated in that declaration, would not furnish any just occasion of complaint. But the Government of the United States has never decided to reject those terms; and, from a candid and impartial consideration of all that has passed on the subject between the two Governments, it is manifest that we have, all along, been looking to a different mode of arrangement from that which now appears to have been in the contemplation of the British Government. We think that we were authorized so to look, by the official correspondence which passed between them; but whether that justified us or not, we did, in point of fact, depend exclusively upon an arrangement by Convention.

We can hardly suppose, under these circumstances, that the British Government, after the passage of such an act of Congress, as you are now authorized to state that the President is willing to recommend, would refuse to remove the interdict which has been applied only to the navigation of the United States. A denial to them, alone, of the privileges of the act of Parliament of 1825, offered to all nations, would not be easily reconcileable with those friendly relations which it is the interest of both nations, as it is the anxious endeavor of the Government of the United States, to cultivate and maintain.

The time and manner of executing the instructions contained in this despatch, are confided to your judgment and discretion. You may have the advantage of local lights, which, at this distance, do not reach us. Judging with the aid of such as we possess, it would, probably, be best for you, in the first instance, to deliver an official note, limited to a presentation of such of the preceding observations as are intended to refute some of the arguments and facts brought forward by Mr. Canning, in his two notes of November and January last, and there leave the subject, without making the inquiry as to the practicability of an arrangement by mutual acts of legislation. In the correspondence to which that note may possibly lead, the British Government may disclose their purposes and intentions, without formally making that inquiry, which it would be better to avoid, if those purposes can be otherwise ascertained. The powers of the President are incompetent to open the trade now, without the concurrence of Congress. It will, therefore, be sufficient to obtain a knowledge of the disposition of the British Government, in the event of the passage of such an act of Congress as has been intimated, in season for the next session. If the British Government should not itself spontaneously manifest that disposition, you will then make the inquiry herein directed. Some time in the approaching Autumn, when, if there shall have been any feeling of dissatisfaction produced in the British Government by the late proclamation, that feeling will have abated, may prove to be a suitable time to present the inquiry. But, I repeat, you will exercise, on this matter, your own judgment.

I am, with great respect, sir, your obedient servant,

Mr. Gallatin to Lord Dudley.

The Right Hon. Lord Viscount DUDLEY, &c. &c. &c.

The undersigned, Minister of the United States of America, has the honor, in compliance with instructions received from his Government, to present to the consideration of Lord Viscount Dudley, His Majesty's Principal Secretary of State for Foreign Affairs, some further explanatory observations on the subject of the colonial intercourse, which have been suggested by the note of Lord Dudley's predecessor in office, of the 27th of January last.

It is not intended thereby to renew the discussion of abstract questions already sufficiently debated, but to remove such misapprehensions as may still be entertained of the views and proceedings of the Government of the United States on that subject.

The undersigned is instructed explicitly to state, 1st, that, during the whole time which elapsed between the negotiations of the year 1824, and the Order in Council of July, 1826, the Government of the United States had entertained no doubt of the disposition of his Majesty's Government to renew the negotiations on that point, and to settle it by a conventional arrangement; 2dly, that the conditions on which it was intended, by the act of Parliament of July, 1825, to open the trade to American vessels, have never been explained or distinctly understood; that they had not therefore been deliberately considered by the American Congress; and that that body had not pronounced any decision on those conditions prior to the Order in Council of July, 1826.

The reasons which had induced the belief that his Majesty's Government was still disposed to negotiate on that subject, have already been stated.

Whatever might be the abstract rights of Great Britain, and her opinion of those rights, in respect to the regulations of an intercourse between her colonies and the United States, she had, in fact, consented to negotiate on that subject. She had, as late as March, 1826, eight months after the date of the act of Parliament of July, 1825, announced to the Government of the United States, her disposition to renew the negotiations generally, and without making an exception as to that point which had been one of the subjects of the negotiations intended to be renewed. The act of Parliament had not been officially communicated, nor any intimation given that it was meant as a substitute to negotiations.

It has not been unusual, at least on the part of the United States, to communicate such acts as may affect, or are connected with, negotiations. The Convention of 1815, was made in pursuance of an act of Congress, which was officially communicated to the Government of Great Britain.

With respect to that of March, 1823, the bill was, during its progress in Congress, communicated, by the Secretary of State, to his Majesty's Minister at Washington, and it became a topic of official conference between them while on its passage, and of official correspondence in less than a month after its enactment.

But it was because the act of Parliament of July, 1825, was intended by the British Government to supersede all negotiation, that the communication of such a change of its resolution, as to the manner of regulating the colonial trade, was necessary to the only Power with whom Great Britain was negotiating on that subject. It is not alleged that the omission was an intentional discourtesy towards the American Government. But it is nevertheless true, that, combined with the invitation of Mr. Vaughan, to renew the negotiations generally, it had the effect of misleading the United States in regard to the views of the British Government.

It was to this end only, that reference was made to the letter addressed from the Department of State to a member of Congress. That letter which was of a public nature, and had acquired, by a copy of it being furnished to Mr. Vaughan, an official character, might, with great propriety, be appealed to, as a conclusive evidence of the views taken, at that time, by the Government of the United States, of the act of Parliament.

The opinion expressed in that letter, was corroborated by the subsequent forbearance of the Government of Great Britain to enforce that act towards the United States. This suspension, which has since been declared to have been in consideration of the pendency before Congress of propositions arising out of the act, had, for want of any explanation, the effect of confirming the United States in their belief that negotiation, and not legislation, was the instrument still in the contemplation of both Governments for regulating the colonial intercourse.

It is much to be regretted that the instructions transmitted to Mr. Vaughan, and referred to in the note of Lord Dudley's predecessor in office, of the 27th January last, did not authorize him to make any communication on the subject during the session of Congress. Had any explanation been given, at that time, of the true meaning of the conditions offered by the act of Parliament, and of the ultimate views of his Majesty's Government, Congress would have been enabled and induced to deliberate and decide on those conditions.

It has, however, been inferred, from the public proceedings of the Legislature of the United States, that they had, on a free and deliberate consideration, declined to subscribe to the terms on which exemption from colonial prohibition was impartially tendered to all nations.

It may often happen, when referring to the proceedings of the Legislature of another nation, which have terminated in no affirmative act, that the votes and resolutions on measures which have not been thus matured, may not be fully comprehended; that the motives and bearings of those votes and resolutions may be misconceived. Some notice will be taken of the proceedings alluded to, for the purpose of correcting the erroneous impression which they seem to have made.

A petition from Baltimore, such as has been described by his Majesty's Secretary of State for Foreign Affairs, was presented to Congress. The petitioners were uninformed of the negotiations of 1824, and of the subsequent correspondence between the two Governments.

The petition was referred, in both Houses, to the regular committees. A separate motion for the repeal of the discriminating duties had been previously made in the House of Representatives, and had been referred in the same manner.

The Committee of the House of Representatives, whether knowing that the subject had been taken up in the Senate, or from any other cause, made no report. There was no resolution discussed in that House, and, consequently, no deliberation or decision upon it.

The Committee of the Senate, understood a compliance with the request of the petitioners to be tantamount to an admission "of British vessels, indiscriminately, into the ports of the United States, with their cargoes, from whencesoever arriving, or of whatsoever composed, on the same terms as American vessels, or those of the most favored nations—which is the same thing;" and they reported, in substance, that there was a strong ground of preference for an arrangement being effected, if practicable, by a convention between the two Governments, rather than to rely on independent acts of legislation, sometimes ambiguous, and at all times subject to revocation; that a corresponding desire to arrange that intercourse appeared to exist on the part of the British Government: that the negotiations respecting it were expected to come to a definitive issue before the next session of Congress; and that it was not therefore expedient at that time to legislate on the subject.

This report was made to the Senate, on the 31st of March, 1826, nine days after Mr. Vaughan's communication on the renewal of the negotiations.

It was recommitted, with an understanding that a bill should be brought in, repealing the discriminating duties. Such a bill was accordingly reported, a copy of which the undersigned has the honor to enclose, containing a repeal, and nothing but a simple repeal, of those duties.

The bill was, on motion, ordered to lie on the table, by a majority of two votes. This vote, the only one taken upon it, had no other effect but to prevent the bill being acted upon on that day. It might have been called up on any other day: but it had been brought in near the close of the session, and, whether from want of time, or, what is more probable, from reliance on the successful issue of negotiations, it was not acted upon. Had it been taken up, and passed into a law, it would not have been such a compliance with the terms of the act of Parliament of July, 1825, as was contemplated by Great Britain—since it did not repeal the restrictions laid, by a former act of Congress, on the circuitous or indirect intercourse.

It appears, from the course of the proceedings, and from the result, that the subject was not taken up in one of the Houses; and that, in the other, the precise purport of the terms offered by the act of Parliament was not, at that time, more distinctly understood, than by the Executive; whilst the same reliance seems to have been placed in the result of the expected negotiations. It is certain that the conditions

of the act of Parliament, such as they are therein expressed, were not taken into deliberate consideration by the American Congress, and that that body has never rejected nor pronounced any decision on those conditions.

Up to this day, it is still uncertain whether the real meaning of those terms is distinctly understood by the United States. The doubts entertained in that respect were stated at large in the note of the undersigned of the 28th of December last : and no explanation has since, any more than at any former time, been given by his Majesty's Government.

The preceding review has been taken, not for the purpose of complaining of the conduct of Great Britain, but with the hope of satisfying the Government of his Britannic Majesty, by this exposition of the acts of the Government of the United States, and of the impressions under which it acted, that it has not, in regard to the colonial trade, deviated from its uniform course, and relaxed its constant endeavors to preserve and strengthen the amicable relations between the two countries.

No doubt is entertained, on the other hand, of the dispositions of his Majesty's Government, at the time when the act of Parliament was enacted ; that, considering the intercourse between the United States and the British West Indies as beneficial, it was their intention that it should continue open on certain terms ; and that, although these differed from those offered to most other commercial nations, and may also have been misunderstood, they would not have been found, when properly explained, to be altogether inadmissible. Had it been otherwise, the interdict laid on the American navigation, by the Order of Council of July, 1826, would at once have been embodied in the act of Parliament of July, 1825.

Both Governments, actuated by a sincere wish to effect a satisfactory arrangement, have failed to attain that object, from a misconception of each other's views as to the mode of accomplishing it. Whilst the British Government expected the passage of an act of Congress acceding to the conditions of the act of Parliament, the Government of the United States confided in the belief that it was still the intention of Great Britain to arrange the subject by a Convention.

It is now unavailing to dwell upon the past, and to inquire whether either or both Governments had sufficient reasons for their expectations. The fact is, that they entertained such expectations, and have both been disappointed ; and it will be more profitable and consistent with the friendly understanding between the two countries, to attend only to the relative situation in which they are now placed.

The United States, though preferring a conventional arrangement, as more permanent, and perhaps more easily effected than one founded on mutual legislation, are not exclusively attached to any particular mode.

There is, indeed, this advantage in legislative regulation over conventional arrangement, in respect to subjects not fully tested by experience, that what may be deemed concession by either party, may, at any time, be modified, if found actually injurious.

Thus, for instance, the President of the United States would not, without reluctance, have consented to a treaty stipulation allowing that circuitous trade between the United Kingdom and the British Colonies through the United States, which, if permitted, must be enjoyed exclusively by the British navigation; whilst he is willing that the experiment should be made by virtue of reciprocal laws, revocable at the pleasure of either Government.

The undersigned is accordingly authorized to say, that, under the influence of these considerations, the Government of the United States acquiesces in the decision which has been taken by the Government of Great Britain, that the intercourse between the United States and the British colonies shall be regulated by the laws of the two countries; and the President is disposed to promote a restoration of that intercourse, founded on such respective laws.

The undersigned prays Lord Dudley to accept the assurances of his high consideration.

ALBERT GALLATIN.

UPPER SEYMOUR STREET, June 4, 1827.

Mr. Gallatin to Lord Dudley.

The Right Hon. Lord Viscount DUDLEY, &c.

The undersigned, Minister of the United States of America, had the honor to address, on the 4th of June last, a note on the subject of the colonial intercourse, to Lord Viscount Dudley, His Majesty's Principal Secretary of State for Foreign Affairs.

The principal object of that note was to remove such misapprehensions as might still be entertained of the views and proceedings of the Government of the United States, on that subject, and at the same time to express the disposition of the President to promote a restoration of that intercourse, founded on the respective laws of the two countries.

This overture has been founded on the belief, that the present state of things has not arisen from any intentional act of either Government, but from misconceptions of each other's views, which must now be removed. It was the avowed intention of that of Great Britain, at the time when the act of Parliament of July, 1825, was enacted, that the intercourse should continue open on certain terms. For this, there could be no motive, but a conviction that the commerce which had, almost without interruption, been carried [on] from their first settlement, between the British West Indies and the United States, was mutually beneficial. It is, therefore, presumed to be the wish of both parties that an interdict which has been the result of fortuitous circumstances, may, if practicable, be removed.

Under that impression, the President of the United States is willing to recommend to Congress at its next session: 1st, to open again the ports of the United States to British vessels coming from the British colonies; allowing the entry, into the said ports, of British vessels

laden with such British produce, or produce of the British colonies, as American vessels can lawfully import, without paying any alien or discriminating duties, and on payment only of the same and no higher duties or charges of any kind, on either vessels or cargoes, than are, under the same circumstances, payable by American vessels or cargoes; 2dly, to abolish the restriction contained in the act of Congress of March, 1823, which confines the trade to a direct intercourse between the British colonies and the United States.

The effect of this measure will be to leave Great Britain in the exclusive possession of the circuitous trade, between the United Kingdom and the United States, through the British colonies. All the provisions in former acts of the American Government, which had been deemed objectionable by that of His Majesty, will thereby be repealed. The condition contemplated by the act of Parliament, as it is now understood, will be fulfilled. Every obstacle, which had heretofore prevented an arrangement, would, if this were still a subject of negotiation, be removed.

The Government of the United States would have had no doubt that, upon the passage of an act of Congress of that tenor, the interdict laid on American shipping under the act of Parliament of 1825, would be removed as a matter of course, had it not been for the declaration contained in the note of His Majesty's Principal Secretary of State for Foreign Affairs to the undersigned, dated the 11th of September, 1826.

It was there announced, that, "after having been compelled to apply, to any country, the interdict prescribed by the act of 1825, the British Government cannot hold itself bound to remove that interdict as a matter of course, whenever it may happen to suit the convenience of the Foreign Government to reconsider the measures by which the application of that interdict was occasioned."

A subsequent act of Parliament contains provisions of a general nature, corresponding with that declaration, but continues in force the discretionary powers vested in His Majesty on the subject.

Under those circumstances, the President cannot, it would indeed be useless for him to make the intended recommendation to Congress, and to agitate the question anew, without having previously ascertained the intentions of His Majesty's Government. Though not bound to remove the interdict as a matter of course, the question is, whether they are disposed, under certain contingencies, to do it at this time.

The undersigned has therefore been instructed to inquire, whether, if Congress should, during its next session, pass a law to the effect above stated, the Order in Council of the 27th of July, 1826, will be revoked; the discriminating duties on American vessels in the British colonies be abolished; and those vessels be allowed to enjoy the privileges of trade and intercourse with those colonies, according to the act of Parliament of the 5th July, 1825?

He prays Lord Dudley to favor him with an answer to that inquiry, the object of which, is only to ascertain the intentions of His

Majesty's Government in reference to an act of the tenor aforesaid, that should be passed by Congress *at its next session*.

It would be distinctly understood, that those mutual acts would not have the character of a compact, and that their only effect would be to open the trade for the time, without at all binding the parties; each remaining in the complete possession of its rights, with respect to that intercourse, in conformity with the terms of the commercial convention between the two countries.

The undersigned prays Lord Dudley to accept the assurance of his high consideration.

ALBERT GALLATIN.

UPPER SEYMOUR STREET, *August 17, 1827.*

Mr. Gallatin to Lord Dudley.

62, UPPER SEYMOUR STREET, *30th Aug. 1827.*

Mr. Gallatin presents his compliments to Lord Dudley, and begs leave to remind him that the object of the interview he had the honor to ask, is to give some additional explanations on the subject-matter of his official note of the 17th instant, *previous* to its being taken into consideration by his Majesty's Government.

Rt. Hon. Lord Viscount DUDLEY, &c. &c. &c.

Mr. Gallatin to the Secretary of State.

No. 115.

LONDON, *14th September, 1827.*

Hon. HENRY CLAY, *Secretary of State, Washington.*

SIR: We resumed our conferences on the 12th, made some progress, and are to meet again to-day.

I had, yesterday, an interview with Lord Dudley and Mr. Huskisson, on the subject of the colonial intercourse. Mr. Huskisson said that it was the intention of the British Government to consider the intercourse of the British colonies as being exclusively under its control, and any relaxation from the colonial system, as an indulgence, to be granted on such terms as might suit the policy of Great Britain at the time when it might be granted; that he was not prepared to say whether, or on what terms, it might be found expedient to open again the intercourse to American vessels, in case it was open on the part of the United States, and their laws laying restrictions or imposing extra duties on British vessels should be repealed; and that an answer to that effect would be given to my note of 17th of August last, if his colleagues agreed with him in opinion.

I said that every question of right had, on this occasion, been waived on the part of the United States; the only object of the present inquiry being to ascertain whether, as a matter of mutual convenience, the intercourse might not be opened in a manner satisfactory to both

countries. This being a pure question of policy, although Great Britain was the only judge of her own, it would be gratifying to be satisfied that she acted only from that motive, and that, in opening the trade to other countries that had not complied with her terms, and declining to open it to the United States, even in the event of such compliance, it was not her object to inflict a wanton injury; or, at least, to evince an unfriendly disposition towards them. I then entered into various details, intended to show why I was unable to discover any reason, founded on her own interest, for persisting in foreclosing the intercourse.

Mr. Huskisson explicitly disclaimed any unfriendly feeling towards the United States, and, with respect to other nations, said that Russia was the only power to whom the trade in question had been opened, though she had not, in every respect, complied with the terms of Great Britain; but that, on other points, the British trade had been particularly favored in that country. He did not give any explanation of the advantages derived to Great Britain from the present interdict, but dwelt strongly on the manner in which the advances made by the act of Parliament, of the year 1822, had been met on the part of the Government of the United States. He said that it had appeared as if America had entertained the opinion that the British West Indies could not exist without her supplies, and that she might, therefore, compel Great Britain to open the intercourse on any terms she pleased.

I disclaimed any such belief or intention on the part of the United States. But it appeared to me, and I intimated it, indeed, to Mr. Huskisson, that he was acting rather under the influence of irritated feelings, on account of past events, than with a view to the mutual interests of the two countries. This was, of course, denied: but he remained immovable in the position he had assumed; and Lord Dudley, without taking a share in the conversation, which lasted near two hours, acquiesced in the opinion of his colleague.

I avoided, as far as possible, to renew the discussion on any thing that had heretofore taken place; and adduced, without producing any effect, every argument derived from mutual advantage, which the occasion suggested. These I omit as familiar to yourself, and it would be but repetition to state at large the complaints made of the conduct of the United States, from the year 1822 to 1825. But I must not forget to say, that Mr. Huskisson explicitly declared, that neither of the two bills which were under the consideration of Congress during its last session, would, if passed into laws, have induced this Government to remove the interdict on American vessels.

I may add some further observations on that subject, when the answer which I presume is intended to be given to my note of 17th August, shall have been received.

I have the honor, &c.

ALBERT GALLATIN.

Lord Dudley to Mr. Gallatin.

ALBERT GALLATIN, Esq. &c. &c.

The undersigned, His Majesty's Principal Secretary of State for Foreign Affairs, has the honor of acknowledging the two official notes of the 4th of last June, and the 17th of last August, addressed to him by Mr. Gallatin, Envoy Extraordinary and Minister Plenipotentiary of the United States, on the subject of the intercourse between the United States and the colonial possessions of Great Britain.

The note of the 4th June, although it closed with a profession of the acquiescence of the American Government in the decision of Great Britain, that the intercourse in question should be regulated by mutual laws, rather than by treaty, was yet directed chiefly to an explanation of certain circumstances in the conduct of the United States, and did not appear to the undersigned to call for any reply on his part.

In the succeeding note, however, of the 17th of August, the statements and reasonings of the former, are followed out by Mr. Gallatin into a definite proposition, undoubtedly requiring from the British Government a direct answer. In this note it is stated that the President of the United States is willing to recommend to Congress the adoption of certain measures tending to relax the restrictions imposed by the American Legislature on the intercourse of the United States with the British colonies, through the medium of British ships—which measures, Mr. Gallatin shortly specifies; and, it is asked whether, if Congress should, during its next session, pass a law to that effect, “the Order in Council of the 27th of July, 1826, will be revoked; the discriminating duties on American vessels in the British colonies be abolished: and these vessels be allowed to enjoy the privileges of trade and intercourse with those colonies, according to the act of Parliament of the 5th of July, 1825?”

It is, at the same time, observed by Mr. Gallatin, that the Government of the United States would have had no doubt that, on the enactment of such a law by Congress, the interdict laid on American shipping under the act of Parliament of 1825, would be removed as a matter of course, had not Mr. Canning in his letter to Mr. Gallatin of the 11th of September, 1826, declared, that, after having been compelled to apply the interdict to any country, the British Government cannot hold itself bound to remove that interdict as a matter of course, whenever it may happen to suit the convenience of the foreign Government to reconsider the measures by which the application of that interdict was occasioned.

Mr. Gallatin truly adds that an act of Parliament was afterwards passed, containing provisions corresponding with the declaration so made by Mr. Canning.

The undersigned takes pleasure in recognizing in both these letters of Mr. Gallatin, and especially in the inquiry which closes the second of them, the same spirit of good will and conciliation which, in the midst of discussions involving no small difference of opinion,

has characterized Mr. Gallatin's correspondence with the British Government. The undersigned hopes it is unnecessary to observe that His Majesty's Government is influenced by the same sentiments; and that, although he thinks himself bound to offer some observations on topics of debate and conflicting interest, he presents them with no feelings, but such as ought to pervade discussions between two nations allied in origin, and, he trusts he may add, allied also in desire to improve and strengthen the relations of ancient kindred, by mutual offices of kindness and amity.

Connecting the two notes of Mr. Gallatin, the topics which they suggest for present consideration, seem to be three :

First. It may be expedient to observe on the declaration which Mr. Gallatin has quoted from Mr. Canning, and which appears to be regarded by the Government of the United States as a deviation from what might have been anticipated as the natural course of proceeding.

Secondly. Some comment may be offered on the explanation into which Mr. Gallatin has entered, of the conduct of the Government and the Legislature of the United States, in relation to the intercourse with the British colonies, under the operation of the act of Parliament of July, 1825.

And this course of observation will naturally introduce into view, in the

Third place, the proposition which forms the more immediate subject of the note of the 17th of August.

I. With regard to the declaration of Mr. Canning: the undersigned thinks it not unimportant to remark, that the sentiment which, in that declaration, Mr. Canning so pointedly expresses, is, in fact, exactly consistent with the general principles always professed by the British Government on the subject of colonial intercourse—which principles are expounded in the argument of Mr. Canning.

The leading position contended for by Mr. Canning, is this: that the exclusion of foreigners from a direct intercourse with the British colonies is altogether agreeable to the received and ordinary doctrines of the colonial policy of modern times. The established usage of nations, possessing colonies, interdicts that intercourse to all but their own subjects. If such interdict be in any case relaxed, the case is one of exception; and if, having once been relaxed, it is reinforced, this is but a restoration of the received rule. The necessary consequence is, that, in any instance not governed by special regulation, it would be the continuance, and not the suspension, of the interdict, that would alone be contemplated as a matter of course.

In re-asserting these principles, and in immediately connecting them with the declaration cited from Mr. Canning, it is by no means the object of the undersigned to revive a discussion which is already exhausted. He is desirous only of shewing that the reservation, which Mr. Canning, for his Government, makes of a discretionary continuance of the interdict in question, in every case in which it has been once imposed, is in entire harmony with the general maxims of colonial policy; and, consequently, that the application of the

rule, in any given instance, ought not to be regarded as a proceeding of a singular, and, still less, of an unfriendly character.

In this connexion, however, the question may seem to arise, whether the proceedings of the United States were such as fairly to incur the application of the interdict in the first instance. The question is, in fact, involved in the explanations into which Mr. Gallatin has, at some length, entered, respecting the conduct of the United States, during the time that elapsed between the passing of the act of Parliament of July, 1825, and the issuing of the Order in Council, of July, 1826. To those explanations, the undersigned will next briefly advert.

The effect of Mr. Gallatin's argument may perhaps be thus exhibited. Admitting that, after the British statute of July, 1825, was passed, the United States ought to have done certain acts to bring themselves within the benefit of that statute, yet the omission by the United States to do those acts, was not (as the British Government supposed, when it issued the Order in Council, of 1826,) an advised and deliberate proceeding, but was the result of an erroneous impression respecting the views and intentions of the British Government; and hence, there may appear some ground for a revision of the British Order in Council—that measure having, in truth, been resorted to under the influence of a reciprocal mistake.

In commenting on this argument, it is not necessary to inquire whether, on the supposition that the error, or inadvertence of the United States had been occasioned by some default on the part of the British Government, that Government would have been under an equitable obligation to reconsider the steps it had taken in ignorance of such error or inadvertence. There is no room for any such supposition.

Deeply as Great Britain must regret the misapprehensions, whatever they might be, under which the United States acted, she cannot, in justice, charge herself with having occasioned them. She cannot but think that a fair opportunity was afforded to the American Government and People to avail themselves, if they thought fit, of the provisions of the act of July, 1825; and the term of that option having expired, she cannot conceive herself called upon to retract, as a matter of course, the measures which, under the actual circumstances in which she found herself placed, she was led to adopt, on a matter so peculiarly within her exclusive control as the trade of her own colonies.

It may be proper, however, to examine this subject a little more particularly. From the statement of Mr. Gallatin, it appears that the omission of the United States to comply with the conditions prescribed by the act of July, 1825, is resolvable into two causes: first, neither the Government nor the Congress rightly understood those conditions, the interpretation of which, indeed, is represented to be a matter of much difficulty. Secondly, the Government, and probably the Congress also, entertained an opinion that Great Britain did not mean to affect the United States by the act of July, 1825; but intend-

ed to arrange the intercourse of that country with the British colonies by negotiation.

Mr. Gallatin is also at pains, on this part of the subject, to explain the proceedings in the American House of Representatives, respecting the bill for the repeal of the discriminating duties on goods imported, in British vessels, from the British Colonies. The bill, he observes, was not, as Mr. Canning had supposed, *rejected*; it was, by a majority of two votes, ordered to lie on the table; which would not have the effect of preventing the House from proceeding with it on any future day: though, either on account of the lateness of the session, or (what is more probable) from reliance on the successful issue of negotiations, the consideration of it was not in fact resumed.

To begin with the point last mentioned, Mr. Gallatin, on the nature and effect of the proceedings in the House of Representatives, is of course an authority beyond exception. Even on that authority, however, it appears that the bill in question was dropped deliberately: for it was disposed of after a keen contest, and was never revived—a mode of treating it, which, judging from analogous proceedings in the legislative assemblies of this country, can hardly be regarded otherwise than as an effectual, though an indirect rejection.

But whatever construction may be put on the fate of that abortive measure, this, at least, may be asserted, that the Congress having, during a whole session, had the subject under consideration, designedly omitted to legislate in reference to the British act of July, 1825. The reasons assigned for that omission, are next to be considered.

Mr. Gallatin very clearly states, that the conditions on which it was intended by the act of July, 1825, to open the colonial trade to American vessels, were not distinctly understood in the United States; but what was the precise nature of the difficulty experienced in construing those conditions, the undersigned has not been able to collect: for, with regard to the specific doubts which Mr. Gallatin mentions as attaching to the meaning of the act, these he seems to state rather as suggesting themselves to his own mind, on a view of the provisions of the act, than as the recorded grounds of the perplexity felt by the American Government or Legislature.

A full exposition of those doubts was in fact given by Mr. Gallatin, in his note to Mr. Canning, of the 28th of December, 1826, and that exposition is, by reference, embodied in the note now under consideration, of the 4th of June; in which last note Mr. Gallatin observes, that no explanation in respect of those doubts has ever been given by His Majesty's Government.

The portion of the act to which the remarks of Mr. Gallatin apply, is the condition on which the intercourse with the British colonies is opened to other countries, possessing no colonies of their own; namely, that they shall place the commerce and navigation of this country, and of its possessions abroad, upon the footing of the most favored nations.

Without meaning to admit, or to deny, the justice of Mr. Galla-

tin's criticism on that clause, the undersigned bears a willing tribute to its force and ability ; but the question after all is, whether the clause referred to, threw such a practical difficulty in the way of American legislation on the subject, as to account for the total inaction of the Congress of the United States? And to this question the last note of Mr. Gallatin (that is the note of the 17th of August) presents a conclusive answer. It there appears, that, notwithstanding those unexplained doubts, the American Government has found no difficulty in tendering to the British Government the passing of certain specific enactments by Congress, as the condition contemplated by the act of July, 1825 ; that is, as the very condition which appeared so inexplicable.

Not only so, but it is observed in that note, as has already been mentioned, that, had it not been for Mr. Canning's declaration to the contrary effect, "the Government of the United States would have had no doubt that, upon the passage of an act of Congress of that tenor, the interdict laid on American shipping, under the act of Parliament, of 1825, would be removed as a matter of course." It is unnecessary to remark that the conditions on which, under that act of Parliament, the interdict on American shipping would be revocable, are the very conditions on which the act makes foreign shipping admissible to the British colonies ; the passage, consequently, just cited from Mr. Gallatin, shews that, whatever doubts might attach to those conditions, on the principles of severe construction, they seemed to the Government of the United States so perfectly clear for all practical purposes, as to be susceptible only of one interpretation.

Even admitting, however, up to any required extent, the difficulty of construing the act, still it seems not easy to account for the inaction of the American Legislature, and still less for that of the American Government. The Legislature might be unable to determine what was precisely meant by the condition of placing the shipping of Great Britain, and her possessions abroad, on the footing of the most favored nation ; but there could be no doubt that the condition, in any construction of it, could never be fulfilled, so long as the discriminating duties remained unrepealed ; that the abolition of those duties was, therefore, an essential term in the condition ; and that this term could be applied only by an act of Congress. If, however, the Legislature could not thus proceed, at least the Government, which must have felt with it, had an effectual remedy for every difficulty—that of reference to Great Britain for explanation ; and the undersigned is really at a loss to conceive why the whole session of 1825, '26, was suffered to pass away without any resort to an expedient so obvious and decisive.

Besides, however, the alleged ambiguity of the British enactment, there was a concurrent cause which prevented the Government and Legislature of the United States from taking any steps relating to it. They were satisfied that the British Government either considered the United States as exempt, or meant to take special means of ex-

empting them, from the operation of the enactment; and that the commercial relations between the United States and the British colonies were, after all, to be arranged by treaty, and not by reciprocal laws.

The grounds on which this persuasion was entertained, are very fully set forth and discussed in the correspondence between Mr. Gallatin and Mr. Canning; and the subject appears so nearly exhausted, that the undersigned sees no occasion for entering into it at large.

It is, indeed, self-evident that the Government of the United States set out with a very mistaken opinion of the views of Great Britain respecting her colonies, and more especially respecting the importance to those colonies of a direct intercourse with the ports of the United States. This, at least, seems the only principle which would account for what is otherwise so difficult of explanation; namely, that, from the very few, and, at best, doubtful indications alluded to in the correspondence, the Government of the United States should not only have inferred intentions on the part of the British Ministry, which, *prima facie* at least, were in direct contrariety to an elaborate act of Parliament recently introduced by that very Ministry, but should have deduced such inference so confidently as to act upon it for months together, implicitly; although, during all that period, it received no support or confirmation of any kind, from the British Government; and although it was more than once in official communication with the American Government, strongly discountenanced by the British Minister at Washington.

The supposition entertained by the United States, consisted of two alternative members; the first of which was, that the British Government did not mean so to construe the act of July, 1825, as to comprehend the United States within it, at all: that is, in an act professedly regulating the intercourse of the British colonies with all foreign countries, the description, "countries not having colonial possessions," did not include the United States; although it is admitted that no other expression in the act can possibly apply to the United States; although this very negotiation proves the pre-eminent interest of the United States in the subject of the enactment; and although Mr. Gallatin himself observes, that, "with the exception of some of the German States, the terms of the enactment apply to no other maritime power."

But, if the act could not be so construed, then it was believed that the British Government must be intending to exclude the United States from the sphere of it, by a special Order in Council. This supposition is indeed less violent than the former—the enactment being expressly subject to the exception, "unless His Majesty, by His Order in Council, shall in any case deem it expedient to grant the whole, or any of such privileges to the ships of any foreign country, although the conditions aforesaid shall not, in all respects, be fulfilled by such foreign country."

Yet, surely, it was a little premature to assume that the British

Government would gratuitously step forward to nullify the important rule which she had just enacted. in the very case to which (on this supposition) it pre-eminently applied. Still more, that she should, without reason shewn or asked, deviate from those principles of reciprocity for which she had been so strenuously contending; and deviate from them in the case of that very nation to which she had, in regard to those very principles, been making frequent and unsuccessful remonstrances. And most of all does it seem remarkable, that this persuasion adopted by Mr. Clay, in December, 1825, when he felt satisfied that the expected Order in Council was already on its way to America, should have been left wholly unshaken by the lapse of six months, during which no such order arrived, nor the remotest intimation of its being passed or intended.

It will not for a moment be imagined that, by these observations, the undersigned intends to cast any doubt on the explanation which has been given of the proceedings of the United States on the occasion alluded to, or to question the motives which dictated those proceedings. But he deems it due to his own country, due indeed to both the countries involved in these discussions, that each party should state its opinions and impressions with perfect frankness—a frankness, indeed, of which Mr. Gallatin himself has very honorably furnished an example, and which the undersigned deems not only consistent with friendly feelings, but even essential to a mutual good understanding and confidence. It is, then, in the judgment of the undersigned, important to shew, and, with all proper deference, he conceives himself to have, in fact, shewn, that the misapprehensions with regard to the views and intentions of Great Britain, by which the Government and the Legislature of the United States appear, in the present instance, to have been misled, were not warranted by any part of the conduct or the language of the British Government; and that this country, therefore, is not responsible for those misapprehensions, nor obliged, as of course, to reconsider any measures on her own part, or to repair any ill consequences on the part of others to which they may have given rise.

And hence, the undersigned is naturally led to the third and only remaining topic of the present note.

Mr. Gallatin asks, whether, in the event of such a law as he describes being passed by Congress, the British Government would revoke the Order in Council of the 27th of July, 1826, and adopt the other measures which he concurrently mentions?

The undersigned does full justice to the frank and friendly tone in which this inquiry is made; and he feels that the answer of the British Government, ought, in the same proportion, to be explicit.

Without commenting on the particular provisions of the law which, according to the supposition of Mr. Gallatin, is to be enacted by Congress, it is proper to say that the British Government cannot prospectively commit itself to the adoption of any specific line of conduct, in the event of such law being enacted.

With whatever conformity to the suggestion of Mr. Gallatin, the

proposed law may, as to its general principles, be framed ; still, those general principles are liable to be accompanied by details, which no anticipation can embrace.

Much, also, may turn on the position and circumstances both of this country, of the United States, and of the commercial commonwealth in general, at the time when such law shall come into effect. This last consideration is indeed conclusive : for it has relation to the very essence of the principles which the British Government entertains on the present subject. Strictly asserting her right to prohibit or to regulate the intercourse of foreigners with her colonies, according to her conception of her own interests, and without explanation or apology to other States, it would be impossible for Great Britain, without a compromise of her principles, to pledge herself by advance, and with reference to circumstances yet unknown, or partially foreseen, to the establishment of any particular system of policy in relation to such intercourse.

On another, and distinct ground, the mode of proceeding suggested by Mr. Gallatin, seems liable to exception. In adjusting her colonial relations with foreigners, this country has preferred the method of municipal legislation to that of treaty ; and the United States have at length acquiesced in that preference, though not themselves approving it. The process recommended by Mr. Gallatin, (and which, if adopted, must become a precedent.) would seem to combine the disadvantages of both methods without proportionally securing the benefits of either. If the terms of colonial intercourse are to be adjusted by mutual laws, but those laws themselves are to be founded on informal agreements, previously entered into between the Governments, it is manifest that a course of proceeding is pursued, which fully ensures, neither the certainty and notoriety of international convention, nor the facility and independence of domestic legislation.

On the whole, His Majesty's Ministers feel themselves under the necessity of declining to give the pledge invited by Mr. Gallatin ; and this, with no special or exclusive reference to the peculiar measure in question. Their resolution is the result of considerations, general in their nature, and conclusive against a prospective pledge of any description respecting the colonial policy of Great Britain, whether of relaxation or restriction.

In the formation of this decision, the undersigned is persuaded that it is unnecessary to disclaim the influence of any unfriendly feelings towards the United States. He can only repeat that, the British Government cherishes, for the United States, sentiments only of sincere amity.

The undersigned has the honor to renew to Mr. Gallatin the assurance of his high consideration.

DUDLEY.

FOREIGN OFFICE,

October 1, 1827.

Mr. Gallatin to Lord Dudley.

To the Right Honorable the Earl of DUDLEY, &c. &c.

The undersigned, Minister of the United States, has the honor to acknowledge the receipt of the note addressed to him, on the first of this month, by Lord Dudley. His Majesty's Principal Secretary of State for Foreign Affairs, in answer to the notes of the undersigned, of the 4th of June, and 17th of August last, on the subject of the colonial intercourse.

It is believed that Lord Dudley would, on a close examination of the measures which the President of the United States was willing to recommend to Congress, have been satisfied that those measures would not only have tended to relax but would have altogether abrogated all the restrictions imposed by the American Legislature on the colonial intercourse through the medium of British vessels.

The objection drawn from an anticipation of the details, which might have accompanied the general principles of the proposed law, would have been easily removed. And those that are suggested against the process recommended by the American Government, seem less conclusive against it, than supporting the preference which the United States had given to an arrangement by treaty.

But since His Majesty's Ministers are of opinion that much may turn on the position and circumstances of Great Britain, of the United States, and of the commercial world in general, when such laws should come into effect; and since, in declining to give the pledge invited by the overture of America, they have explicitly declared that their resolution was the result of considerations general in their nature, and conclusive against a prospective pledge of any description respecting the colonial policy of Great Britain; the undersigned, whose efforts to obtain a more favorable answer to the inquiry he had been directed to make, have been unavailing, has no other duty to perform, in that respect, than to transmit to his Government the determination of that of Great Britain.

It is with regret that the undersigned finds that Lord Dudley, who had at first considered the note of the 4th of June as not calling for any reply, has now deemed it necessary to offer some comment on the explanations contained in that note, of the conduct of the Government of the United States, in relation to the colonial intercourse, subsequent to the act of Parliament of July, 1825. He had designedly separated the explanations from the inquiry, and suffered more than two months to elapse between his two notes, in order to afford sufficient time for any reply which that of the 4th of June might require, and in order that the discussion on the topics embraced by it being finally concluded, the proposal he had to make might be taken into consideration, without any retrospect of antecedent circumstances, and solely as a question of policy and mutual convenience. It is with unfeigned reluctance that he finds himself compelled again to revert to points already so much debated, and to take some notice of Lord

Dudley's observations on explanations which, it had been hoped, would have been deemed satisfactory.

It is correctly stated that the reasons alleged by the United States, for not having complied with the condition prescribed by the act of Parliament of July, 1825, were, first, because the opinion was entertained that it was still the intention of Great Britain that the intercourse should be arranged by negotiation: secondly, because it was not known whether the condition was rightly understood.

On the last point, Lord Dudley seems to think that the doubts which the undersigned had mentioned as attaching to the meaning of the act, were rather the suggestions of his own mind, than the recorded grounds of the perplexity felt by the American Government or Legislature. And he infers, from the specific proposal contained in the note of the undersigned of the 17th of August, and from an allusion to a declaration of Mr. Canning, that the condition in question had seemed to the Government of the United States so perfectly clear for all practical purposes, as to be susceptible only of one interpretation.

The note of the undersigned, in which he tried to explain in what consisted the difficulty of understanding what was meant by the condition of the act of Parliament, is that of December 28, 1826; and that note was explicitly stated to be founded on "a despatch from the Secretary of State of the United States, the substance of which he was instructed to communicate to Mr. Canning." The statement of the doubts attaching to the meaning of the act, though varied in the expression, was, in substance, taken from that despatch; which, although it has not attracted the notice of Lord Dudley, was communicated to Congress, and republished in December or January last, in several of the London newspapers.

But as, notwithstanding this, doubts may still be entertained respecting the recorded grounds of the perplexity felt on that subject by the American Government and Legislature, during the session of 1825, 1826, the undersigned has the honor to enclose a copy of the report of the Committee of the Senate, of March 31, 1826, to which he had already alluded in his note of 4th of June.

This document will satisfy Lord Dudley that the Committee had under consideration the Baltimore memorial, requesting that British vessels, from whatever ports, might be admitted (in the ports of the United States) on the same terms as the vessels of the most favored nations; and that the Committee's report against the prayer of the petitioners was founded on two reasons: first, that, to admit British vessels indiscriminately, with their cargoes, from whencesoever arriving, or of whatsoever composed, on the same terms as vessels of the most favored nations, or, in other words, to comply with the condition of the act of Parliament, as understood by the Committee, would operate as a surrender of the principle of equality, &c. Secondly, that a (corresponding) desire to arrange the colonial intercourse on a satisfactory footing, appeared to exist on the part of the British Government; and that the negotiations respecting it

were expected to come to a definitive issue before the next session of Congress.

To this day, the Government of the United States are not sure that they understand precisely what was intended by the condition. Desirous as they were that their proposal should be accepted, they wished to present it in the most unexceptionable form; and if, instead of offering to comply with the act of Parliament, which certainly was the most simple proposition, and the most likely to be favorably received, a specific proposal has been made, it is, in fact, because it was thought unsafe to agree to terms not sufficiently understood, and which have not been explained.

It has been justly observed by Lord Dudley, that the abolition of the discriminating duties must, under any construction of the act, have been an essential term in the condition. The undersigned, in his note of December 28, 1826, when observing that the words "commerce and navigation of this country," might have been intended to include only the circuitous intercourse, expressly stated, what was true, that "this last interpretation had been suggested only by the observations that had occurred in the course of Mr. Canning's correspondence with him." Mr. Canning had limited his animadversions on the acts of the United States to two enactments only—the discriminating duties, and the restrictions on British vessels employed in what has been called the circuitous or indirect intercourse. The specific proposal made by the United States, embraces those two objects. Having no other light but what was derived from the correspondence, they presume, without being certain that they were not mistaken, that it might be accepted as a fulfilment of the condition. The intimation that they would have considered the removal of the interdict as a matter of course, had it not been for Mr. Canning's declaration, is clearly to be understood as founded on the supposition that they were not mistaken in the interpretation, which, for the reasons that have been stated, they had ventured to give to the act of Parliament. But it cannot certainly be inferred that, because, in framing a proposal and reasoning upon it, they have been induced to adopt or rather to assume a certain construction, they no longer have, much less that they never had, well-founded doubts on the meaning of the act.

It is rather remarkable that, after those doubts had been so explicitly stated in the note of December 28, 1826, to Mr. Canning, he did not even advert to that branch of the discussion in his reply of January 27, 1827; and still more so, that Lord Dudley, whilst commenting upon it, should have carefully avoided giving any explanation; and, on the contrary, should have distinctly said, that he neither admitted nor denied that construction, which the undersigned had suggested as being the literal, and which Lord Dudley designates as the severer interpretation of the act. The undersigned is at a loss how to account for the reluctance which seems to have been evinced, of saying, at once, what was truly intended by the condition so often alluded to.

The final disposition of the bill, which had been introduced for the repeal of the discriminating duties, even if considered as an absolute rejection, proves only that, either it appeared to be unnecessary, as not fulfilling all the conditions required by the act of Parliament, or that the American Legislature relied on the issue of the expected negotiations.

If the Government of the United States did not apply to that of Great Britain for an explanation of the condition, it was partly because the distance between the two countries would have rendered such explanation unavailable in relation to any proceedings of Congress during the pending session, principally because entire reliance was placed on the issue of the negotiations; since the Cabinet of Washington had concluded to withdraw all the propositions which had heretofore prevented an arrangement.

The reasons why not the slightest apprehension was entertained of the determination of the British Government to consider this as no longer a fit subject for negotiations, have been repeatedly stated.

At the conclusion of the conferences of the year 1824, between the Plenipotentiaries of the two countries, the negotiations were expressly stated to be *suspended* by the necessity of referring to Washington on some of the subjects which had been discussed: and the Plenipotentiaries parted under circumstances which prevented, *for the present*, any further progress in the negotiations.

Indeed, those which have been carried on between His Majesty's Plenipotentiaries and the undersigned, have been so clearly considered as being generally the continuation of the negotiations of 1824, that, at their first conference, and in relation to the subject first taken up, the British Plenipotentiaries observed, "that a proposal of settlement on that subject having been offered on the part of Great Britain, during the course of the negotiations in 1824, which proposal had been taken by the American Plenipotentiary for reference to his Government, they presumed that Mr. Gallatin was prepared to give an answer to that, or to offer some new proposal." And the American Plenipotentiary did accordingly *substitute* another proposal for that which had been made by Mr. Rush, in 1824.

There was, therefore, a perfect understanding between the two Governments, in that respect. His Majesty's Minister at Washington, in conformity with it, announced, in March, 1826, to the Government of the United States, that his own was preparing to proceed in the important negotiations between the two countries; that a new Plenipotentiary had been appointed on the part of Great Britain; and that the negotiations would, therefore, be forthwith resumed.

No exception had been made, none was at that time suggested to be intended on the part of Great Britain, with respect to the colonial intercourse.

Lord Dudley has taken no notice of the circumstances which so naturally induced the American Government to rely on the ensuing negotiation, as the means of regulating the intercourse in a manner satisfactory and beneficial to both countries. But, referring to a let-

ter of December, 1825, from Mr. Clay, to a member of Congress, he has expressed his astonishment, that it could have been supposed that the British Government did not mean so to construe the act of July, 1825, as to comprehend the United States within it; and that, if it had been at first presumed that they would be excepted by a special Order in Council, that expectation should have been unshaken, when, after six months, no such order had been issued, nor any intimation given to that effect.

It has not been believed by the Government of the United States that, in case an arrangement was not made by treaty, they would, nevertheless, by special favor, be permanently exempted from the general operation of the act. But, it was presumed that Great Britain, under the expectation of a favorable issue of the negotiations that were to be forthwith resumed, would suspend the operation of the act in regard to the United States, until the result of those negotiations was ascertained. In what manner that suspension would be effected was not known.

Mr. Clay's letter is written entirely in that spirit. He did not believe that it was intended by the British Government that the act of July, 1825, should disturb the trade between the British colonies and the United States; first, and principally, because it would be inconsistent with negotiations between the two Governments, contemplated, if not yet resumed. Had it not been that it had been announced by the authorities at Halifax, that it was intended to close that port against American vessels, he would have been strongly inclined to think that the intercourse was intended to continue to be regulated by the former acts of Parliament. If the Halifax construction should prove to be correct, he was persuaded that an exception in favor of the American trade would be made by a special Order in Council.

It is true, that no such order was issued, and equally true that, after the lapse of a few weeks, neither Mr. Clay nor any other person in America expected that it would be issued. For, the Halifax construction having been abandoned, and that as well as all the other British colonial ports remaining open to American vessels, after the day when the act of Parliament was to take effect, it was concluded, without further investigation, that that act was not intended, at least for a time, to operate on the United States. It has since been made known that the suspension, which in fact took place, was intended by Great Britain, not in reference to negotiation, but in order to ascertain the result of the proceedings in Congress.

Lord Dudley intimates that the Government of the United States set out with a very mistaken opinion of the views of Great Britain respecting her colonies, and more especially respecting the importance to those colonies of a direct intercourse with the ports of the United States: and he seems to think that this is the only principle which would account for some of the proceedings of that Government.

Coinciding entirely in Lord Dudley's opinion, that perfect frankness is not only consistent with friendly feelings, but even essential

to a mutual good understanding and confidence, the undersigned will be as explicit on this as on any other subject.

The United States do not suppose the direct intercourse between their ports and the British colonies to be necessary to those colonies. They know that the British West Indies have been supplied by other means, and have not materially suffered during those periods when that intercourse was interrupted by war, or has been interdicted by the laws of the two countries.

But, though not necessary to either party, that commerce is known to be beneficial to both. The proof is found in the fact that it has always been carried on to a considerable extent whenever it has been permitted; that absolute prohibitions can alone stop it. That Great Britain thinks so herself, cannot be denied. It is believed that, except when the two nations have unfortunately been at war, there has not, to this day, been any time at which the intercourse has not, with certain limitations, been allowed by her, in British vessels.

There are not, perhaps, two countries, within the same distance from one another, and with such easy and prompt communications, which have products so essentially different as the West Indies and the United States. There are, therefore, not any, between which commerce is more natural, and the exchange of their respective commodities more mutually beneficial. The laws, which interdict such an intercourse, are an obvious and practical departure from those principles of free trade, which, in other respects, are so ably upheld and vindicated.

It is not at all asserted that the injury arising from a suspension of that commerce, is more heavily felt by one party than by the other. The American Government neither overrates the importance to the West Indies of the direct intercourse, nor denies its great utility to the United States. In both countries the planter or farmer is, by the suspension, deprived of one of the markets for his produce, and compelled to pay dearer for his supplies; and a positive evil is inflicted on both parties, without any visible advantage to either.

The right of Great Britain to regulate the intercourse with her colonies, is not questioned; and it is not usual for nations to make any great sacrifice, for the sake of asserting abstract principles which are not contested. She is, undoubtedly, the only proper judge of what should be her commercial policy. The undersigned has not been fortunate enough to be able to discover what actual advantages she derives from the measures in which she perseveres in regard to the colonial intercourse. He has apprehended that considerations foreign to the question, might continue to oppose obstacles to a proper understanding. Nothing has been omitted to remove those which might have arisen from misconceptions of the views and proceedings of the American Government. It is gratifying to have received assurances that the decision of Great Britain was not influenced by any unfriendly feelings towards the United States. Their sentiments for Great Britain are those of amity and good-will; and their Government is animated by a sincere desire to improve and strengthen the friendly relations of the two countries.

The undersigned has the honor to renew to Lord Dudley, the assurance of his high consideration.

ALBERT GALLATIN.

UPPER SEYMOUR STREET, Oct. 8, 1827.

Mr. Clay to Mr. Vaughan.

The undersigned, Secretary of State of the United States, has the honor to transmit, herewith, to Mr. Vaughan, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, to be communicated to the British Government, a copy of a proclamation, issued by the President of the United States, on this day, in pursuance of an act of Congress, of the 1st of March, 1823, by the effect of which, the acts of Congress, of the 18th day of April, 1818, and of the 15th day of May, 1820, copies of which accompany the proclamation, are revived.

It would have been much more in accordance with the wishes of the President, if he had felt himself authorized to have announced, through the undersigned, a measure of a directly opposite tendency; but he was required, by the enactments of an existing law, to perform the duty of issuing the proclamation, in the contingency which has happened, of the British interdict to the admission of American vessels in British colonial ports. The President will, nevertheless, seize, with pleasure, any fit occasion that may hereafter arise, for his concurrence in measures to put an end to a state of things, which is believed to be prejudicial to the interests both of the United Kingdom and the United States, by opening the trade and intercourse with the British colonies, upon just and reciprocal terms.

The undersigned has the satisfaction to transmit, herewith, to Mr. Vaughan, also to be communicated to the British Government, a copy of orders which have been issued from the Department of the Treasury, for the government of the Custom House officers, in the application of the abovementioned acts of Congress, of 1818 and 1820, to British vessels which have arrived, or may arrive, in the ports of the United States, from the British colonies, between the first day of December last, and the first day of July next. According to these orders—1st. All such vessels as shall have arrived before the date of the above proclamation, will be allowed freely to depart with their cargoes. 2dly. All such as shall arrive between the date of the proclamation and the day of its reception, at the respective American ports, will also be allowed freely to depart. And, 3dly. Such as may arrive at any American port, between the day of the reception of the proclamation at such port, and the first of July next, will be warned off, and allowed freely to depart, without discharging any portion of their cargoes; and the penalties and forfeitures of the acts will not be enforced against them, unless, after such warning, they should attempt to elude or violate the provisions of the laws.

The Government of His Britannic Majesty cannot fail to recognize, in these orders, a strong evidence of the friendly disposition of that of the United States, even where it has been compelled, in the protection and preservation of its own rights, to resort to a measure of necessary counteraction, to mitigate the effects of that measure, as much as possible, in its operation upon individual cases.

The undersigned requests that Mr. Vaughan will accept assurances of his high consideration.

H. CLAY.

DEPARTMENT OF STATE,
Washington, March 17, 1827.

Mr. Vaughan to Mr. Clay.

WASHINGTON, 18th March, 1827.

The undersigned, His Britannic Majesty's Envoy Extraordinary and Minister Plenipotentiary, has the honor to acknowledge the receipt of the note of the Secretary of State of the United States, transmitting to him, for the information of His Majesty's Government, a copy of the proclamation, dated the 17th instant, issued by the President of the United States, in pursuance of an act of Congress, of the 1st March, 1823; after which, the acts of Congress, of the 18th April, 1818, and of the 15th May, 1820, are revived and in operation.

The undersigned will take the earliest opportunity of communicating the note of the Secretary of State to His Majesty's Government, and he will have great satisfaction in drawing its attention to the circular enclosed in it, which has been addressed by the Secretary of the Treasury of the United States to the Collectors of Customs in the ports of this country, directing them in what manner they are to carry into effect the provisions of the acts of 1818 and 1820, as it at once removes all apprehension which might be entertained, upon reading the President's proclamation, that the penalties of the acts of 1818 and 1820, would be exacted immediately, and without further notice.

The undersigned requests that the Secretary of State will accept the assurances of his highest consideration.

CHA'S R. VAUGHAN.

The Hon. HENRY CLAY, &c. &c.

