THIRTIETH CONGRESS—FIRST SESSION.

Ex. Doc. No. 38.

HOUSE OF REPRESENTATIVES.

ROUGH RICE AND PADDY.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

The correspondence not already published, relating to the final adjustment of the difficulties between the United States and Great Britain, concerning rough rice and paddy.

FEBRUARY 8, 1848.

Laid upon the table.

To the House of Representatives of the United States:

In compliance with the resolution of the House of Representatives of the 31st January last, I communicate herewith the report of the Secretary of State, accompanied by "the documents and correspondence not already published, relating to the final adjustment of the difficulties between Great Britain and the United States, concerning rough rice and paddy."

JAMES K. POLK.

WASHINGTON, *February* 8, 1848.

DEPARTMENT OF STATE,
Washington, February 4, 1848.

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 31st ultimo, requesting the President (if in his opinion not incompatible with the public interest) to lay before that body "the documents and corres-

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pondence not already published, relating to the final adjustment of the difficulties between Great Britain and the United States, concerning rough rice and paddy," has the honor, respectfully to report to the President the accompanying copies and extracts, from papers on file in this department, which embrace the documents and correspondence called for by that resolution.

JAMES BUCHANAN.

To the PRESIDENT OF THE UNITED STATES.

LIST OF ACCOMPANYING PAPERS.

Mr. Calhoun to Mr. Everett, dated, 17th July, 1844.
Mr. Everett to Mr. Calhoun, (with enclosure,) 3d January, 1845.
Mr. Calhoun to Mr. Everett, 11th February, 1845.
Mr. Everett to Mr. Calhoun, (with enclosure,) 10th March, 1845.
Same to Mr. Buchanan, 15th April, 1845.
Same to same, 26th May, 1845.
Mr. McLane to same, 16th August, 1845.
Mr. Buchanan to Mr. McLane, 27th November, 1845.
Mr. McLane to Mr. Buchanan, 31st December, 1845.
Mr. Buchanan to Mr. McLane, 26th February, 1846.
Same to same, 13th July, 1846.
Mr. Trist to Mr. Boyd, 14th September, 1846.
Mr. Boyd to Mr. Buchanan, 14th October, 1846.
Mr. Bancroft to same, (with enclosure,) 4th January, 1847.
Mr. Buchanan to Mr. Pakenham, (with enclosure,) 18th May, 1846.
Mr. Pakenham to Mr. Buchanan, 20th May, 1846.
Mr. Buchanan to Mr. Pakenham, (with enclosures,) 24th August, 1846.

Mr. Calhoun to Mr. Everett.

DEPARTMENT OF STATE,
Washington, 17*th July*, 1844.

SIR: Your despatches to No. 148, inclusive, have been received at this department.

I transmit to you, herewith, a printed document (No. 278) containing a report from this department, in answer to a resolution of the House of Representatives, of the 4th ultimo, requesting the President to communicate to that body certain correspondence between the government of the United States and that of Great Britain, relating to the duties levied by the latter on rough rice, imported into the United Kingdom from this country. It is a matter of surprise that your note of the 18th of October last, on a subject which has been so fully discussed, and must now be so well understood, should yet remain unanswered. The present is supposed to be a favorable conjuncture, of which, it is hoped, you will not fail to avail yourself, for pressing this claim upon the British Government. The delays which have arisen, on its part, in the settlement of this question, are calculated to excite dissatisfaction in the mind of the President, as well as of those immediately interested; and he regards with painful feelings the obvious reluctance of her Majesty's ministers to satisfy a demand so clearly founded in justice.

I am, sir, &c., &c.

J. C. CALHOUN.

EDWARD EVERETT, Esq.

Mr. Everett to Mr. Calhoun.

[No. 235.] LONDON, 3*d January*, 1845.

SIR: I transmit, herewith, a copy of a note addressed by me to Lord Aberdeen on the 27th December last, upon the subject of the duties improperly levied on the importation of "rough rice," from the United States. Having occasion to see Lord Aberdeen on other business the day following, he voluntarily alluded to this long standing controversy, and in a more satisfactory manner than when it last formed the subject of conversation between us.

Without entering again into the general argument, I have confined myself to insisting on the necessity of bringing the question to a settlement, by some fair mode of adjustment; and I have urged upon Lord Aberdeen, in a manner, I think, not easily to be resisted, the duty of either, acceding to the proposal of the claimants to raise an issue in a court of law, or of suggesting some other equally reasonable method of deciding the point in dispute between the two governments.

Lord Aberdeen did not pledge himself that this should be done, but gave me to understand that he was himself in favor of it, and that he would endeavor to overcome the repugnance of the treasury.

The general result of our conversation gave me greater encouragement of final success than I have at any time entertained since the receipt of Lord Aberdeen's note of the 11th August, 1842.

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

EDWARD EVERETT.

JOHN C. CALHOUN, Esq.,
Secretary of State.

[Enclosure.]

GROSVENOR PLACE, *December*, 1844.

The undersigned, envoy extraordinary and minister plenipotentiary of the United States of America, has the honor to acquaint the Earl of Aberdeen, her Majesty's principal secretary of state for foreign affairs, that he has received the instructions of the President of the United States, again to invite the attention of his lordship to the subject of the claims of the citizens of the United States, and others, importers of rough rice from America, on which a duty of two shillings and six pence sterling per bushel was levied, while the same article was allowed by law to be imported from the west coast of Africa, on a duty of one penny per bushel.

Lord Aberdeen will recollect that this subject was treated at great length, by the undersigned, in a note addressed to his lordship on the 18th October, 1843.

In this note, the undersigned cannot but think that he fully sustained the soundness, in all its parts, of the argument as presented in his note of the 2d April, 1842, and that he also pointed out the insufficiency of the reasons by which the Earl of Aberdeen, in his reply of 11th August, 1842, endeavored to show that the case of the rough rice, imported from the west coast of Africa, does not fall within the scope of the commercial convention between the two countries, and that, on other grounds, the present claimants are not entitled to relief.

To this note of 18th October, 1843, the undersigned has received no reply from the Earl of Aberdeen.

It having, in the mean time, become the duty of the undersigned again to press the subject on the consideration of her Majesty's government, he invites the attention of the Earl of Aberdeen to the following view of the case, not heretofore distinctly presented.

The ground taken by the Earl of Aberdeen, in justification of the refusal to give up the exchequer bills, deposited as security for the payment of the rate of duty which might eventually be decided to be due, and to reimburse the duties paid in cash, is, that the construction of the convention is doubtful.

The undersigned has more than once remarked that he is not aware in what the doubt is supposed to reside, and that no two constructions of the stipulation in question occur to him, of which one is maintained by her Majesty's government, and the other by that of the United States. But in order, if possible, to bring this

long standing controversy to an equitable conclusion, the undersigned will assume (only for the sake of argument) that it is, under the circumstances of the case, doubtful whether or not the laws admitting the free importation of rice from Africa, while the same article from the United States, continued to pay a heavy duty, were consistent with the commercial convention between the two countries.

While this assumed state of doubt existed, the high duties were, by some of the importers, paid in cash, but under protest that they were not justly due; and in other cases, the importers from America were permitted to enter their rice on the low duty, making a deposit, at the same time, of a sum in exchequer bills, by way of security, "pending the decision as to the rate due under the treaty," and on the condition "that upon the same being settled, the parties are to pay such amount within three months, and receive back their bills."

These bills still remaining in deposit, her Majesty's treasury has, of course, not thought itself warranted in appropriating them, and the accruing interest has, from time to time, been paid to the depositors.

The only steps taken by her Majesty's government toward a decision of the question, have been the equalization of the duty, first by treasury order, and afterwards by act of parliament, on all importations subsequent to the order. Although the government of the United States cannot but regard these steps as strongly countenancing the view they have always taken of their right to an equality of duty under the convention, yet Lord Aberdeen has been careful in all his communications with the undersigned to establish the purely prospective character of the measure.

Her Majesty's government could, in fact, no more of itself decide this doubt than any other which might arise on the construction of a treaty. Such a decision can only be had by the joint act of the two parties.

The doubt then still exists whether the high duty was justly exacted of those who paid it under protest, and the point pending the decision, of which the exchequer bills were deposited, remains to be settled.

All doubts as to the construction of national compacts are, of course, as such, important, and the pecuniary interests involved in this case, though not considerable as between the governments, are of consequence to the parties concerned.

It is, therefore, every way desirable that this doubt should be resolved in some manner becoming wise and just governments.

The most usual mode of settling questions between nations, which admit of a reference of this kind, is to refer them to the arbitration of a friendly power. The present case seems scarcely of sufficient gravity to make such a procedure expedient, the expense of which would probably exceed the pecuniary amount at issue.

Another mode of resolving the controversy, free from the objections which exists to such an arbitration, and better adapted to the nature of the question, was suggested by the undersigned in his note of 2d April, 1842, viz: to refer the question whether the high

duty was levied, in conformity with the treaty, to the decision of her Majesty's courts of law.

This course was recommended by the following considerations:

If a like claim existed in the United States, the parties would have a remedy in the federal courts of law.

The point at issue is eminently of a judicial character, and as such was, under the late government, referred to the legal advisers of the crown.

The parties in interest, both British subjects and American citizens, are willing and desirous that the subject should be decided in this way; and, lastly,

The only objection to this course which occurs to the undersigned, the objection, in fact, which must ordinarily deprive nations of the great advantage of referring controversies of this character to a judicial tribunal, viz: the impossibility of procuring a tribunal, which, by its constitution, can judge fairly between sovereign states, is completely obviated by the willingness of the United States to give a signal proof of their reliance on the impartiality of her Majesty's courts, by freely consenting, on the present occasion, to this mode of bringing the question to a final decision.

Trusting that the equity of this proposal, as thus stated, will be felt by the Earl of Aberdeen as strongly as it is by the undersigned, he forbears to re-enter into an argument of the case. He will only invite Lord Aberdeen's attention to a letter from the treasury upon the detention of the exchequer bills, which has lately come to the knowledge of the undersigned, and which seems to require his notice. The letter is in the following terms:

TREASURY CHAMBER, *August* 9, 1844.

GENTLEMEN: Having laid before the lords commissioners of her Majesty's treasury your further application of the 27th ultimo, relative to certain exchequer bills belonging to Messrs. Forster and Smith, I am commanded by my lords to acquaint you that the sum for which the exchequer bills in question were at the time accepted by the customs in payment, is only that to which the parties were, in the opinion of the government, legally liable on the importation of the article, with respect to which the duties were demanded; that nothing has since occurred to occasion any doubt as to the amount of duty charged, having been only that which the parties were bound to pay; and, although, in consequence of some discussion with the United States of America as to the title of Great Britain to levy the duty in question, my lords have forborne to appropriate these exchequer bills. My lords see no reason whatever for delivering them up to the parties.

I am, gentlemen, your most obedient servant,

G. CLERK.

In reference to the circumstances under which the exchequer bills were deposited, the undersigned is advised that it was the freely admitted opinion of the officers of the customs that the high duty was not payable on American rice, under the convention between

the two countries. Inasmuch, however, as an act of parliament still required it to be levied, although it was not deemed necessary to enforce payment, security was taken, pending the question, that payment should eventually be made of the sum found due. The exchequer bills are that security. They were never considered as being themselves a payment. The amounts deposited do not exactly correspond with that of the sums which would be due, if it were finally decided that the high duty was payable. The property of the bills has always remained with the depositors, and to them the interest has accrued. The bills, in reference to which Sir George Clerk's letter just cited was written, are therein qualified as "belonging to Messrs. Forster and Smith."

With reference to the opinion of her Majesty's government, that the high duty is due, it cannot be stronger than that of the government of the United States to the contrary; and although the undersigned admits that, till the question is decided, her Majesty's government is not bound to surrender the deposit, he conceives that it is bound, by every principle of justice, either to accede to the mode of settlement proposed by the undersigned, or to offer some other equally fair.

The United States ask on this occasion no more, indeed much less, than they have shown themselves prepared, on more than one occasion, to accord to others. The undersigned will allude to a recent striking instance. By the third article of a treaty between the United States and Portugal it was stipulated that no higher or other duties shall be imposed on the importation of "any article," into the two countries respectively, than on the like article being the "growth, produce, or manufacture of any other foreign country." By a law passed 30th August, 1842, much higher duties were imposed on Madeira and port wines by name than on the white and red wines of several other countries. Although it would certainly bear an argument that, commercially speaking, the above named wines of Portugal were not a "like article" with the white and red wines of France and the Rhine, yet the government of the United States, "on mature reflection and consideration," decided that the provisions of the law conflicted with those of the treaty, and that "the latter, being of higher and superior obligation, its solemn stipulations cannot be suffered to be infringed by the former." The whole amount of duties which had accrued since the passage of the law, a period of nearly two years, was accordingly ordered by the Secretary of the Treasury to be forthwith refunded. No inquiry, as far [as] the undersigned is aware, was instituted whether the parties in interest were citizens of the United States or subjects of foreign powers; but he presumes, from the nature of the Portuguese trade, that they were of both descriptions. The repayments thus ordered amounted, as he is advised, to a very considerable sum.

The undersigned cannot but express his confidence that, on a reconsideration of the subject, as thus presented, her Majesty's government will assent to the mode of deciding this controversy now proposed, and procure the passage of an act of Parliament (if

such a preliminary step is necessary) authorizing the claimants to bring their case before her Majesty's courts of law, and to plead the convention between the two countries.

The undersigned requests Lord Aberdeen to accept the assurance of his high consideration.

EDWARD EVERETT.

The EARL OF ABERDEEN, &c., &c.

Mr. Calhoun to Mr. Everett.

DEPARTMENT OF STATE,
Washington, 11*th February*, 1845.

SIR: The President has learned with satisfaction, from your despatch No. 235, that in the conversation therein reported to have taken place with Lord Aberdeen, her Britannic Majesty's principal secretary of state for foreign affairs, relative to the claim of the government of the United States for the remission of the duties on rough rice, collected in contravention of the treaty existing between the two countries, his lordship expressed himself in favor of your suggestions, for bringing the question to a settlement by some fair mode of adjustment, and intimated, that he would endeavor to overcome the repugnance of the treasury to the method you have proposed for deciding the points in dispute. The President cannot but hope that this matter, long pending between the two governments, will be speedily closed. Should it, however, not be settled at the time of receiving this despatch, you are directed to bring the matter again before the British government, in such a manner as you may deem expedient under the new state of circumstances, which has arisen since the enforcement of the new law levying discriminating duties on sugar. The order issued by the lords of her Majesty's treasury, admitting sugar from the United States under the lower duty, although produced by slave labor, entirely takes away all pretext for any longer withholding the duties collected on rough rice. The ground for the discrimination in the case of rough rice and sugar is precisely the same, and the construction of the treaty by her Majesty's government, with respect to sugar, must remove all doubt or dispute as to the rough rice duties.

You were right in bringing to the attention of her Majesty's government the fact, that the United States require from Great Britain no other construction of the treaty of 1815 than we had conceded to other nations. Not only has a large amount of duties, collected by the tariff law of 1841, been remitted on the wines of Portugal, by virtue of a treaty, similar in its provisions to that with Great Britain, but the same course has been pursued towards Holland, with respect to coffee imported from Java. Nor has the United States government, in refunding the duties referred to, inquired whether they were due to citizens of the United States, or to subjects of Portugal or Holland. It was enough that the duties were collected, in contravention of our treaty stipulations. The

truth is, both countries have, in their practical administration, put the same construction on the treaty of 1815; and your clear and unanswerable positions ought long since to have closed this matter.

The President relies on your efforts to bring this business to a speedy termination.

I am, sir, &c., &c.

J. C. CALHOUN.

EDWARD EVERETT, Esq.

Mr. Everett to Mr. Calhoun.—[Extracts.]

LONDON, 10*th March*, 1845.

I transmit, herewith, the report of a conversation between the Earl of Clarendon and the Earl of Aberdeen, in the house of lords, on the evening of the 3d instant, on the subject of the reimbursement of duties claimed by British merchants, on the ground of their having been levied in contravention of the commercial treaty between the two countries.

You will perceive that Lord Clarendon alluded to the claim on our part for the repayment of the duties on rough rice, imported from the United States of America, and in language which would probably lead one, not acquainted with the facts, to suppose that this claim had been allowed.

Happening to meet Lord Clarendon at the Queen's levee, on the 5th, I mentioned the subject, and acquainted him with the precise state of the discussion. He told me that, as far as he was able to form an opinion, he thought the duties on the rice ought to be refunded, and that he should have had no objection to saying so in his place.

A short time afterwards, on the same day, I made a remark to Lord Aberdeen on the subject of the conversation which had taken place in the house of lords between himself and Lord Clarendon. Lord Aberdeen told me that, in addition to what had passed between them as reported, he had intimated privately to Lord Clarendon his opinion, that if the duties on rough rice were repaid to us, we should probably be willing to refund to British merchants the duties in question. I told him I was wholly unacquainted with the nature of the latter claim; but that such claims, when just, were readily allowed by our government, as had been shown in the recent cases of the Portuguese wines and the Dutch coffee; and that besides this, if the question were of a nature to be brought to a judicial issue, the courts were open to the parties. Lord Aberdeen said, that although no such reason for delay had been assigned at Washington, he thought it very likely that the delay which had hitherto taken place on their side in reference to the rice, might be the reason why we had refused to admit these British claims.

This remark of Lord Aberdeen has suggested the idea to me that, possibly, a reciprocal adjustment of claims between the two governments might take place, and that a proposal for such an adjustment

would be the most effectual method of compelling this government to come to a settlement. * * * * * * * *

Of the case brought forward by Lord Clarendon, I have no knowledge. If it is founded in equity, it might deserve the President's consideration, whether it would not be a wise measure to propose a joint settlement of all the claims, taking suitable steps to carry it promptly into effect. It would seem impossible to resist so fair a proposition, and we might, in this way, succeed in procuring for those whose claims we are bound to enforce that measure of justice which seems almost hopeless in any other way.

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[Enclosure.]

From the "Times" of the 4th of March, 1845.

The Earl of Clarendon rose, pursuant to notice, to inquire what means had been taken to obtain redress for certain merchants who complained, as he conceived justly, of the loss inflicted on them by a change made some time ago in the tariff of the United States. Under the 26th (25th) section of the new tariff, agreed to on the 26th of August, 1842, goods coming from England, which were shipped before the imposition of new duties was known, were exposed to ruinous duties, to the extent of 90 or 100 per cent. on silk goods, and 120 per cent. on cotton goods. Goods that had come from the eastward of the Cape were subjected to much lower duties. Now this he considered to be an infraction of the treaty with the United States, which provided, among other things, that no duty should be imposed on goods from England higher than was imposed on goods coming from any other country. What made the circumstance of more importance was, that of the goods that came from the east of the Cape by far the greater proportion belonged to American citizens, while of those which came from England, nine-tenths were the property of English merchants. The amount lost in the cases he referred to, by British merchants, was not less than £200,000; and one house in Glasgow had lost £3,000. He wished to know what steps had been taken to procure redress. The course taken by the United States was clearly against treaty. Yet the Americans appeared fully alive to the importance of the treaty wherever it was in their favor; for they had insisted on the repayment of the amount of duties levied on their rice by us in excess of that levied on the rice from the coast of Africa. He wished to know from the noble earl whether he admitted the claims of our merchants; and, if so, what success had attended the application which he had, doubtless, made to the government of the United States?

The Earl of Aberdeen believed that his noble friend had correctly stated the circumstances of the case. It was one which had engaged the attention of the government for a considerable time, and on which much correspondence had already passed. The case of the

British merchants, he had no difficulty in saying, appeared to him a very just one, and deserving of the support of the government; but he thought that the official experience of his noble friend might convince him that one might have a very good case without immediately being able to bring it to a satisfactory issue. The gentleman who preceded her Majesty's present minister at Washington, urged this case on the government of the United States very strongly, and Mr. Pakenham had pursued the same course; but he (Lord Aberdeen) was certainly not in a condition to say that their representations on the subject had been received in the manner they deserved. At the time of the last despatch referring to the matter, Mr. Pakenham proposed to put himself in communication with the principal parties interested at New York—a branch, he believed, of the Glasgow house alluded to by his noble friend—and from them he hoped to receive such information as would strengthen his means of applying to the government of the United States. He could assure his noble friend, that it was impossible for any person employed in her Majesty's service to display on this, or any other subject falling within the sphere of his duties, more zeal or ability than the gentleman at present representing her Majesty's government in the United States.

Mr. Everett to Mr. Buchanan.—[*Extracts.*]

LONDON, *April* 15, 1845.

After the suggestion in my despatch, No. 275, of the 10th of March, as to a mode of proceeding, which struck me as well calculated to bring the government to the allowance of the claim for reimbursement of the duties levied on American rough rice, I felt inclined not to urge the subject again, till I should receive the directions of the President in reference to that suggestion.

Having, however, by the instructions of the department, No. 123, of the 11th of February, been directed again to bring the claim to the consideration of this government, I had a conversation with Lord Aberdeen on the subject. He repeated to me the remark which he had more than once made before, that though he did not think, in equity, our claim was valid, he did not see how they could, under the provisions of the convention between the two countries, refuse to allow it, and that he had expressed this opinion to the treasury; but he added, that the treasury persisted in the opposite view, and refused to admit the claim.

It occurred to me in this somewhat peculiar state of things, that a direct personal representation of the case by me to Sir Robert Peel, as first lord of the treasury, might have a beneficial effect.

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I accordingly sought an interview of Sir Robert Peel, which was appointed for the 12th, on which occasion I went into a full view of the subject. I found that he had no particular acquaintance with the details of the case, which I deemed a favorable circum-

stance. I presented it in those lights which I thought most likely to convince him both of the justice of the claim, and of the necessity of bringing it to a decisive issue; and on leaving him, I placed in his hands the Congressional document containing all the correspondence between Lord Aberdeen and myself, with the exception of my note of the 27th of December, of which I have since sent him a manuscript copy.

He said nothing as to the effect which my statements had produced upon his mind, but promised me that he would investigate the question; which was all that I could expect in an interview of this nature, on a subject not directly pertaining to his department.

I am inclined to think that when, upon inquiry, his attention is called, as it of course will be to the claim alluded to by Lord Clarendon in the House of Peers, to which reference was made in my despatch, No. 275, he will at the farthest make the allowance of these claims on account of the rice contingent on our allowance of those of the British merchants, and if the latter are well founded, we shall have no reason to complain of that result.

The only point on which Sir Robert Peel intimated a clear opinion was, that a reference of the question to a court of justice would be inadmissible under their system. I said to him that though such a remedy would be possessed by a British subject in the United States, it was not for me to form any judgment how far it was consistent with the principles of the British government; but that, at all events, we were authorized in insisting, if this proposal were rejected, that some other equally fair should be made on their part.

Upon the whole, I consider that an important step has been taken in having got Sir Robert Peel's promise to give his personal attention to the subject.

Mr. Everett to Mr. Buchanan.—[*Extracts.*]

LONDON, *May* 26, 1845.

SIR: In my despatch, No. 298, of the 15th of April, I made a report of my interview with Sir Robert Peel, on the subject of the duties charged on American rough rice, in contravention of the commercial convention between the two countries.

At the time of holding the interview, Sir Robert Peel observed to me that, although in compliance with my request he would cheerfully make a personal enquiry into the case, yet, that from due regard to regularity of proceeding, if he found it necessary to make any communication to me, it would be through Lord Aberdeen.

Several days having passed without my meeting Lord Aberdeen, or hearing from him on the subject, I took an opportunity at the Queen's levée, of asking Sir Robert Peel when I might expect to be informed as to the result of his examination into the case? He said there was a memorandum by Mr. Goulburn, the Chancellor

of the Exchequer, on the subject, which he had suggested to Lord Aberdeen might be shown to me informally, though it was not drawn up for that purpose. I considered this remark as an intimation on the part of Sir Robert Peel that he was not prepared to recede from the objections taken at the Treasury to the allowance of the claim, and which are fully set forth in Lord Aberdeen's note of the 11th August, 1842.

I had a little conversation with Lord Aberdeen the same day, in which he confirmed this impression—giving me to understand that Sir Robert Peel concurred with Mr. Goulburn in the opinion that the claim was without equitable foundation. Lord Aberdeen also alluded to the present juncture in the relations of the two countries as an unfavorable one for any concession of this kind, were they otherwise prepared to make it. I told him I could not admit the force of this objection, in reference to a measure which I had not ceased to press upon him since my first arrival at this court. He replied that he did not mean that the recent occurrences affected the merits of the case, but that they created a circumstance of embarrassment in treating it. He added that it would be out of the question, however disposed the British government might be to change their view of the subject, to take a single step in that direction, except on the understanding that the claims of their merchants for reimbursement of the duties levied under the tariff law of 1842, in contravention of the treaty, were also to be allowed. He did not say that even with that condition the claim for the rough rice could be admitted, but he could say confidently it would not be, without. I told him that as far as the Executive government of the United States was concerned, I could safely say, though I had no instructions on the subject, that the English claim would not be admitted, unless the American claims for the rough rice were allowed and paid.

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Not hearing further from Lord Aberdeen, I requested an interview with him at the foreign office, on the 22d instant. I stated to him that I supposed I was to understand, from what had passed in the informal conferences just alluded to, that our proposal of a judicial issue could not be acceded to. He said the objections to that course were decisive. I then told him that I thought Her Majesty's government could not, with any show of justice, refuse to propose some other mode of deciding the question pending which the exchequer bills were deposited; and that I felt it my duty to insist, with increasing earnestness, on this being done. He admitted that he thought it ought to be done, and said I was aware that this had long been his opinion. He deeply regretted that the present moment was so unfavorable for an effort to change the views entertained at the Treasury; and that it was in vain to attempt to do so, unless the question of the British claims were taken up at the same time.

I told Lord Aberdeen I thought it was not quite fair to connect a claim so recent with one which ran back to 1836, but I was quite willing to express the opinion, as far as I could with propriety do

so without instructions, that the government of the United States would consent to include the British claims in question, in any reasonable mode of settlement which he would propose, in reference to the rough rice, on the part of her Majesty's government.

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I am, &c.,

EDWARD EVERETT.

JAMES BUCHANAN, Esq.,
Secretary of State.

Mr. McLane to Mr. Buchanan.

LONDON, *August* 16, 1845.

SIR: Soon after my arrival here, I was waited upon by Mr. Rhett, of South Carolina, in regard to the claim which has been so long pending for the refunditure of the duties exacted upon American rough rice, in contravention of the commercial convention between the two countries. Mr. Rhett had previously made an elaborate explanation of the subject, in an interview with Lord Aberdeen; and although I have reason to believe that he conducted the discussion with ability, I do not believe the determination of this government, as stated in the despatch, No. 322, of my predecessor, dated 25th May, 1845, has been or will be changed.

According to that despatch, and a previous one, numbered 298, it may be considered certain that the British government, even if it were disposed to change their view of the subject, will in no event do so, except upon the condition that the claims of their merchants for reïmbursement of the duties levied under the tariff law of the United States of 1842, in contravention, as is alleged, of the treaty, shall also be allowed. It is also certain, that although this condition may be complied with, Lord Aberdeen has given no assurance that the claims of our citizens would in that case be admitted.

Independently of the course ultimately adopted by my predecessor, I should not, under these circumstances, have felt warranted in committing my government in regard to the British claims, even to the extent intimated at one time by Mr. Everett, and stated in the despatch of the 26th May, without explicit instructions for that purpose.

The subject now, however, has assumed an aspect of very grave importance; and taking the declaration of Lord Aberdeen, as stated in Mr. Everett's despatch of the 26th May, to be the definitive answer of this government, it appears to me that the negotiation must, for the present, be considered as closed, and the claims of our citizens finally rejected, unless our government will direct the negotiation to be renewed or prosecuted upon the basis of a proposition mutually to allow the respective claims of the citizens of both countries; and my present purpose of writing is, to bring the subject in this aspect to the consideration of the President.

You will need no observation from me to convince you of the

reasonableness of the claims upon the part of our citizens, or of the extent to which an allowance of the principle of the claims of the English merchants would involve our government. I ought to remark, however, that to a certain extent they appear to me scarcely less strong than our own, and that if a future attempt is to be made to have ours allowed, it ought to proceed upon the basis of a mutual recognition of such claims, upon both sides, as may depend upon the same principle. This, however, as I have already observed, I can only attempt in pursuance of explicit instructions from the President.

I have, &c., &c.,

LOUIS McLANE.

JAMES BUCHANAN, Esq.,
Secretary of State.

Mr. Buchanan to Mr. McLane.—[Extract.]

DEPARTMENT OF STATE,
Washington, 27th November, 1845.

I transmit you herewith a copy of the note of Mr. Pakenham of the 10th instant, and of the accompanying memorandum therein referred to; also, a copy of my answer of the 26th instant, and of the opinion of the Secretary of the Treasury.

You will discover from these papers that our long pending claim against Great Britain for a return of duties levied on rough rice, in violation of the commercial convention between the two countries, is now in a fair way of being satisfactorily adjusted. The only remaining difficulty is, to ascertain precisely what articles, shipped previously to the 1st September, 1842, of the growth, produce, or manufacture of her Britannic Majesty's territories in Europe, are entitled, under this convention, to be exempted from the increased duties of the existing tariff. The Secretary of the Treasury informs me that he knows of none except silks, tin and earthenware. It is more than probable that Mr. Pakenham will not furnish a list of these articles without first consulting Lord Aberdeen.

These papers are communicated so that you may possess a knowledge of all the facts, should it become necessary for you to hold any conference with his lordship on the subject.

Mr. McLane to Mr. Buchanan.—[Extract.]

LONDON, 31*st December*, 1845.

SIR: I received, on the 17th instant, your despatch number 17, transmitting a copy of Mr. Pakenham's note, and of your answer, and other papers relating to our claim against Great Britain for a return of duties levied upon rough rice, in violation of the convention, and directing me to take the occasion to call the attention of

Lord Aberdeen to the claim against Her Majesty's government for the return of duties improperly levied on certain woollen goods exported to the United States from British ports.

With reference to the subject first mentioned in your despatch, it may not be improper to acquaint you that I am almost daily applied to by agents of parties interested in the return of duties upon rough rice, to accelerate the final repayment, which, it is now generally understood, must await the adjustment of the amount to be refunded by our government. If there be difficulties in doing this at Washington, so as to create much greater delay, perhaps it would be well to give such instructions as would enable me to adjust it here.

* * * * * *

I remain, &c.,

LOUIS McLANE.

Hon. JAMES BUCHANAN,
Secretary of State, Washington.

Mr. Buchanan to Mr. McLane.

DEPARTMENT OF STATE,
Washington, February 26, 1846.

SIR: My despatch, No. 17, of the 27th of November last, has informed you of the arrangement made by Mr. Pakenham and myself, for the adjustment of the claims of the two governments on each other, for the refunding of duties levied in violation of the commercial convention of 1815. Under the terms proposed by the British government and accepted by the President, "each government shall forego all claims to arrears of interest on the sums which may be found respectively due; and that, with this explicit agreement, these sums having been first clearly ascertained to the satisfaction of both governments, which shall mutually afford every facility for that object, shall be forthwith paid by each government to the other for distribution to the claimants," &c.

No difficulty exists in specifying the claim of the United States under this arrangement. It is confined to the excess of duties levied by the British government on rough rice, and the amount has, I believe, in each case been already ascertained. This might be refunded by that government to the claimants without delay. This claim, it will be recollected, is some years older than the British claim.

On the other hand, three months have already elapsed since the arrangement was made, and Mr. Pakenham has not yet been enabled to specify a single claim on this government, nor even to designate the "like articles" on which an excess of duties has been levied, in violation of the convention.

Whilst our claim is of a more ancient date, it is believed to be much larger in amount than that of the British.

The delay has been altogether on the side of Great Britain; and it is impossible to foresee how long this may continue.

Under these circumstances I have suggested to Mr. Pakenham the propriety of recommending to his government that it should, without further delay, pay to the claimants themselves the excess of duties levied on rough rice; whilst I assured him that the President would, as soon as the papers could be prepared, ask Congress for an appropriation to refund to the claimants the excess of duties which, in violation of the convention, had been levied under the tariff act of 1842.

Mr. Pakenham has yielded to my suggestion, and informs me that he has recommended to Lord Aberdeen its adoption, in a letter by the packet which will convey this communication.

It would evidently be more convenient for both governments if the amount due to the several claimants were paid directly to themselves by the respective governments, than if a gross amount should be transmitted by each to the other, to be distributed among these claimants.

Permit me to request that your earnest and immediate attention be given to this subject. The South Carolina claimants are exceedingly pressing; and this is not strange, considering the long delay which they have experienced in obtaining their due. The British government surely cannot entertain a doubt but that the arrangement will be executed in good faith by the United States, so soon as the claims on this government shall be presented and properly verified.

I am, &c.,

JAMES BUCHANAN.

LOUIS MCLANE, Esq., &c., &c., &.

Mr. Buchanan to Mr. McLane.

DEPARTMENT OF STATE,
Washington, July 13, 1846.

SIR: Intimations have reached this department, from the Hon. Mr. Rhett, of South Carolina, that her Britannic majesty's government has omitted or declined to carry out, on its part, the arrangement recently entered into between myself and Mr. Pakenham, for the adjustment and payment of the claims of the two governments upon each other, arising from the collection of certain import duties in alleged violation of the second article of the commercial convention of 3d July, 1815, between the United States and Great Britain.

A perusal of my note to Mr. Pakenham of the 18th of February last, and of his communication to this department of the 26th of the same month, (copies of which are enclosed,) will acquaint you with the present position of this question. It is difficult to believe that after Congress has made an appropriation for refunding the duties collected in the ports of this country contrary to the terms of the convention of 1815, and especially after an official assurance has been received from her Majesty's government that di-

rections would be given for the payment of the several claimants, on account of the duties levied on rough rice imported into Great Britain from the United States, that any difficulty should arise in satisfying all well authenticated claims on the British government of the latter class. However, I call your attention to the subject, at the instance of Mr. Rhett, with a view that you may ascertain whether the intimations referred to are well founded, and, if necessary, exercise your good offices in behalf of the claimants.

I am, &c.,

JAMES BUCHANAN.

LOUIS MCLANE, Esq., &c., &c., &c.

Mr. Trist to Mr. Boyd.

DEPARTMENT OF STATE,
Washington, September 14, 1846.

SIR: The Hon. R. B. Rhett, of the House of Representatives, who, during his visit to England last year, was instrumental in bringing about the arrangement which has taken place with reference to the duties levied in British ports, contrary to the convention of 1815, upon rough rice, or paddy, imported from the United States, goes to London for the purpose of endeavoring to have this matter definitively settled, by the payment of the money which, under the arrangement referred to, is due by the British government.

The President desires that you will, so far as it may be in your power, aid in this object, by placing Mr. Rhett in communication with the British minister, or in any other way that your official position may permit. He has had a conversation on the subject with Mr. McLane, and it has been suggested by the latter that the existing obstacles to the payment of the claims referred to may be obviated by an arrangement, in virtue of which the money should be paid at once to the diplomatic representative of the United States in London.

If, on inquiry and consultation with Mr. Rhett, you should ascertain that the settlement of the subject can be expedited by this course, (which was the one first proposed by Mr. Pakenham, as will be seen on referring to the memorandum communicated with his note to Mr. Buchanan, of November 10, 1845,) you are authorized to propose it to her Majesty's government. The government of the United States, although every arrangement has been made to pay the corresponding claims upon its treasury as fast as they are presented and liquidated, and their payment has indeed actually commenced, are very willing to pay directly to the British government whatever amounts may be found due. The plan of leaving each government to settle directly with the claimants was adopted, because it seemed the readiest way of effecting the object; but if this can be better accomplished in another mode, you are authorized to agree upon it with the British government.

Mr. Rhett, who is thoroughly conversant with the whole subject, and is believed to possess the confidence of the parties interested, (whose organ he has been from the beginning of the agitation of the subject,) will confer and consult with you as to the best mode of bringing this long delayed matter to a speedy and satisfactory conclusion.

I am, sir, respectfully, your obedient servant,

N. P. TRIST,
Acting Secretary of State.

JAMES MCHENRY BOYD, Esq., &c., &c., &c.

Mr. Boyd to Mr. Buchanan.

[No. 5.]

LONDON, *October* 14, 1846.

SIR: Mr. Trist's letter of September 14th, relative to the reimbursement of duties levied by this government upon American rough rice, contrary to the commercial convention of 1815, was this day delivered to me by Mr. Rhett, who, at the same time, I am happy to say, informed me that the whole subject had already been satisfactorily disposed of, so that any intervention on my part, under the instructions contained in Mr. Trist's letter, had become unnecessary.

It appears that the overpaid duties have all been refunded directly to the claimants themselves, except in one instance. In this case the delay is only owing to the fact that those interested in the claim are unable to agree by whom the money is to be received; the British government being quite prepared to make the payment so soon as the individuals concerned shall have decided among themselves who is to be the recipient.

I have the honor, &c.,

J. MCHENRY BOYD.

Hon. JAMES BUCHANAN,
Secretary of State.

Mr. Bancroft to Mr. Buchanan.—[Extract.]

LEGATION OF THE UNITED STATES,
London, January 4, 1847.

* * * * * * * * *

I transmit, herewith, a copy of a letter from the foreign office, of the date of December 5, 1846, by which it will appear that the difficulties in the way of recovering the duties improperly levied on rough rice, are to be removed.

[Enclosure.]

FOREIGN OFFICE, *December* 5, 1846.

The undersigned, her Majesty's principal secretary of state for foreign affairs, has the honor to inform Mr. Bancroft, envoy extraordinary and minister plenipotentiary of the United States of America, that he has referred to the consideration of the lords commissioners of her Majesty's treasury the note which Mr. McLane addressed to him on the 6th of August last, representing the difficulties which had occurred at the treasury in the execution of the agreement concluded in November, 1845, between Great Britain and the United States, concerning the mutual repayment of certain duties which had been levied by each of the two governments, in violation of the commercial convention of 1815. And the undersigned has to inform Mr. Bancroft, that the lords of the treasury have given to the board of customs directions, which the undersigned trusts will bring to a final and satisfactory adjustment the questions which appear to have been under discussion between the claimants in this case and the commissioners of customs.

The undersigned has the honor to renew, &c.,

PALMERSTON.

GEORGE BANCROFT, ESQ. &c. &c.

Mr. Buchanan to Mr. Pakenham.

DEPARTMENT OF STATE,
Washington, May 18, 1846.

SIR: I have the honor to inform you that, in accordance with the suggestion contained in the President's message to Congress of the 23d of March last, submitting to that body the propriety of making provision to carry into effect the agreement recently entered into, for the adjustment and payment of the claims of the respective governments of the United States and Great Britain, upon each other, arising from the collection of certain import duties, in violation of the second article of their commercial convention of the 3d of July, 1815; an act was passed on the 8th instant, appropriating the sum of one hundred thousand dollars for refunding duties collected in the ports of the United States, contrary to the terms of that convention.

The Secretary of the Treasury has accordingly given notice to all persons interested, that on presentation of their claims to that department, they will be duly examined and settled. A copy of this notification, to which due publicity has been given, is herewith transmitted.

I avail myself, &c.,

JAMES BUCHANAN.

Right Hon. R. PAKENHAM, &c., &c., &c.

[Enclosure.]

NOTICE.

TREASURY DEPARTMENT, *May* 12, 1846.

The following provision is contained in an act, approved May 8, 1846, entitled "An act to supply deficiencies in the appropriations for certain objects, made for the service of the fiscal year ending June 30, 1846," to wit: for refunding certain duties collected under the act of August 30, 1842, entitled "An act to provide revenue from imports, and to change and modify existing laws imposing duties on imports, and for other purposes," contrary to the terms of the convention of 1815, between Great Britain and the United States, in fulfilment of the agreement lately entered into by the government of the United States and Great Britain, one hundred thousand dollars.

Notice is hereby given to all persons entitled to the benefits of the foregoing provisions of law, that on presentation of their claims to this department, they will be duly examined and settled.

R. J. WALKER,
Secretary of the Treasury.

Mr. Pakenham to Mr. Buchanan.

WASHINGTON, *May* 20, 1846.

SIR: I have the honor to acknowledge the receipt of your note of the 18th instant, by which I am informed, that provision having been made, in accordance with the suggestions contained in the President's message to Congress of the 23d March last, for the fulfilment of the agreement lately entered into for the adjustment and payment of the claims of the two governments upon each other, arising from the collection of certain import duties in contravention of the second article of their commercial convention of the 3d of July, 1815, the Secretary of the Treasury has given notice to all persons interested, that on presentation of their claims to that department, they will be duly examined and settled. A copy of this notification you have the goodness to inclose.

I shall not fail to take the earliest opportunity to inform my government of the arrangements thus made by the government of the United States, for the fulfilment of their part of the agreement lately concluded between the two governments.

I have the honor to be, &c.,

R. PAKENHAM.

Hon. JAMES BUCHANAN, &c., &c., &c.

Mr. Buchanan to Mr. Pakenham.

DEPARTMENT OF STATE,
Washington, August 24, 1846.

SIR: Referring to the note which I had the honor to address to you on the 18th May last, I enclose herewith printed copies of the circular instructions recently issued to the collectors of the customs United States, relative to refunding the excess of duties exacted on certain articles the growth, produce, or manufacture of British territories in Europe, accompanied by a list of articles on which, according to the information at present in possession of the Treasury Department, claims may be presented under the stipulations of the existing convention with Great Britain, in connexion with the provision of the 25th section of the tariff act of the 30th of August, 1842.

I avail myself, &c.,

JAMES BUCHANAN.

Right Hon. R. PAKENHAM, &c., &c., &c.

Circular to the collectors of the customs.

TREASURY DEPARTMENT, *August* 15, 1846.

SIR: By the act of Congress, approved the 8th of May, 1846, "to supply deficiencies in the appropriations for certain objects made for the service of the fiscal year ending the 30th June, 1846," provision being made "for refunding certain duties collected under the act of the 30th August, 1842, entitled 'An act to provide revenue from imposts,' &c., contrary to the terms of the *convention between Great Britain and the United States*, in fulfilment of the agreement lately entered into by the governments of the United States and Great Britain," you are authorized and directed to make immediate examination of such claims as may be presented at your office for return of the excess of duties exacted on the importation of articles the growth, produce, or manufacture of British territories in Europe, in vessels which had left their last place of lading in said territories prior to the 1st of September, 1842.

You will furnish to the respective claimants, to be submitted to this department, a statement in each case, certified by yourself and the naval officer, setting forth the several particulars of the claim, and showing the amount of duty to be refunded as excess over the rates of duty paid on *like articles* admitted to entry from places eastward of the Cape of Good Hope or beyond Cape Horn, under the privilege granted by the 25th section of the tariff act of 1842; on which statement, should it be found satisfactory, the claim will be adjusted at this department, and the amount shown to be due, paid by draft on the treasury in favor of the claimant, or his legally constituted agent or attorney.

The accompanying list of articles imported from the British ter-

ritories in Europe, and corresponding, or *like articles* imported from India, compiled from returns made from the principal ports of the United States, in conformity with the circular instructions of the 28th February last, is transmitted, as exhibiting a view of the articles, in regard to which application for return duty may be presented.

R. J. WALKER,
Secretary of the Treasury.

Circular to the collectors of the customs.

TREASURY DEPARTMENT, *February* 28, 1846.

SIR: I have to advise you that this department, under the instruction of the President, having carefully examined and considered the terms of the 2d article of the convention between the United States and Great Britain, concluded on the third day of July, 1815, continued by that of the twentieth of October, 1818, and again, by that of the sixth of August, 1827—in connexion with the provisions of the twenty-fifth section of the act of Congress of the thirtieth of August, 1842, changing and modifying the laws imposing duties on imports, has decided as follows:

That articles the growth, produce or manufacture of British territories in Europe, actually shipped from such territories for the United States, prior to the first day of September, 1842, cannot, on importation into any port of the United States, be legally subjected to a higher duty than that exacted on *like articles*, the growth, produce or manufactures of any other foreign country, shipped prior to that date, from ports eastward of the Cape of Good Hope, or beyond Cape Horn.

In order, therefore, that the department may be in possession of the information necessary to its consideration of any claims for return of excess of duty exacted, which may be presented, under this decision, you are directed to furnish at as early a period as practicable, a list of all articles the growth, produce or manufacture of British territories in Europe, imported into your port in vessels which had actually left their last port of lading in the said territories, prior to the first September, 1842, the said articles being *like articles* to any goods which, on importation, were considered at your port entitled to entry under the provision of the 25th section of the act of Congress above mentioned; it being understood, in reference to the provisions of that section, that, within the meaning and intent of the law, the term "eastward of the Cape of Good Hope, or beyond Cape Horn," is not considered as embracing any port of Europe, or any port of Asia or Africa upon the Mediterranean, or the Black sea.

It is desirable that the list of British articles should be alphabetically arranged, with the rate of duty charged on each article stated; a second column showing, placed opposite to each British

article, the *like article*, admitted at a lower rate of duty, with the rate affixed.

You are requested to add such explanatory remarks or descriptions, as may be necessary, in reference to any of the enumerated articles, to afford the department a knowledge of their true character.

R. J. WALKER,
Secretary of the Treasury.

To the collector of the customs
District of