

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

SUNDRY DOCUMENTS

RELATING

TO A DECLARATION AND ORDER IN COUNCIL

OF

THE BRITISH GOVERNMENT,

OF THE

TWENTY-FIRST OF APRIL, 1812.

JULY 13th, 1813.

Printed by order of the House of Representatives.

WASHINGTON CITY:

PRINTED BY ROGER C. WEIGHTMAN;

1813.

TO THE
HOUSE OF REPRESENTATIVES
OF THE
UNITED STATES,

I TRANSMIT to the House of Representatives a report of the Secretary of State, containing the information requested by their resolution of the 21st of June last.

JAMES MADISON.

Washington, 12th July, 1813,

REPORT.

THE Secretary of State, to whom was referred the resolution of the House of Representatives, of the 21st of June, requesting copies of a declaration and order in council of the British government of the 21st of April, 1812, has the honor to lay before the President, copies of these papers, together with a copy of the correspondence relating to them.

JAMES MONROE.

Department of State, July 12th, 1813.

DOCUMENTS.

Declaration and Order in Council of the British Government, dated 21st April, 1812, and the correspondence relative thereto.

Mr. Russell to Mr. Monroe.

London, 22d April, 1812.

SIR,

I received late last evening a note from Lord Castlereagh, of which the enclosed is a copy, together with the declaration to which it refers.

I hasten to communicate to you these important documents as they appear to manifest definitively the determination of this government to persevere in its actual system, and to support, with every sort of pretext, the pretext of retaliation on which it was originally founded.

I have the honor to be, &c.

(Signed)

JONATHAN RUSSELL.

Lord Castlereagh to Mr. Russell.

The undersigned, His Majesty's principal Secretary of State for Foreign Affairs, is commanded by His Royal Highness the Prince Regent, to transmit to Mr Russell, charge d'affaires of the government of the United States of America, the enclosed copy of a declaration, accompanying an order in council, which has been this day passed by His Royal Highness the Prince Regent in council.

The undersigned is commanded by the Prince Regent to request that Mr. Russell, in making this

communication to his government, will represent this measure, as one conceived in the true spirit of conciliation, and with a due regard on the part of His Royal Highness to the honor and interests of the United States; and the undersigned ventures to express his confident hope that this decisive proof of the amicable sentiments which animate the councils of His Royal Highness towards America, may accelerate the return of amity and mutual confidence between the two states.

The undersigned avails himself of this opportunity to repeat to Mr Russell the assurances of his high consideration.

(Signed)

CASTLEREAGH.

Foreign Office, 21st April, 1812.

DECLARATION.

The government of France having, by an official report communicated by its Minister of Foreign Affairs, to the conservative Senate, on the 10th day of March last, removed all doubts as to the perseverance of that government in the assertion of principles, and in the maintenance of a system, not more hostile to the maritime rights and commercial interests of the British empire, than inconsistent with the rights and independence of neutral nations; and having thereby plainly developed the inordinate pretensions, which that system, as promulgated in the decrees of Berlin and Milan, was from the first designed to enforce, His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty, deems it proper

upon this formal and authentic republication of the principles of those decrees, thus publicly to declare His Royal Highness's determination still firmly to resist the introduction and establishment of this arbitrary code, which the government of France openly avows its purpose to impose by force upon the world, as the law of nations.

From the time that the progressive injustice and violence of the French government made it impossible for His Majesty any longer to restrain the exercise of the rights of war within their ordinary limits, without submitting to consequences not less ruinous to the commerce of his dominions, than derogatory to the rights of his crown, His Majesty has endeavored by a restricted and moderate use of those rights of retaliation, which the Berlin and Milan decrees necessarily called into action, to reconcile neutral states to those measures, which the conduct of the enemy had rendered unavoidable, and which His Majesty has at all times professed his readiness to revoke, so soon as the decrees of the enemy, which gave occasion to them, should be formally and unconditionally repealed, and the commerce of neutral nations be restored to its accustomed course.

At a subsequent period of the war, His Majesty, availing himself of the then situation of Europe, without abandoning the principle and object of the orders in council of November, 1807, was induced so to limit their operation, as materially to alleviate the restrictions thereby imposed upon neutral commerce. The order in council of April, 1809, was substituted in the room of those of November, 1807, and the retaliatory system of Great Britain acted no longer on every country in which the aggressive measures of the enemy were in force, but was confined in its operation to France, and to the

countries upon which the French yoke was most strictly imposed, and which had become virtually a part of the dominions of France.

The United States of America remained, nevertheless, dissatisfied; and their dissatisfaction has been greatly increased by an artifice, too successfully employed on the part of the enemy, who has pretended that the decrees of Berlin and Milan were repealed, although the decree effecting such repeal has never been promulgated; although the notification of such pretended repeal distinctly described it to be dependent on conditions, in which the enemy knew Great Britain could never acquiesce; and although abundant evidence has since appeared of their subsequent execution.

But the enemy has at length laid aside all dissimulation; he now publicly and solemnly declares, not only that those decrees still continue in force, but that they shall be rigidly executed until Great Britain shall comply with additional conditions, equally extravagant; and he further announces the penalties of those decrees to be in full force against all nations which shall suffer their flag to be, as it is termed in this new code, "denationalized."

In addition to the disavowal of the blockade of May, 1806, and of the principles on which that blockade was established, and in addition to the repeal of the British orders in council, he demands an admission of the principles, that the goods of an enemy, carried under a neutral flag, shall be treated as neutral; that neutral property, under the flag of an enemy, shall be treated as hostile; that arms and warlike stores alone (to the exclusion of ship timber, and other articles of naval equipment) shall be regarded as contraband of war; and that no ports shall be considered as lawfully blockaded, except such as are invested and besieged, in the pre-

sumption of their being taken [en prevention d'être pris,] and into which a merchant ship cannot enter without danger.

By these and other demands the enemy in fact requires, that Great Britain, and all civilized nations shall renounce at his arbitrary pleasure, the ordinary and indisputable rights of maritime war; that Great Britain in particular, shall forego the advantages of her naval superiority, and allow the commercial property as well as the produce and manufactures of France and her confederates, to pass the ocean in security, whilst the subjects of Great Britain are to be in effect proscribed from all commercial intercourse with other nations; and the produce and manufactures of these realms are to be excluded from every country in the world, to which the arms or the influence of the enemy can extend.

Such are the demands to which the British government is summoned to submit; to the abandonment of its most ancient, essential, and undoubted maritime rights. Such is the code by which France hopes, under the cover of a neutral flag, to render her commerce unassailable by sea; whilst she proceeds to invade or to incorporate with her own dominions all states that hesitate to sacrifice their national interests at her command, and, in abdication of their just rights, to adopt a code by which they are required to exclude, under the mask of municipal regulations, whatever is British from their dominions.

The pretext for these extravagant demands is, that some of these principles were adopted by voluntary compact in the treaty of Utrecht; as if a treaty once existing between two particular countries, founded on special and reciprocal considerations, binding only on the contracting parties, and

which in the last treaty of peace between the same powers, had not been revived, were to be regarded as declaratory of the public law of nations.

It is needless for His Royal Highness, to demonstrate the injustice of such pretensions. He might otherwise appeal to the practice of France herself in this and in former wars, and to her own established codes of maritime law. It is sufficient that these new demands of the enemy form a wide departure from those conditions on which the alleged repeal of the French decrees was accepted by America; and upon which alone erroneously assuming that repeal to be complete, America has claimed a revocation of the British orders in council.

His Royal Highness, upon a review of all these circumstances, feels persuaded that so soon as this formal declaration by the government of France, of its unabated adherence to the principles and provisions of the Berlin and Milan decrees, shall be made known in America, the government of the United States, actuated not less by a sense of justice to Great Britain, than by what is due to its own dignity, will be disposed to recall those measures of hostile exclusion, which, under a misconception of the real views and conduct of the French government, America has exclusively applied to the commerce and ships of war of Great Britain.

To accelerate a result so advantageous to the true interests of both countries, and so conducive to the re-establishment of perfect friendship between them; and to give a decisive proof of His Royal Highness's disposition to perform the engagements of His Majesty's government, by revoking the orders in council whenever the French decrees shall be actually and unconditionally re-

pealed, His Royal Highness the Prince Regent, has been this day pleased, in the name and on the behalf of His Majesty, and by and with the advice of His Majesty's privy council, to order and declare:

“That if at any time hereafter, the Berlin and Milan decrees shall, by some authentic act of the French government publicly promulgated, be expressly and unconditionally repealed, then and from thenceforth the order in council of the 7th day of January, 1807, and the order in council of the 26th day of April, 1809, shall, without any further order, be, and the same hereby are declared from thenceforth to be wholly and absolutely revoked: and further, that the full benefit of this order shall be extended to any ship or vessel captured subsequent to such authentic act of repeal of the French decrees, although antecedent to such repeal, such ship or vessel shall have commenced and shall be in the prosecution of a voyage, which, under the said orders in council or one of them, would have subjected her to capture and condemnation; and the claimant of any ship or cargo which shall be captured at any time subsequent to such authentic act of repeal by the French government, shall, without any further order or declaration on the part of His Majesty's government on this subject, be at liberty to give in evidence in the high court of admiralty or any court of vice admiralty, before which such ship or vessel or its cargo shall be brought for adjudication, that such repeal by the French government had been by such authentic act promulgated prior to such capture; and upon proof thereof the voyage shall be deemed and taken to have been as lawful as if the said orders in council had never been made; saving, nevertheless, to

the captors such protection and indemnity as they may be equitably entitled to, in the judgment of the said court, by reason of their ignorance or uncertainty as to the repeal of the French decrees, or of the recognition of such repeal by His Majesty's government, at the time of such capture.

“ His Royal Highness, however, deems it proper to declare, that, should the repeal of the French decrees, thus anticipated and provided for, afterwards prove to have been illusory on the part of the enemy; and should the restrictions thereof be still practically enforced or revived by the enemy, Great Britain will be obliged, however reluctantly, after reasonable notice to neutral powers, to have recourse to such measures of retaliation as may then appear to be just and necessary.”

Westminster, April 21, 1812.



At the court at Carleton House, the twenty-first of April,
one thousand eight hundred and twelve,

PRESENT,

His Royal Highness, the Prince Regent in council.

Whereas, the government of France has, by an official report, communicated by its minister for foreign affairs to the conservative senate, on the tenth of March last, removed all doubts as to the perseverance of that government in the assertion of principles, and in the maintenance of a system, not more hostile to the maritime rights and commercial interests of the British empire, than inconsistent with the rights and independence of neutral nations, and has thereby plainly developed the inordinate pretensions which that system, as promulgated in the decrees of Berlin and Milan, was from the first designed to enforce:

And whereas, His Majesty has invariably professed his readiness to revoke the orders in council, adopted thereupon, as soon as the said decrees of the enemy should be formally and unconditionally repealed, and the commerce of neutral nations restored to its accustomed course:

His Royal Highness the Prince Regent (anxious to give the most decisive proof of His Royal Highness's disposition to perform the engagements of His Majesty's government) is pleased, in the name and on the behalf of His Majesty, and by and with the advice of His Majesty's privy council, to order and declare, and it is hereby ordered and declared, that if, at any time hereafter, the Berlin and Milan decrees shall, by some authentic act of the French government, publicly promulgated, be absolutely and unconditionally repealed, then, and from thenceforth, the order in council of the seventh day of January, one thousand eight hundred and seven, and the order in council of the twenty-sixth day of April, one thousand eight hundred and nine, shall, without any further order, be, and the same are hereby declared from thenceforth to be wholly and absolutely revoked: And further, that the full benefit of this order shall be extended to any ship or cargo captured subsequent to such authentic act of repeal of the French decrees, although antecedent to such repeal such ship or vessel shall have commenced and shall be in the prosecution of a voyage which, under the said orders in council, or one of them would have subjected her to capture and condemnation; and the claimant of any ship or cargo which shall be captured or brought to adjudication, on account of any alleged breach of either of the said orders in council, at any time subsequent to such authentic act of repeal by the French government, shall, without any further or-

der or declaration on the part of his Majesty's government on this subject, be at liberty to give in evidence, in the high court of admiralty, or any court of vice-admiralty before which such ship or cargo shall be brought for adjudication, that such repeal by the French government had been, by such authentic act promulgated prior to such capture; and upon proof thereof, the voyage shall be deemed and taken to have been as lawful as if the said orders in council had never been made; saving, nevertheless, to the captors such protection and indemnity as they may be equitably entitled to in the judgment of the said court, by reason of their ignorance, or uncertainty as to the repeal of the French decrees, or of the recognition of such repeal by His Majesty's government at the time of such capture.

His Royal Highness, however, deems it proper to declare, that should the repeal of the French decrees, thus anticipated and provided for, prove afterwards to have been illusory on the part of the enemy; and should the restrictions thereof be still practically enforced, or revived by the enemy, Great Britain will be compelled, however reluctantly, after reasonable notice, to have recourse to such measures of retaliation as may then appear to be just and necessary.

And the right honorable the lords commissioners of His Majesty's treasury, His Majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judge of the high court of admiralty, and the judges of the courts of vice admiralty, are to take the necessary measures herein as to them shall respectively appertain.

(Signed)

CHEWYND.

Mr. Russell to Mr. Monroe.

(Duplicate.)

London 26th April, 1812.

SIR,

I beg leave to hand you herewith a declaration and an order in council of this government, of the twenty-first of this month, and a copy of a note from Lord Castlereagh accompanying the communication of them to me. I have already transmitted to you other copies of these documents and have now to add a copy of the note which I have addressed, in reply to that of his Lordship.

I have the honor to be,

With the highest consideration, Sir,

Your assured and faithful servant.

(Signed)

JONA. RUSSELL.

Mr. Russell to Lord Castlereagh.

(Copy.)

18, Bentinck Street,

April 25th, 1812.

MY LORD,

I have the honor to acknowledge the receipt of the note which your Lordship addressed to me on the 21st of this month, enclosing, by the command of His Royal Highness the Prince Regent, a copy of a declaration, accompanying an order in council which had that day been passed.

It would have afforded me the highest satisfaction in communicating that declaration and order to my government, to have been able to represent

them as conceived in the true spirit of conciliation, and with a due regard to the honor and interests of the United States. I regret, however, that so far from being able to perceive in them any evidence of the amicable sentiments which are professed to animate the councils of His Royal Highness, I am compelled to consider them as an unequivocal proof of the determination of His Britannic Majesty's government, to adhere to a system, which, both as to principle and fact, originated and has been continued, in error; and against which, the government of the United States, so long as it respects itself, and the essential rights of the nation over which it is placed, cannot cease to contend.

The United States have never considered it their duty to inquire, nor do they pretend to decide, whether England or France was guilty in relation to the other, of the first violation of the public law of nations; but they do consider it their most imperious duty to protect themselves from the unjust operation of the unprecedented measures of retaliation, professed by both these powers to be founded on such violation. In this operation, by whichever party directed, the United States have never for a moment acquiesced; nor by the slightest indication of such acquiescence, afforded a pretext for extending to them the evils by which England and France affect to retaliate on each other. They have in no instance departed from the observance of that strict impartiality which their peaceful position required, and which ought to have secured to them the unmolested enjoyment of their neutrality. To their astonishment, however, they perceived that both these belligerent powers, under the pretence of annoying each other, adopted, and put in practice,

new principles of retaliation, involving the destruction of those commercial and maritime rights which the United States regard as essential and inseparable attributes of their independence. Although alive to all the injury and injustice of this system, the American government resorted to no measures to oppose it which were not of the most pacific and impartial character, in relation to both the aggressors. Its remonstrances, its restrictions of commercial intercourse, and its overtures for accommodation, were equally addressed to England and to France; and, if there is now an inequality in the relations of the United States with these countries, it can only be ascribed to England herself, who rejected the terms proffered to both, while France accepted them; and who continues to execute her retaliatory edicts on the high seas, while those of the latter have there ceased to operate.

If Great Britain could not be persuaded by considerations of universal equity, to refrain from adopting any line of conduct, however unjust, for which she might discover a precedent in the conduct of her enemy; or to abandon an attempt of remotely and uncertainly annoying that enemy through the immediate and sure destruction of the vital interests of a neutral and unoffending state; yet it was confidently expected that she would be willing to follow that enemy also in his return towards justice; and from a respect to her own declarations, to proceed *pari passu* with him, in the revocation of the offending edicts. This just expectation has, however, been disappointed, and an exemption of the flag of the United States from the operation of the Berlin and Milan decrees has produced no corresponding modification of the British orders in council. Qn

the contrary, the fact of such exemption on the part of France appears by the declaration and order in council of the British government of the 21st of this month to be denied; and the engagement of the latter to proceed step by step with its enemy in the work of repeal and relaxation, to be disowned or disregarded.

That France has repealed her decrees, so far as they concerned the United States, has been established by declarations and facts satisfactory to them, and which, it was presumed would have been equally satisfactory to the British government. A formal and authentic declaration of the French government, communicated to the minister plenipotentiary of the United States at Paris, on the 5th of August, 1810, announced that the decrees of Berlin and Milan were revoked, and should cease to operate on the first of the succeeding November, provided that a condition presented to England, *or* another condition presented to the United States, should be performed. The condition presented to the United States was performed; and this performance rendered absolute the repeal of the decrees. So far, therefore, from this repeal depending on conditions in which Great Britain could not acquiesce, it became absolute, independently of any act of Great Britain, the moment the act proposed for the performance of the United States was accomplished. Such was the construction given to this measure by the United States, from the first; and that it was a correct one, has been sufficiently evinced by the subsequent practice of France.

Several instances of the acquittal of American vessels and cargoes, to which the decrees would have attached, if still in force against the United States, have, from time to time, been presented to

His Britannic Majesty's government. That these cases have been few is to be ascribed to the few captures, in consequence of this repeal, made by French cruisers; and should no other such case occur it will be owing to the efficacy of this repeal, and to the exact observance of it, even by the most wanton and irregular of those cruisers.

From the 1st of November, 1810, to the 29th of January of the present year, as appears by a note which I had the honor to address to the predecessor of your Lordship on the 8th of February last, the Berlin and Milan decrees had not been applied to American property, nor have I heard that such application has since been made.

But, against the authentic act of the French government of the 5th of August, 1810, and the subsequent conduct of that government, mutually explaining each other, and confirming the construction adopted by the United States, is offered a report said to be communicated by the French minister of foreign affairs to the conservative senate. Without pretending to doubt the genuineness of that report, although it has reached this country only in a newspaper, yet it is to be lamented that as much form and evidence of authenticity have not been required in an act considered as furnishing cause for the continuance of the orders in council, as in an act which, by the very terms of those orders, challenged their revocation. The act of the 5th of August, 1810, emanating from the sovereign of France, officially communicated to the British government, and satisfactorily expounded and explained by the practical comments of more than eighteen months, is denied to afford convincing evidence of the repeal of the French decrees; while full proof of their continuance is inferred from a re-

port, which by its very nature must contain the mere opinions and speculations of a subject, which is destitute of all authority until acted upon by the body to which it was presented, which has found its way hither in no more authentic shape than the columns of the *Moniteur*, and for the proper understanding of which not a moment has been allowed. But even were the value thus assigned to the report just, it is still difficult to discover what inference can be fairly deduced from it incompatible with the previous declarations and conduct of the French government exempting the United States from the operation of its decrees. The very exception in that report, with regard to nations which do not suffer their flag to be *denationalized*, was undoubtedly made with a reference to the United States, and with a view to reconcile the general tenor of that report, with the good faith with which it became France to observe the conventional repeal of those decrees in their favor. However novel may be the terms employed, or whatever may be their precise meaning, they ought to be so interpreted as to accord with the engagements of the French government, and with justice and good faith.

Your Lordship will, I doubt not, the more readily acknowledge the propriety of considering the report in this light, by a reference to similar reports made to the same conservative senate, on the 13th of December, 1810, by the Duke of Cadore, the predecessor of the present French minister of exterior relations, and by the Count de Simonville. In these reports, they say to the Emperor (which sufficiently proves that such reports are not to be considered as dictated by him) "Sire, as long as England shall persist in her or-

ders in council, so long your majesty will persist in his decrees;" and "the decrees of Berlin and Milan are the answer to the orders in council; the British cabinet has, thus to speak, dictated them to France; Europe receives them for her code, and this code shall become the palladium of the liberty of the seas" Surely this language is as strong as that of the report of the 10th of March, and still more absolute, for there is no qualification in it in favor of any nation; yet this language has, both by an explanation from the Duke of Cadore to me at the time, and by the uniform conduct of the French government since, been reconciled with the repeal of these very decrees, so far as they concerned the United States.

Had the French decrees originally afforded an adequate foundation for the British orders, and been continued after these reports in their full force and extent, surely, during a period in which above a hundred American vessels and their cargoes have fallen a prey to these orders, some one solitary instance of capture and confiscation must have happened under these decrees. That no such instance has happened, incontrovertibly proves either that those decrees are of themselves harmless, or that they have been repealed; and in either case they afford no rightful plea or pretext to Great Britain for those measures of pretended retaliation, whose sole effect is to lay waste the neutral commerce of America.

With the remnant of those decrees which is still in force, and which consists of municipal regulations confined in their operation within the proper and undeniable jurisdiction of the states where they are executed, the United States have no concern nor do they acknowledge themselves to be under any political obligation, either to ex-

amine into the ends proposed to be attained by this surviving portion of the continental system, or to oppose their accomplishment. Whatever may be intended to be done in regard to other nations by this system, cannot be imputed to the United States; nor are they to be made responsible, while they religiously observe the obligations of their neutrality, for the mode in which belligerent nations may choose to exercise their power for the injury of each other.

When, however, these nations exceed the just limits of their power by the invasion of the rights of peaceful states on the ocean, which is subject to the common and equal jurisdiction of all nations, the United States cannot remain indifferent, and by quietly consenting to yield up their share of this jurisdiction, abandon their maritime rights. France has respected these rights by the discontinuance of her edicts on the high seas, leaving no part of these edicts in operation to the injury of the United States, and of course, no part in which they can be supposed to acquiesce, or against which they can be required to contend.

They ask of Great Britain, by a like respect for their rights, to exempt them from the operation of her orders in council. Should such exemption involve the total practical extinction of these orders, it will only prove that they were exclusively applied to the commerce of the United States, and that they had not a single feature of resemblance to the decrees against which they are professed to retaliate.

It is with patience and confidence that the United States have expected this exemption, to which they believed themselves entitled by all those considerations of might and promise, which I have here feebly stated to your Lordship. With what

disappointment, therefore, must they learn, that G. Britain, in professing to do away their dissatisfaction, explicitly avows her intention to persevere in her orders in council, until some authentic act, hereafter to be promulgated by the French government, shall declare the Berlin and Milan decrees to be expressly and unconditionally repealed? To obtain such an act, can the United States interfere? Would such an interference be compatible either with a sense of justice, or with what is due to their own dignity? Can they be expected to falsify the repeated declarations of their satisfaction with the act of the 5th of August, 1810, confirmed by abundant evidence of its subsequent observance; and, by now affecting to doubt of the sufficiency of that act, to demand another, which, in its form, its mode of publication, and its import, shall accord with the requisitions of Great Britain? And can it be supposed that the French government would listen to such a proposal, made under such circumstances, and with such a view.

While, therefore, I can perceive no reason, in the report of the French minister, of the tenth of March, to believe that the United States erroneously assumed the repeal of the French decrees to be complete in relation to them; while aware that the condition, on which the revocation of the orders in council is now distinctly made to depend, is the total repeal of both the Berlin and Milan decrees, instead, as formerly, of the Berlin decree only; and while I feel that to ask the performance of this condition from others, is inconsistent with the honor of the U. States, and to perform it themselves, beyond their power, your Lordship will permit me frankly to avow, that I cannot accompany the communication to my government, of the declaration and order in council of the twenty-first

of this month, with any felicitation on the prospect which this measure presents of an accelerated return of amity and neutral confidence, between the two states.

It is with real pain that I make to your Lordship this avowal, and I will seek still to confide in the spirit, which your Lordship in your note, and in the conversation of this morning, has been pleased to say actuated the councils of His Royal Highness in relation to America, and still to cherish a hope that this spirit will lead, upon a review of the whole ground, to measures of a nature better calculated to attain its object; and that this object will no longer be made to depend on the conduct of a third power, or upon contingencies on which the United States have no control, but alone upon the rights of the United States, the justice of Great Britain, and the common interests of both.

I have the honor to be, my Lord,

Your Lordship's most obedient servant,

(Signed) JONA. RUSSELL.



Extract of a letter from Mr. Russell to Mr. Monroe.

London, 1st May, 1812.

“The declaration and order in council of the 21st ultimo, not only mark with the utmost precision the line of policy which the present ministry means inflexibly to pursue towards the United States, but confirm my conjectures in relation to the instructions lately sent to Mr. Foster by the Mackerel. I have learnt, from a respectable source, that Lord Sidmouth has declared, in reference to his attempt for a modification of the orders, that

these measures were all that he could obtain. I wonder much how his Lordship can suppose that in them he has obtained any thing.

“ I have not yet received any reply to my note to Lord Castlereagh of the 25th ultimo.”

Mr. Russell to Mr. Monroe.

London, 9th May, 1812.

SIR,

I have the honor to hand you herewith a note from Lord Castlereagh of the third of this month, acknowledging the receipt of that which I addressed to his Lordship on the 25th ultimo.

I am, Sir, &c. &c. &c.

(Signed)

JONA. RUSSELL.

The undersigned, His Majesty's principal secretary for foreign affairs, has the honor to acknowledge the receipt of Mr. Russell's note of the 25th ultimo, in reply to that of the undersigned, dated the 21st, transmitting the declaration published on that day by order of His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty.

The undersigned cannot but express his sincere regret that the measure in question should have failed to produce a more favorable impression on Mr. Russell's mind: As His Majesty's minister in America has been fully instructed to explain to the American government the motives which have influenced His Majesty's government upon this occasion, the undersigned is commanded by the Prince

Regent to abstain at present from entering into a discussion of those arguments against the declaration, which Mr. Russell has deemed it expedient to bring forward in his note of the 25th.

The undersigned avails himself of this opportunity of renewing to Mr. Russell the assurances of his great consideration.

(Signed)

CASTLEREAGH.

Foreign Office, 3d May, 1812.

British Order in Council of 23d June, 1812, with the correspondence relating thereto.

[These papers have heretofore been laid before Congress, but they are again submitted as they have a relation to the report now made.]

Mr. Russell to Mr. Monroe.

London, 26th June, 1812.

SIR,

I have the honor to transmit to you, enclosed, an order in council issued by this government, on the 23d of this month, and copies of two notes from Lord Castlereagh of the same date, accompanying the communication of it to me, and also a copy of my note to him, of this day in reply.

I can but regret that in this document any reservation has been made of a power of restoring the orders of the 7th of January 1807, and of the 26th of April, 1809, to their full effect, whenever it shall be judged expedient so to do, as such reservation manifests an intention to maintain the

principle on which they were founded, and in which I conceive the United States can never acquiesce.

Had this reservation not been made, the revocation of those orders would, perhaps, accompanied as it is, with the verbal explanations of Lord Castlereagh, alluded to in my note to him, have been considered to be as precise and complete as could reasonably, under every view of the subject, have been expected.

The reservation itself, although ungracious in appearance, will I trust, prove harmless in effect, and, I presume, this government will be long deterred by its experience, from carrying into practice a principle to which it appears to be determined so ostentatiously to adhere in the abstract.

I am, with great consideration and respect, Sir,
Your faithful and obedient servant.

JONA. RUSSELL,

Lord Castlereagh to Mr. Russell.

(Copy.)

Foreign Office, June 23d, 1812.

SIR,

I am commanded by the Prince Regent to transmit to you for your information, the enclosed printed copy of an order in council, which His Royal Highness, acting in the name and on the behalf of His Majesty, was this day pleased to issue, for the revocation (on the conditions therein specified) of the orders in council of the 17th of January, 1807 and of the 26th of April, 1809, so

far as may regard American vessels and their cargoes, being American property, from the 1st of August next.

I have the honor to be, with great consideration,
Sir, your most obedient humble servant.

(Signed.) CASTLEREAGH.

Lord Castlereagh to Mr. Russell.

(Copy.)

Foreign Office, June 23d, 1812.

SIR,

In communicating to your government the order in council of this date, revoking (under certain conditions therein specified) those of January 7th. and of April 26th, 1809, I am to request that you will at the same time acquaint them, that the Prince Regent's ministers have taken the earliest opportunity, after their resumption of the government, to advise His Royal Highness to the adoption of a measure grounded upon the document communicated by you to this office on the 20th ultimo; and His Royal Highness hopes that this proceeding on the part of the British government, may accelerate a good understanding on all points of difference between the two states.

I shall be happy to have the honor of seeing you at the Foreign Office at 2 o'clock to-morrow, and beg to apprise you that one of His Majesty's vessels will sail for America with the despatches of the government, in the course of the present week.

I have the honor to be, with great consideration,
Sir, your most obedient humble servant.

(Signed.) CASTLEREAGH.

At the Court at Carlton-House, the twenty-third of June,
one thousand eight hundred and twelve.

PRESENT,

His Royal Highness the Prince Regent in Council,

Whereas, His Royal Highness the Prince Regent, was pleased to declare, in the name and on the behalf of His Majesty, on the 21st day of April 1812, "That if at any time hereafter the Berlin and Milan decrees shall, by some authentic act of the French government, publicly promulgated, be absolutely and unconditionally repealed, then and from thenceforth the order in council of the 7th of January 1807, and the order in council of the 26th of April 1809, shall, without any further order, be, and the same are hereby declared from thenceforth to be wholly and absolutely revoked:"

And whereas, the charge des affaires of the United States of America, resident at this court, did, on the 20th day of May last, transmit to Lord Viscount Castlereagh, one of his His Majesty's principal secretaries of state, a copy of a certain instrument, then for the first time communicated to this court, purporting to be a decree passed by the government of France, on the 23rd day of April 1811, by which the decrees of Berlin and Milan are declared to be definitively no longer in force, in regard to American vessels.

And whereas, His Royal Highness the Prince Regent, although he cannot consider the tenor of the said instrument as satisfying the conditions set forth in the said order of the 21st of April last, upon which the said orders were to cease and determine, is nevertheless disposed on his part to take such measures as may tend to reestablish the intercourse between neutral and belligerent nations, upon its accustomed principles—His Royal

Highness the Prince Regent, in the name and on the behalf of His Majesty, is therefore pleased, by and with the advice of His Majesty's privy council, to order and declare, and it is hereby ordered and declared, that the order in council bearing date the 7th day of January 1807, and the order in council bearing date the 26th day of April 1809, be revoked, so far as may regard American vessels, and their cargoes being American property, from the 1st day of August next.

But whereas, by certain acts of the government of the United States of America, all British armed vessels are excluded from the harbors and waters of the said United States, the armed vessels of France being permitted to enter therein; and the commercial intercourse between Great Britain and the said United States is interdicted, the commercial intercourse between France and the said United States having been restored; His Royal Highness the Prince Regent is pleased hereby further to declare, in the name and on the behalf of His Majesty, that if the government of the said United States shall not, as soon as may be, after this order shall have been duly notified by his Majesty's minister in America to the said government, revoke, or cause to be revoked, the said acts, this present order shall in that case, after due notice signified by His Majesty's minister in America to the said government, be thenceforth null and of no effect.

It is further ordered and declared, that all American vessels, and their cargoes being American property, that shall have been captured subsequently to the 20th day of May last, for a breach of the aforesaid orders in council alone, and which shall not have been actually condemned before the date of this order; and that all ships and cargoes as aforesaid, that shall henceforth be captured un-

der the said orders, prior to the 1st day of August next, shall not be proceeded against to condemnation till further orders, but shall, in the event of this order not becoming null and of no effect, in the case aforesaid, be forthwith liberated and restored, subject to such reasonable expenses on the part of the captors as shall have been justly incurred.

Provided, that nothing in this order contained, respecting the revocation of the orders herein mentioned, shall be taken to revive wholly or in part the orders in council of the 11th of November 1807, or any other order not herein mentioned, or to deprive parties of any legal remedy to which they may be entitled under the order in council of the 21st of April, 1812.

His Royal Highness the Prince Regent is hereby pleased further to declare, in the name and on the behalf of His Majesty, that nothing in this present order contained, shall be understood to preclude His Royal Highness the Prince Regent, if circumstances shall so require, from restoring, after reasonable notice, the orders of the 7th of January, 1807, and 26th of April, 1809, or any part thereof, to their full effect, or from taking such other measures of retaliation against the enemy, as may appear to His Royal Highness to be just and necessary.

And the right honorable the lords commissioners of His Majesty's treasury, His Majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judge of the high court of admiralty, and the judges of the courts of vice-admiralty, are to take the necessary measures herein as to them may respectively appertain.

(Copy.)

18, Beutinck Street,
June 26th, 1812.

MY LORD,

I have the honor to acknowledge the receipt of the two notes addressed to me, by your Lordship on the 23d of this month, enclosing an order in council issued that day by His Royal Highness the Prince Regent, acting in the name and on the behalf of His Britannic Majesty, for the revocation (on the conditions therein specified) of the orders in council of the 7th of January, 1807, and of the 26th of April, 1809, so far as may regard American vessels and their cargoes, being American property, from the 1st of August next.

In communicating this document to my government, I shall, with much satisfaction, accompany it with the hopes which you state to be entertained by His Royal Highness the Prince Regent, that it may accelerate a good understanding on all points of difference between the two states.

I am the more encouraged to believe that these hopes will not be disappointed from the assurance which your Lordship was pleased to give me, in the conversation of this morning, that, in the opinion of your Lordship, the blockade of the 16th of May, 1806, had been merged in the orders in council, now revoked and extinguished with them; and that no condition contained in the order of the 23d instant, is to be interpreted to restrain the government of the United States from the exercise of its right to exclude British armed vessels from the harbors and waters of the United States, whenever there shall be special and sufficient cause for so doing, or whenever such exclusion shall, from a general policy, be extended to the armed vessels of the enemies of Great Bri-

tain; this assurance I am happy to consider as evidence of a conciliatory spirit which will afford on every other point of difference, an explanation equally frank and satisfactory.

I am, my Lord, with great consideration,
 Your Lordship's most obedient servant,
 (Signed) JONA. RUSSELL.

Mr. Russell to the Secretary of State.

London, 2d July, 1812.

SIR,

I avail myself of the opportunity afforded by the British packet, to transmit to you a copy of a note from Lord Castlereagh, of the 29th ultimo, which I trust will put at rest the blockade of 1806.

I acknowledged the receipt of this note, as you will observe by the enclosed copy of my reply, without a comment.

I did not think it useful to enter into a discussion at this moment, concerning the legality of that blockade, which as no new doctrine appears to be assumed, is made to depend on the fact, the application of an adequate force.

In like manner, I have forborne to notice his Lordship's observations concerning the exclusion from our ports, of British vessels of war. As such exclusion is required to accord with the obligations of strict neutrality only, the conduct and character of the government of the United States furnish security against any question arising on that subject.

I have the honor to be, &c.
 (Signed.) JONA. RUSSELL.

Lord Castlereagh to Mr. Russell.

Foreign Office, June 29, 1812.

Lord Castlereagh has the honor to acknowledge the receipt of Mr. Russell's communication of the 26th instant.

That no mistake may prevail upon the explanation given in conversation by Lord Castlereagh to Mr. Russell, on the two points referred to in Mr. Russell's letter, Lord Castlereagh begs leave to restate to Mr. Russell, with respect to the blockade of May, 1806, that, in point of fact, this particular blockade has been discontinued for a length of time; the general retaliatory blockade of the enemy's ports, established under the orders in council of November, 1807, having rendered the enforcement of it by His Majesty's ships of war no longer necessary, and that his Majesty's government have no intention of recurring to this, or to any other blockades of the enemy's ports, founded upon the ordinary and accustomed principles of maritime law, which were in force previous to the order in council, without a new notice to neutral powers in the usual forms.

With respect to the provision of the order of the 23d instant, which refers to the admission of British ships of war into the harbors and waters of the United States, Lord Castlereagh informs Mr. Russell, that this claim is made in consequence of His Majesty's ships being now excluded, whilst those of the enemy are admitted. It is the partial admission of one of the belligerents of which Great Britain feels herself entitled to complain, as a preference in favor of the enemy, incompatible with the obligations of strict neutrality. Were the exclusion general, the British government would consider such a measure, on the part of America, as mat-

ter of discussion between the two states, but not as an act of partiality of which they had in the first instance a right to complain.

Lord Castlereagh avails himself of this opportunity to renew to Mr. Russell the assurances of his high consideration.



Mr. Russell to Lord Castlereagh.

18, Bentinck Street, 1st July, 1812.

Mr. Russell has the honor to acknowledge the receipt of the note of Lord Castlereagh, dated the 29th ultimo, containing explanations relative to the two points referred to in Mr. Russell's note of the 26th of that month, and will take the earliest opportunity of communicating it to his government.

Mr. Russell begs leave to avail himself of this occasion to repeat to Lord Castlereagh the assurances of his high consideration.