

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES;

WITH

Correspondence between the American Minister and the British Government, concerning the British Colonial Trade, not before communicated.

APRIL 4, 1832.

Read, and ordered to be printed.

WASHINGTON, *April 4th*, 1832.

To the Senate:

I transmit, herewith, a report from the Secretary of State, made in compliance with the resolution of the Senate which requests the President to communicate to the Senate, if not incompatible with the public interest, that portion of the correspondence between Mr. McLane, while minister at London, and the Secretary of State, and, also, between our said minister and the British Government, respecting the colonial trade, which may not have been communicated with his message to Congress of the 3d January, 1831.

ANDREW JACKSON

DEPARTMENT OF STATE,

Washington, April 3, 1832.

The Secretary of State, to whom was referred the resolution of the Senate requesting the President to communicate to the Senate, if not incompatible with the public interest, that portion of the correspondence between Mr. McLane, while minister at London, and the Secretary of State, and, also, between our said minister and the British Government, respecting the colonial trade, which may not have been communicated with his message to Congress of the 3d January, 1831, has the honor to report:

That the annexed copies and extracts contain all the information coming within the scope of the said resolution.

EDW. LIVINGSTON.

To the PRESIDENT of the *United States.*

Mr. McLane	to Mr. Van Buren,	14th Nov.,	1829.	Extract.
Same	to same,	22d "	"	"
Same	to same,	14th Dec.,	"	"
Same	to same,	22d March,	1830.	"
Same	to same,	22d April,	"	"
Same	to same,	13th Nov.,	"	"
Same	to same,	27th "	"	Copy.
Mr. Van Buren	to Mr. McLane,	4th Feb.,	1831.	"
Mr. McLane	to Mr. Van Buren,	16th Dec.,	1830.	"
Same	to Viscount Palmerston,	30th Nov.,	"	"
Same	to Mr. Van Buren,	6th Jan.,	1831.	"
Same	to same,	14th March,	"	"

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No. 5.—Mr. McLane to Mr. Van Buren.

LONDON, November 14, 1829.

The absence of Mr. Vezev Fitzgerald, the President of the Board of Trade, until the 1st instant, deprived me of the opportunity of an interview with him until the 3d and 4th; and the absence from town, and other engagements, of Lord Aberdeen, necessarily postponed any further conversation with him until yesterday. With him I had an interview yesterday, by appointment, and again discussed the subject of the colonial trade, and the objections urged by this Government to any change, for the present, in their colonial regulations.

In addition to what I have already communicated in my former despatches, the principal objections to a renewal of the offer of the trade to the United States upon the terms of the act of Parliament of 1825, or to make any change in the present regulations, appear to be the impracticability of changing their policy at the present period, without any alteration in the state of things in the United States; and it is made a serious ground of complaint that the late administration, failing to embrace the terms offered to the United States in common with other nations, resented a measure occasioned by their own wrong, by a heavy, and, what is here denominated an unparalleled retaliation upon the trade and commerce of Great Britain between their colonies and the United States.

This Government supposes, moreover, that a great portion of the trade with the British West India Islands, now carried on through the neutral entrepots, and all of that passing through the British possessions in North America, is on British account, and by British subjects, who have thus embarked their capital, relying upon their Government to adhere to the terms of the act of 1825, and the order in council consequent thereon. All these objections are allowed to have more weight than they really deserve, and the last is urged by the interest to which it relates, aided by those concerned in navigation, with great zeal and activity, and with considerable influence.

After the fullest and most laborious discussion of all these topics, I am perfectly satisfied that no adjustment of this question, which does not remove or obviate these objections, can be made, at least for the present. Of this, the decided opinions uniformly expressed by each member of the Government with whom I have conducted the negotiation, leaves no doubt. There-

fore, in my last interview with the President of the Board of Trade, and in that with Lord Aberdeen yesterday, I shaped my propositions in such manner as to get rid, as far as possible, of what are absolutely insuperable difficulties to any adjustment whatsoever.

This might be done by reverting to the state of things, so far as respects our colonial regulations, existing at the date of the British act of Parliament of 1825, and doing by legislation now, what ought to have been done then, and which I professed myself willing to recommend to my Government, if I could be assured that such measures would be immediately followed by a revocation of the British order in council, and the extension to the United States of the advantages of the act of Parliament of 1825. To this view of the subject, presented strictly in accordance with the spirit and letter of my instructions, Lord Aberdeen declined giving a final answer until he could submit it to a cabinet council, which was expected to, and indeed did, take place yesterday.

No. 27.—*Mr. McLane to Mr. Van Buren.*

LONDON, November 22, 1830.

I forwarded you by the last despatch, the copy of a schedule of duties proposed by *Mr. Herries*, the late President of the Board of Trade, in relation to their colonial trade. At that time, I had reason to believe that this measure, recommended under the influence of the ministry, would probably pass with little material attention. The recent occurrences, however, have changed these expectations, and I am now inclined to believe, that, if it pass at all, it will previously undergo some very material modifications more favorable to our interests in the colonial trade.

So far as we have a right to interfere, in any way, with the legislation of this Government in its colonial trade, I shall not be insensible either to the spirit of the arrangement recently concluded, or to the general interests of our citizens.

It ought not to escape you, however, that, although until further legislation on this subject by the British Government, the trade will be carried on according to the recent arrangement, yet that, by the act of 7th of George 4, passed subsequently of course to that of 1825, but before the date of the order in council of 27th July, 1826, the free warehousing system, in the northern ports, for American flour, was authorized, and that article might be taken there, in British ships, to the West Indies, at a duty of 1 shilling per barrel. That act was general, and nominally applicable even to those nations who had complied with the conditions of the act of 1825, and was in operation when *Mr. Gallatin* and *Mr. Barbour* renewed their negotiation. How far we can, with propriety, oppose the present bill, under these circumstances, is not entirely clear, even if the interests of our commerce required it. I need only add that the whole subject will command my constant attention.

No. 6.—*Mr. McLane to Mr. Van Buren.*

LONDON, December 14, 1829.

Finding myself unable, in the course of my verbal conferences with this Government, to obtain a definitive answer to the propositions I submitted for an arrangement of the colonial trade, I determined to ask for it by letter,

that I might be able to announce the views of this Government in a more formal manner.

I accordingly addressed a letter to Lord Aberdeen, on the 12th instant, and, having this day received his answer, I have the honor to enclose, herewith, copies both of my letter and his.

No. 11.—*Mr. McLane to Mr. Van Buren.*

LONDON, *March 22, 1830.*

I have the honor to forward, herewith, a copy of my note to Lord Aberdeen, of the 16th instant, requesting the answer of this Government, without longer delay, to my letter of the 12th December last.

In my official depatch, No. 6, of the 14th December, I informed you that, until the decision of this Government should be known, I should continue to enforce the views of the President as often as it might conduce to a favorable result. I have accordingly done so, in repeated conferences with the Duke of Wellington, Lord Aberdeen, and Mr. Herries.

From the general character of my interviews with these ministers, I did not doubt that their desire for delay was compatible with a disposition to reciprocate the liberal views by which the President is actuated. I therefore felt authorized, by your letter of instructions of the 27th December, to acquiesce in it as long as that could be done without risking the adjournment of Congress.

I did not imagine that any hazard would be incurred, if I were enabled to communicate the result by the packet of the 24th instant; and I accordingly, in all my interviews, urged an answer in season for that opportunity. Receiving, in the course of my various conferences, more than one suggestion of the propriety of committing to paper, for the purpose of more ready reference, some of the general considerations connected with the present state of the negotiation, and in reply to the principal objections to a favorable adjustment, I eventually determined to do so, in the form of a note, which should, at the same time, make a last request for the decision of this Government. At the time of presenting this note, I repeated my desire to have the answer before this day; but I regret to add that it has not yet come, and that I shall, consequently, be prevented from forwarding any result whatever before the packet of the 1st April, which may possibly not arrive before Congress rises.

Under these circumstances, my note to Lord Aberdeen will fully inform you of the present state of the negotiation, and the general character of the measures which I have felt it proper, conjecturally, to state, as likely to follow a decision on the part of this Government.

There certainly ought to be no motive with this Government longer to delay their answer, unless that of ultimately assenting to an arrangement; and the United States ought not to lose, for a year, the opportunity of their legislation, in the event of a rejection of their proposition. In this view, I take leave to suggest that it may not, perhaps, be inexpedient, in case the packet of the 1st April should be delayed, to provide for a decision in the recess, by a prospective legislation, authorizing the President, in case of an arrangement, to comply with the terms, on our part, by his proclamation; or, by similar means, to execute the views of Congress in the event of an unfavorable decision.

No. 26.—*Mr. McLane to Mr. Van Buren.*LONDON, *November 13, 1830.*

I informed you by my despatch, number 25, dated the 6th instant, that some attempt would probably be immediately made by this Government, by revising their system of colonial duties, to reconcile their northern provinces to the restoration of the direct trade with the West Indies. I have now the honor to forward a schedule of duties which contains the scheme of the ministers for this purpose, and I look to its final adoption without any material change.

It will be found to be less unfavorable to our trade than I had reason to apprehend at the date of my despatch of the 6th of April last, (No. 15) which was communicated to Congress previously to the passing of the act of the late session, of the 29th May, and perhaps not more unfavorable than, in my despatch of the 20th August, I led you to expect it would be.

The total repeal of the duty upon bread, in every form, and upon the lower qualities of bread stuffs, peas, beans, rye, calavances, oats, barley, rice, and live stock, and the admission of salted provisions at the duty of twelve shillings per cwt., confer important advantages which we have never before enjoyed in the trade; and the augmentation of the duties upon other articles will tend rather to increase the price to the planter, than to diminish the amount of the supply from the United States.

 No. 24.—*Mr. Van Buren to Mr. McLane.*

DEPARTMENT OF STATE,

Washington, November 27, 1830.

SIR: The act of Parliament, of 24th June, 1822, (3 Geo. IV. c. 44,) contained, section third, a provision allowing certain articles therein specified to be imported from the continent of North America, &c., into certain enumerated ports in the British West Indies, in vessels of the country of which such articles are the growth, produce, or manufacture; *provided* no articles should be so imported, “unless shipped and brought *directly* from the country or place of which they are the growth, produce, or manufacture.”

The act of 5th July, 1825, “to regulate the trade of the British possessions abroad,” recites, that, “whereas, by the law of navigation,” (6 Geo. IV., cap. 109, s. 11,) “foreign ships are permitted to import into any of the British possessions abroad, *from the countries to which they belong*, goods, the produce of those countries,” &c., and the law of navigation referred to in the foregoing, section 11, regulating importations in foreign vessels into the British possessions in America, is in the following words: “And be it further enacted, that no goods shall be imported into any British possessions in Asia, Africa, or *America*, in any foreign ships, unless they be ships of the country of which the goods are the produce, and from which the goods are imported.”

The first of the acts mentioned above, viz. that of the 24th June, 1822, is virtually repealed by that of 5th July, 1825, “to regulate the trade of the British possessions abroad;” and importations into the dominions of Great Britain, in foreign vessels, are now regulated by the act last referred to, and the law of navigation above mentioned.

From a careful comparison between the language of the act of 1822, and that of the two acts of 5th July, 1825, a doubt has arisen here, whether it was contemplated by the British Government that the importations into its possessions, in foreign vessels, should be as strictly confined to a *direct voyage*, as the insertion of the word "*directly*" in the act of 1822 would imply; or, whether the entire omission of that, or other words of similar import, in the acts of 1825, indicates such a relaxation in the restriction referred to, as to allow the admission of a foreign ship and her cargo to entry in a British colonial port, although she should, between the port of clearance and that of destination, have touched at a foreign port, or at some other British colony, to land part of her cargo, or for any other purpose not involving a violation of British regulations; or, in other words, whether an American vessel could be permitted to clear from the United States with a cargo destined for two or more British colonial ports.

The less restricted language of the act of 1825, but, more particularly, the obvious spirit of the legislation of Great Britain in relation to her navigation and colonial systems, would appear to favor the more liberal construction of those acts, whose object is more to confine foreign vessels trading with her possessions, to the transportation of their own produce, than to cramp the navigation of other countries by restrictions from which no benefit can accrue to her. Inquiry upon this point has been elicited by the late arrangement of the colonial question, which has made it desirable that the two Governments should understand one another in relation to it.

On reference to the negotiation of Mr. Rush in 1824, you will find that this subject had given rise to some conversation between him and the British plenipotentiaries, not so much on the main point, however, which appears to have been conceded by Great Britain, as respecting the question, whether a vessel of the United States, landing part of her cargo at one colonial port, and proceeding to another with the remainder, would be subjected to the payment of the tonnage duty at more than one of these ports during the same voyage? a question which Mr. Huskisson, at that time President of the Board of Trade, promised to have adjusted upon principles of reciprocity, by placing vessels of the United States in the British West Indies upon the same footing as British vessels in the United States. The enclosed extract from Mr. Rush's despatch, No. 10, to the Secretary of State, dated 12th August, 1824, will make you acquainted with what passed between him and the British plenipotentiaries upon that point.

Under our view of the subject, the two following questions present themselves:

1. Whether a vessel of the United States, clearing from a port of the United States for the British colonies, shall be bound to clear for a particular port in said colonies, and to proceed direct to the port of her destination, without touching at any intermediate place?
2. Whether a vessel of the United States, landing a part of her cargo at a British colonial port, and proceeding with the remainder to another British colonial port, shall be subjected to the payment of other duties than those accruing upon the goods landed at such port; and to the payment of the duty on the tonnage of the vessel, at more than one of the several ports which she may enter in the course of the same voyage?

The anxious desire of the President that as little as possible, of what relates to the subject of the colonial trade, should be left to doubt, surmise, or future discussion, has led to the directions I have received from him to

call your immediate attention to this branch of the subject, with a view that you should ascertain the construction put by the British Government upon the language of their acts in this respect, and enable this Government to answer the numerous inquiries which are, and will probably continue to be, addressed to this department upon the details of the arrangement happily concluded between the two Governments. I forbear from enforcing, by any arguments which will readily occur to you, the propriety of this question receiving a liberal solution from the British Government ministers, whose frank and friendly deportment in the negotiation so satisfactorily terminated, leaves no cause to doubt their disposition to place the matter upon the most advantageous footing to the two countries. You will take an early opportunity to lay the subject informally and confidentially before the Earl of Aberdeen, and apprise this department, as speedily as possible, of his decision upon it.

You will of course understand, that, in the right of our vessels to stop at an intermediate port, or to land portions of their cargoes at different ports, that of exporting any articles from colony to colony, is not intended to be included. It will be seen by the enclosed correspondence between the Secretary of the Treasury and myself, under date of yesterday, that the privilege and exemptions asked for in this regard, are secured to British vessels in the ports of the United States. This circumstance, together with what occurred at London in 1824, as well as the obvious justice of the request, induces us to hope that it will be readily conceded by Great Britain, if it is not already secured by her colonial regulations applicable to other nations. All the information with which you can supply this department, in respect to those regulations, will be acceptable.

I am, with great respect, your obedient servant,

M. VAN BUREN.

No. 27.—*Mr. Van Buren to Mr. McLane.*

DEPARTMENT OF STATE,

Washington, 4th February, 1831.

SIR: Your despatch, No. 28, with a copy of your note, of the 30th November, to Lord Palmerston, was received, on the 2d instant, at this department, and submitted to the President. He has directed me to express to you his approval of the ground taken by you in that note with regard to the bill introduced into the British Parliament by Mr. Herries, proposing a new schedule of duties upon importations of foreign produce into the British West India Islands, and the satisfaction he has derived from the very able manner in which you have presented, to Lord Palmerston, the views of your Government upon that subject. It is his desire that you should continue to occupy the position thus assumed, and to prosecute, by all the means which circumstances will render expedient and proper, your opposition, to the adoption of the objectionable principle upon which the bill referred to is predicated.

In doing this, however, you will be careful not expressly to commit this Government as to the course the President may feel it his duty to pursue in order to protect the interests of the United States against the effects of the proposed measure, in case it should be persevered in.

Your communication to the British Minister so completely embraces the subject in all its parts, as to leave but little, if any thing, to be added in the shape of argument. I therefore will content myself, for the present at least, with referring to a circumstance which, in the examination of this extended and complicated matter, may have escaped your attention, or, of the knowledge of which you may not be possessed, although I am under the impression that the evidence of it is to be found in the archives of the legation. It is the unqualified concession by Great Britain, in the negotiation of 1818, of the principle now contended for by you, as you will perceive from the protocols of the 3d and 8th conferences between the British and American plenipotentiaries, in that year, which you will find in the pamphlet herewith transmitted to you, and from which it appears that this point was then a matter of perfect accord between the two Governments, and, in fact, almost the only one on which they agreed. You will easily be able to make the British Government sensible of the influence which this circumstance is calculated to exercise over your present discussions, as well in establishing the justice of what we now insist upon, as in affording ground for the expectation, on our part, that no principle conflicting with our claim, in this respect, would again be set up by Great Britain after the recent arrangement of this subject of protracted negotiation.

I am, with great respect, your obedient servant,

M. VAN BUREN.

No. 28.—*Mr. McLane to Mr. Van Buren.*

LONDON, *December 16th, 1830.*

SIR: I have already informed you of the measure introduced into the House of Commons by the late President of the Board of Trade, relating to certain impost duties in the British American colonies, and of my intention to remonstrate against its adoption as inconsistent with the arrangement recently concluded with this Government. I have the honor, herewith, to forward a copy of the bill and schedule as introduced by Mr. Herries, and also a copy of the note which I addressed to Lord Palmerston on the subject, which letter will satisfactorily explain the grounds of my objection to the proposed measure. I have not received a written answer to this note, but have understood both from Lord Palmerston and the President of the Board of Trade, and officially from the former, that the proposed measure will not be insisted upon, but will be withdrawn; and I am in daily expectation of receiving a formal note to that effect. A substitute will be introduced, however, on the reassembling of Parliament, which will take place between the 10th and 20th February, and will be framed with a view to foster those interests in the British northern possessions which have arisen during the late restricted intercourse.

I am unable now to say what the precise character of the substitute will be.

The Board of Trade, so far as their sentiments may be inferred from the interviews I have had with the President, do not appear to attach the same importance that I do to the agreement contained in Lord Aberdeen's letter,

but rather insist upon treating the act of 5th July, 1825, and consequently all arrangements connected with it, as a part of a general system of legislation regarding the commercial and navigating interests of the country, and liable to such modifications as those interests may occasionally require.

Independently, however, of the question of strict right, the President of the Board of Trade, Lord Oakland, professes a disposition to view the subject with a liberal eye, involving considerations of national amity, and to frame the substitute in such a manner as to place the commerce of the two countries upon a permanent footing, and as nearly reciprocal as the peculiar circumstances of the case will permit.

I do not consider that my instructions give me any power to negotiate respecting a scale of duties which the Government may be disposed to adopt. My instructions on this subject were at an end when the arrangement which they authorized was concluded; and the objects of my interference since, have been, to preserve inviolate the terms of that arrangement, to avoid the necessity of a recurrence to countervailing legislation, and, in any event, to leave the action of my own Government free; so that if future proceedings on its part should be provoked by new legislation on the part of this Government, we may stand fair before our own countrymen and the world, in the measures to which it may be found necessary to resort.

It is impossible to view the letter of Lord Aberdeen in any other light than in that of an agreement, upon the issuing of the President's proclamation, to revert to the colonial system as definitively established by the act of the 5th July, 1825, and to restore to us the advantages of that system. It is equally clear that, in liberal national faith, there ought to be no departure from that agreement. But it is not to be concealed that the system of 1825, has been undergoing repeated alterations, even as to those nations who had seasonably complied with its terms. And that there are now existing acts of Parliament, passed in 1826, 1827 and 1829, conferring advantages on the indirect trade, which was not contemplated by the act 5th July, 1825.

The act of 1826, (the act of 7 George IV.) was in operation, as I have heretofore informed you, at the date of Mr. Gallatin's proposition, and he certainly did not understand that his proposition would have authorized us to demand its refusal. For the present, however, our object is attained, and the same opportunity will be afforded, which I shall not neglect, of discussing any subsequent bill which may be introduced. In the mean time, the trade will be enjoyed by both nations under the arrangement already executed, and the check, on which we have always relied, that of mutual legislation, will remain.

It is not to be supposed that the recent bill has been withdrawn with any other motive than to substitute a measure of greater reciprocity, and more likely to prove permanently satisfactory.

Mr. McLane to Viscount Palmerston.

9, CHANDOS ST. PORTLAND PLACE,

November 30, 1830.

It is not without unfeigned regret that the undersigned, Envoy Extraordinary and Minister Plenipotentiary of the United States, finds himself constrained, by circumstances, to invite the attention of Viscount Palmerston, his Majesty's Principal Secretary of State for Foreign Affairs, to the arrange-

ment recently concluded with his Majesty's Government for the restoration to the United States of the direct trade with the British West Indies.

It is not unknown to Lord Palmerston, that the difficulties, so happily adjusted by this arrangement, had been, for many years, a source of unpleasant controversies between the two Governments, and that each viewed, with satisfaction, an opportunity of finally extinguishing them. That the Government of the United States has been sincerely actuated by such feelings, and that it will continue to be actuated by them in its future legislation, the undersigned is thoroughly convinced; but it is with pain and surprise he perceives that the measure recently introduced into the House of Commons, imposing certain import duties in the American colonies, is incompatible with such views, and repugnant to the fair and liberal spirit of the before mentioned arrangement.

In fact, it would appear that the bill, in its present form, is calculated, if it be not so intended, virtually to revive, by a scale of discriminating duties, in lieu of positive interdiction, the same system of restricted and indirect trade which each Government, by the arrangement recently concluded, professed to abolish. Viewing it in this light, the undersigned early signified, by letter, to his Majesty's late Secretary of State for Foreign Affairs, his disapprobation of the measure, and his intention earnestly to remonstrate against its adoption.

Occurrences having withdrawn that distinguished personage from his Majesty's service before such intention could be executed, the undersigned has been induced to defer all formal communication on the subject until the new organization of his Majesty's Government shall be completely adjusted.

It is not the intention of the undersigned to revive any part of the discussion which led to the arrangement now in execution by both Governments. Nor is it material to inquire into the propriety of any measures of legislation which Great Britain might have meditated previously to the arrangement, or whether she might have withheld the privileges now conceded, consistently with a liberal justice towards the United States. However the case may have stood previously, now that the arrangement has been actually assented to, the known probity of his Majesty's Government may be confidently appealed to for its faithful execution, and for the discouragement of any attempt, by indirect means, to affect its provisions on a point that, in fairness, could not be directly attempted.

It may not be altogether unnecessary to remark, however, that the concession involved in this arrangement, on the part of Great Britain, was not gratuitous. It was, on the contrary, made for those equivalents which she herself asked as beneficial to her colonial and navigating interests, in her great adjustment of these interests in 1825, nor were those privileges conceded to the United States until all those equivalents were fully and actually accorded.

This subject is, therefore, now presented to his Majesty's Government for the fair and just execution of an agreement, not for an inquiry into its practical operation. In this sense alone the undersigned desires, at present, to be understood. However, in practice, this arrangement may affect the trade of the United States, he is satisfied with its conditions. He is content, for the present, to leave speculations of commercial gain to those who may practically engage in the trade, being convinced that experience will show the fallacy of those jealous and interested calculations which have impeded the operations of either Government, and the solid and enduring ad-

vantages which must result to both nations from commercial intercourse based on the fair foundation of reciprocal benefit and mutual good will.

The proposition of the undersigned, which led to that arrangement, asked for a participation in the advantages of the direct intercourse as offered by the act of Parliament of the 5th July, 1825, in the hope thereby to remove all previous restrictions upon that intercourse. Although this proposition was submitted by the undersigned, in writing, as early as the 12th day of December, it was not formally assented to by his Majesty's Government until the 17th of August last. In the interim, the Congress of the United States, at their last session, passed an act authorizing the President of the United States, by his proclamation in the recess, to rescind all the restrictive laws of the United States, so far as that might be necessary to comply with the expectations of Great Britain in the negotiations then pending. They also passed sundry laws reducing the duties upon many important articles of West India produce upon their importation into the United States.

These acts were communicated, by the undersigned, to the Earl of Aberdeen, by a note dated the 18th day of July, and, on the 17th day of August, the final determination of his Majesty's Government was announced. In communicating that determination, the Earl of Aberdeen enumerated several points in which the act of Congress of the United States might be susceptible of an interpretation inconsistent with the proposition originally submitted by the undersigned, and suggested the construction which that law ought properly to receive. After reciting the proposition, the Earl of Aberdeen in conclusion, remarked: "It only remains, therefore, for the undersigned to assure Mr. McLane that if the President of the United States shall determine to give effect to the act of Congress, in conformity with the construction put upon its provisions both by Mr. McLane and the undersigned, all difficulty on the part of Great Britain, in the way of a renewal of the intercourse between the United States and the West Indies, according to the foregoing proposition made by Mr. McLane, will thereby be removed."

On the receipt of this communication, the President of the United States, viewing it naturally in the light of an engagement by his Majesty's Government, and actuated by a spirit of the highest liberality, determined to give effect to the act of Congress, in complete and unreserved conformity with the construction put upon its provisions by the Earl of Aberdeen, and immediately issued his proclamation.

In consequence of that act, the vessels of Great Britain have, since the 5th day of October last, been in the complete enjoyment of the direct intercourse between the United States and the British West Indies, according to the requisitions of the act of Parliament of the 5th July, 1825.

This prompt proceeding on the part of the President of the United States, being communicated by the undersigned to the Earl of Aberdeen, was immediately responded to by the order in council of the 5th November, intended by his Majesty's Government as the execution of their part of the arrangement. But the proposition of the United States, submitted by the undersigned, did not ask merely for a revocation of the order in council of the 27th July, 1826, and the abolition or suspension of all discriminating duties upon American vessels in the British colonial ports; "it required, also," the enjoyment, by the United States, of the advantages of the act of 5th July, 1825; and the Earl of Aberdeen, in his letter to the undersigned, wherein he engaged that, on the issuing of the President's proclamation, the intercourse between the United States and Great Britain should be renewed,

according to the proposition necessarily included in that engagement, the enjoyment of those advantages, fully and without reserve.

This act, therefore, was in this manner recognized as the basis, at once, of the policy of Great Britain in the direct intercourse permitted with her colonies, and of the arrangement opening that intercourse to the United States.

If this could in anywise have been considered equivocal, it would be made altogether certain by the explanatory statement of the late President of the Board of Trade when introducing the bill to the notice of the House. On that occasion, with no less force than accuracy, he remarked, "the act to take into consideration, of which the House has resolved itself into committee, is that which relates to foreign trade with the British West India Islands, and a system of regulations *founded on the principles adopted by the British Government in the year 1825.*"

"In order to explain satisfactorily to the committee my reason for proposing the changes in the schedule to which I have adverted, it is necessary only for me to say that the event so long looked for on this subject, is at length finally concluded between the United States and the British Government. I have the gratification of being able to state that a topic of discussion between the two nations, which has occupied the longest time, and was of the most intricate character of any within my memory, and which has been subject to many variations of pretension on both sides, has now been amicably, and I trust forever terminated, to the satisfaction of both parties. Further I have to inform the committee that *the adjustment has taken place on the basis, and without the slightest departure from that basis, of the act of 1825, which laid down definitely the principles on which Great Britain would allow to foreigners a participation in the trade of her West India possessions.* It is scarcely necessary for me to add, that the American Government have withdrawn all their pretensions, and have rescinded their act of 1822, which declared that the circuitous route should still be adhered to, *and that England now stands on that footing which she announced, in 1825, as the one which she would maintain.*"

Whether we consider the provision of the act of 1825, thus referred to, or the exposition given of it, at the time, by the late Mr. Huskisson, its principles and spirit are intelligible and explicit. It was intended, thereby, to benefit the West India Islands, by extending the market for their productions, and by procuring for them such foreign supplies as their necessities required, through the means of an unrestricted and direct intercourse with foreign ports. It moreover authorized foreign vessels to engage freely in that intercourse, with the simple limitation of subjecting (in the language of the late Mr. Huskisson) foreign goods, imported into the colonies, to *such moderate duties* as might be found sufficient for the *fair protection of British productions of a like nature.* The attainment of these objects, however, depended upon the reciprocity of foreign nations, who were, therefore, invited to a co-operation by the provisions of the law.

From this circumstance, as well as from the limitation in the last section of the act, of the right of amending, altering, or repealing, to the then session of Parliament, it might have been reasonably inferred that the considerations held out to those nations, who should accede to the specified terms, would partake more of the character of compact, and be more durable, than in cases of ordinary legislation.

Pursuant to such principles and objects, the act wisely abstained from es-

tablishing, or encouraging, any indirect trade that might come in rivalry of the direct intercourse, and thereby weaken its advantages, or deter other nations from embracing its provisions. Certainly, the consideration that dictates this precaution could lose none of its force, when applied to a nation that might subsequently be admitted, by positive arrangement, to the same advantages. Consistently with these views, that act made a discrimination for the protection of *British productions*, by admitting their importation both into the northern colonies and the West Indies, and from one to the other, free of duty, while it imposed a duty, of some extent, upon those of the United States; with equal consistency it established a system of warehousing in the ports of *Kingston*, in the island of *Jamaca*, *Halifax*, in *Nova Scotia*, *Quebec*, in *Canada*, *St. Johns*, in *New Brunswick*, and *Bridgetown*, in the island of *Barbadoes*. In this way, the act placed the southern and northern colonies upon an equality in the warehousing system, and did not, thereby, exempt the produce of other countries from duty, if taken through the warehousing ports; but imposed the same degree of discrimination, whether imported in a British vessel indirectly through the warehousing ports, or directly from the ports of the foreign country where it was produced.

It is obvious that this was the only substantial equivalent yielded to foreign countries, but especially to the United States, in return for their abolishing all discriminating duties of British vessels and their cargoes, and for placing those vessels on a footing with their own in the direct intercourse between their ports and those of the northern and southern colonies.

It was, moreover, indispensably necessary, effectually, to preserve to the United States the fair advantages, and an equal share, of such intercourse with the British West Indies. It is equally obvious that the duties prescribed by the "*schedule*" attached to the act of Parliament of 1825, was not designed either to counteract or impair the direct trade, or to give any preference to the British navigation; but, in the language of Mr. Huskisson, "*for the protection of British productions in preference to foreign produce of a similar kind.*"

To a reasonable scale of duties, calculated, *bone fide*, to attain that object, the undersigned has neither the right nor the disposition now to object. Neither could he be capable of now opposing the right or propriety of increasing the rate of duties on the schedule attached to the act of 1825, for a similar purpose.

The right of imposing the protecting duty in the schedule of 1825, he frankly conceded throughout the late negotiation. Nor was this right merely conceded by him, but the intention of exercising it, to a greater extent at some proper time, was fairly reserved in the note of Lord Aberdeen, of the 17th August. In that note, the late Secretary for Foreign Affairs, observed, that his Majesty's Government had already had under their consideration, the expediency of introducing some modifications into the schedule of duties attached to the act of Parliament of 1825, with a view, more effectually, to support the interests of the British northern American colonies."

While, however, the undersigned would neither oppose nor avoid this reservation, he would expect that the modifications should be fairly confined to the objects and the original import of that *schedule*, and reasonably reconcilable with the main stipulation on the part of the United States, agreed to by his Majesty's Government, that the former are to be admitted to the full enjoyment of *the advantages of the act of 5th July, 1825*. He feels

persuaded that neither the late Secretary of State for Foreign Affairs, nor any succeeding minister of his Majesty's Government, would assert, upon the strength of the beforementioned concession and reservation, the right or propriety of modifying a schedule, intended for the protection of the British productions, in such manner as not merely to leave them without protection, but absolutely to check and discourage them by the competition of large supplies of similar productions of foreign growth, forced through the indirect channels of the northern ports, to the destruction of the direct trade.

That such, however, will be the operation of the bill recently brought before the House, is but too certain. The principal supplies from the United States to the British West Indies, consist of shingles, staves, headings, wood, hoops, white, yellow, and pitch pine, lumber, and wheat, and wheaten flour. While, by the present bill, the duty on all of those articles, especially flour, is considerably augmented when imported into the *southern colonies*; by the direct intercourse, their importation into the *northern colonies* is admitted free of duty, and from thence into the southern colonies upon the same terms. At the same time, also, that it augments the duty on flour in the direct trade, it authorizes that article to be warehoused in the freeports, without payment of duty, for exportation to the southern colonies: It moreover confines the right of warehousing to the northern ports, only, whereas, by the act of 1825, that right was extended equally to the ports in the northern and southern colonies. It is plain, therefore, that, in this respect, at least, it can have no other object than to raise up an indirect trade through these northern ports.

From these facts, it is obvious that this bill does not aim to protect, by moderate, or even high duties, British productions, or to give a preference to the supply from British possessions of their own produce over that from other countries; on the contrary, it clearly concedes the necessity of the foreign supplies, but provides the means of receiving them through an indirect, rather than a direct trade. While the arrangement, therefore, proposes to restore the advantages of the direct intercourse, the bill, by a premium on the one hand, and a prohibitory duty on the other, renders the direct intercourse nominal merely, and forces the foreign supply through the same indirect channels from which both Governments had designed to extricate it.

In lieu of the positive interdict by the order in council now revoked, there will be substituted by this bill a system of discriminating duties, equally effectual in depriving the American navigation of the transportation of American produce, and equally oppressive to the West India consumer, on whom must eventually fall the burthen of the additional duties, and the expense of the circuitous importation thus established and perpetuated. It may not be necessary for the undersigned to inquire whether the amount of duty be adequate to the effect thus apprehended, since that inquiry cannot, in his opinion, be material. If inadequate, it must operate as a most unnecessary burthen upon the West India consumer, and ought, for that reason, to be avoided. It must be obvious, however, that the discriminating duty of fifty per cent., which is, in most instances, provided by this bill, is more than sufficient to cover the expense and charges, even for a double voyage, unloading, warehousing, and relading, whereby it not merely deprives the West India planter of all the benefit intended for him by the act of 1825, but effectually supersedes the direct intercourse.

However this may be, if it be allowable for Great Britain, by such means, to counteract at will the fair advantages of the direct trade, the insufficiency of the present measure may soon be remedied by still higher duties, and the direct intercourse thereby entirely destroyed. It is, therefore, the mode, rather than the amount, of this discriminating impost, to which the objection applies.

That such an interference with the direct intercourse could not be permitted, consistently with the provisions of the act of 1825, the undersigned considers too clear for argument. The provisions both of that act, and of the schedule attached to it, prevented indirect trade; and it could not have been authorized until their regulations had been repealed, or their spirit entirely changed. As long as Great Britain thought proper to leave the direct trade open, or saw any prospect of inviting the participation of other countries in such intercourse, she neither contemplated nor desired any such change; and it would appear to the undersigned equally clear, that she ought not now to make the change to the detriment of a nation to whom she had formerly agreed to yield the advantages of that act.

The undersigned is, nevertheless, aware that the act of 7th George IV. passed the 26th May, 1826, but which was to take effect from and after the 5th July, 1825, authorized the article of *flour*, only, to be warehoused in the warehousing ports in the British possession, in North America, and to be thence exported to the southern colonies, subject to a duty of *one shilling per barrel*. This, however, was no "*modification of the schedule*," but a repeal, *pro tanto*, of the act of July, 1825; and was done, not for any regulation of the direct intercourse, which was soon to be prohibited, but in contemplation of the order in council, which must have been already determined upon. Notwithstanding that the operation of the act of 7th George IV. was to commence on the 5th July, 1826, and the British order in council, issued on the 27th of the same month, the former was, in fact, but the corollary, or consequence of the latter. It was distinctly avowed by the late Mr. Canning, in his correspondence with Mr. Gallatin, that, in point of fact, "the United States had enjoyed the benefit of the act of 1825 by the unauthorized acts of the British authorities abroad, twelve months longer than they should have done, and that the British Government permitted the continuance mainly in consideration of certain proceedings in the Legislature of the United States;" and he also affirmed that "immediately after the session of the Congress of the United States, which terminated on the 9th May, 1826, Mr. Vaughan was instructed to announce the intention of his Majesty's Government to pass the order in council of July, 1826."

It would appear from this, not merely that Great Britain had determined previously to the passing of the act of 7th George IV. to issue the order in council of July, 1826, but that, in fact, by the provisions of the act of the 5th July, 1825, itself, the direct intercourse had been legally terminated. It was, doubtless, foreseen that, upon such termination of the direct intercourse, the American supplies, suited to the wants of the British West Indies, would seek that market, either through the foreign islands with which the trade was open by the act of 1825, or by the way of the British northern possessions.

The act of the 7th Geo. IV. was, therefore, plainly intended, by the facilities then afforded, to secure the preference, in such indirect trade, at the northern ports; and that these facilities should be contemporaneous with the opening of the trade, it naturally preceded, in point of time, the order in council

establishing such indirect intercourse. That such an act would not have been passed but in contemplation of this state of things, must be clear, since, upon any other supposition, it would have deterred the United States from a compliance with the conditions demanded by Great Britain herself, or would have rewarded their compliance with the loss of the only advantage for which it was yielded.

The limitation of the privilege of warehousing, by the act of 7th Geo. IV. to the article of *flour* merely, does, of itself, show that it was intended to apply, as in fact it did, exclusively, to the produce of the United States in the indirect trade, and in no respect to the direct intercourse enjoyed by other powers who had acceded to the terms of the act of 5th July, 1825.

This section of the act of 7th Geo. IV. therefore, was designed merely to make provision for that state of commercial hostility about to be resumed between the two nations, and to force the supply of American flour to the West Indies through the northern possessions, but under circumstances that would necessarily burthen the West Indian with the expenses of a circuitous route. It was not to change a system of direct intercourse, if that could have been established and engaged in by other nations, and by the United States, particularly, upon equal terms, but to procure the most advantageous regulations for the northern colonies in a system of indirect trade which was then considered unavoidable.

In this view, therefore, when, by the arrangement recently concluded by the undersigned, a state of commercial amity and reciprocity is to take the place of former conflicting relations, and the restoration of the direct intercourse to be effected, it becomes necessary, for the full attainment of those ends, that the provisions of the act of 7th Geo. IV., should fall with the system to which it was appropriated. The object of the order in council of 27th July, 1826, and of the act of 7th George IV., were identical. They operated to produce the same state of embarrassment, and, any agreement to repeal the one, ought necessarily to involve the repeal of the other. The disadvantages of the indirect intercourse, as regulated by the act of the 7th Geo. IV., by which the produce of the United States, necessary to the supply of the West India Islands, was forced through the northern provinces to the injury of the United States and of the planter, make no less a part of complaint than the order in council; and the object of the negotiation, on the part of the United States, has uniformly been to obviate the evils of both, and to recover the advantages of the trade as regulated by the act of 1825.

The proposition submitted by the undersigned, and his predecessor subsequently to the act of 1825, asked for the advantages of that act, not as amended with a view to an indirect intercourse, but as it originally stood for the regulation of the direct intercourse.

It should always be borne in mind, that, in the indirect trade, as regulated by the act of 7th, Geo. IV., and by the laws of the United States then in force, American vessels enjoyed the exclusive carrying of American produce to the foreign islands, and to the northern provinces, in which British vessels could not participate. The uniform object of Great Britain has been to remove the alien duties, and discriminating countervailing regulations of the United States, so that the vessels of both countries might participate equally in the direct intercourse; and the United States agreed to allow such participation in that carrying trade, if they should therefor receive, as an equivalent, the advantages of the act of 1825. Now, by the execution of this arrangement on the part of the United States, Great Britain is in the enjoy-

ment of the privileges she demanded, while, by the bill as reported, the United States will be deprived of the only consideration for which she conceded them.

If, independently of the reservation in the letter of the Earl of Aberdeen, the act Geo. IV. would not authorize the present bill, it is believed that it can derive no aid from that source. That reservation, without having the slightest allusion, is wholly inapplicable to the act of 7th Geo. IV. and relates, exclusively, to the "*modification of duties in the schedule attached to the act of 1825.*" The late President of the Board of Trade, in his remarks introducing the bill to the House, makes no reference to the act of 7th Geo. IV., but professes merely to amend the before mentioned schedule. That "*schedule*" neither authorized the system of *free warehousing*, unknown to the act to which it was the appendage, nor professed to do more than accomplish and follow out, in detail, the expressed objects of that act. It may be insisted, without the fear of contradiction, that the act of 1825, neither gave, nor affected to give, any preference to the northern over the southern colonies, or the slightest advantage to the transportation of *American produce* coastwise, from one colony to the other, that it did not enjoy in the direct intercourse; and the "*schedule*" could not, without some positive enactment, have done so.

It is true that, early in the history of the contests between the two countries in relation to this trade, the United States demanded that the produce of the *British colonies*, carried coastwise, should pay the same duties as American produce in the direct transportation; but that pretension, which for some time was an obstacle in the way of an adjustment, was afterwards abandoned, and has never since been insisted upon. It is also true, and it is not less important to the history than to the correct understanding of this subject, that Great Britain, in 1818, attempted, partially, to renew the trade which had remained suspended since the war of 1813. An act of Parliament was passed on the 8th of May, of that year, opening the ports of Halifax and St. Johns to the vessels of the United States, for the importation of certain enumerated articles suited to the West Indies. By this act, and the order in council issued immediately thereupon, Great Britain proposed to counteract the previous legislation of the United States, and to lead to some relaxation of the trade. But it was suspected that she thereby intended, also, to force the supplies for the West Indies through those places of deposite. Being looked upon as invidious; therefore, these acts were, not submitted to by the United States, and the system of restriction and retaliation was continued, with serious injury to both nations.

In the act of Parliament, however, of the 24th June, 1822, proposing to obviate all past difficulties, the right and expediency of imposing an higher discriminating duty on United States' produce, when taken direct, than when carried from one colony to the other, was positively given up and prohibited; and, therefore, although that act imposed a duty on American produce for the protection of *British productions* of similar kind, it nevertheless imposed the same duty on the former, whether taken directly to the West Indies, or circuitously through the northern ports. From that period, a contrary pretension, if it had ever seriously been maintained, was entirely relinquished, and was even more effectually disclaimed by the subsequent act of 5th July, 1825. By the policy fairly avowed in these acts, Great Britain insisted only on the following rights:

1st. To impose discriminating duties in favor of *British produce.*

2d. To limit the right of trading in vessels and produce of the United States to the direct intercourse from the United States to and from the colonies, and from the colonies to the ports in Europe, other than those of the United Kingdom.

3d. The right of British vessels to participate in the direct trade, and also in the circuitous trade through the colonies to and from European ports, including the ports of the United Kingdom.

After the passing of these acts, these, and the existing alien duties of the respective countries, comprehended all the points of difference; and, being mutually conceded and adjusted by the arrangement concluded, could not be revived without a violation of the only basis upon which the arrangement can be reasonably placed.

The act of 7th George IV., therefore, attempted, for the first time; to revive the pretensions of the partial law of 1818, by giving the advantage to the transportation of flour coastwise, and limited the warehousing ports to the northern colonies; and then, because the direct transportation of that article, as has been observed, was, in fact, on the point of being prohibited, it ought, therefore, in the opinion of the undersigned, to be fairly conceded, that the act of the 7th George IV. is at variance, not less with the positive terms, than the spirit of the arrangement recently concluded between the United States and Great Britain, which should be permitted to rest exclusively upon the act of 5th July, 1825.

The undersigned has heard it suggested, however, that the act of the 7th George IV. being in operation previously to the order in council of 27th July, 1826, and at the date of the arrangement, must, for that reason, be considered as incorporated with the act of 5th July, 1825, and the United States entitled to those advantages only, which the original and supplementary acts, taken together, confer. The undersigned confidently persuades himself that this suggestion will meet with no countenance from his Majesty's Government. Great Britain has, at no time, proposed to other nations the terms of the act of 7th George IV. as the consideration of that reciprocity in the direct trade which she invited from them; for the plain reason, that such terms would have had no reciprocal character whatever, and she was, therefore, both too wise and too just to offer them.

If, previously to the act of 7th George IV., there had existed a treaty, or any other arrangement involving the good faith, or even the liberal dealing between the two nations, formed upon the basis of the act of July 5th, 1825, it will not be pretended that an act in contradiction both to the terms and spirit of that basis could have controlled it. That the act was previously passed, does not weaken the position, if it be, in no respect, referred to in the arrangement, and be equally repugnant to the basis on which both parties clearly and explicitly placed it. An act passed subsequently to another, and essentially altering its principles, cannot properly be incorporated with it. It stands in opposition thereto, and must exist independently, and, instead of mixing with its precursor, must itself fall, when by new legislation or conventional arrangement of equal force, the principle of the prior act shall be revived. The undersigned confidently submits to Lord Palmerston, that the plain and real spirit of the whole arrangement recently concluded, was the deliberate assent by Great Britain, to revert to her system of colonial policy, as definitively regulated by the act of 5th July, 1825, and to admit the United States to participate in that policy upon the terms expressly stipulated. On the clear deduction which follows from such premises, the undersigned needs no longer dwell.

But even such a supposition, objectionable as it has been shown, and wide as it would depart from the express terms of the arrangement, would not authorize the present bill, which threatens to take away from the direct trade the advantages conferred by the act of 7th George IV.

An alteration in the "*schedule*" of duties, as it stood at the date of the arrangement for the protection of British productions, may not furnish a ground of complaint, since it is consistent with the privileges of supplying *American* produce in a *direct trade*, which any undue favor shown to the indirect trade would not be. But the undersigned takes leave to maintain, that, where, by an arrangement between the two Governments, the advantages of a particular course of trade are conceded, those advantages, by whatsoever law they should be ascertained, cannot be taken away or varied by subsequent regulations. Therefore, as the United States negotiated for the stipulated permission to supply their produce by a direct intercourse, and as such stipulation was granted, if they must be held to the advantages only as regulated by two acts dissimilar in their objects and provisions, they are entitled, unquestionably, to those advantages without further modification.

In this view of the subject, the alteration proposed by the present bill, involves principles, rather than amount; and, for that reason, should not be attempted. By the act of 7th George IV., *American flour* was liable, on its importation directly from the United States into the *British northern* and *southern* colonies, to a duty of five shillings per barrel; and, if warehoused in the northern ports, and thence exported to the southern colonies, to a duty of one shilling; but this little privilege was confined to flour only, and this in a limited extent. By the present bill, however, not merely the duty on the direct importation of flour from the United States to the southern islands, is increased to six shillings, but the indirect importation, through the warehousing ports, is authorized duty free, and a similar system of discrimination and encouragement is extended to lumber and most other articles. That there are unexampled and most material facilities to the indirect, to the prejudice, if not the total subversion, of the direct intercourse, and to an extent not intended even by the act of 7th Geo. IV., must be apparent. Little could they have been contemplated by the United States: and if they may be carried to such a degree, according to the fair spirit of the arrangement, it is not perceived why they may not be carried so far as to interdict the direct intercourse, as effectually by a system of discriminating duties, as by the positive, and more open interdict of the order in council. There is, as has been shown, every reason to apprehend that such would virtually be the effect of this bill; and it may be here repeated that, if such be not the operation it must end in defeating another great object of the arrangement, more immediately concerning the interests of Great Britain herself, by obliging the West India planter to pay at least fifty per cent. more for his supplies. Such an apprehension derives the more force when it is considered that the bill, being unlimited as to time, cannot be considered as a gradual change of those interests which had incidentally arisen during a period of interdicted trade, but rather as a permanent system, giving them new life and energy.

If, therefore, the undersigned has succeeded in showing, as he hopes he has, that the present bill virtually destroys the fair advantages of the direct intercourse between the United States and the British West Indies, contemplated in the recent arrangement, he might confidently submit the subject,

without farther observation, to the justice and good faith of his Majesty's Government.

There are, however, some other considerations connected with this measure, which are too important in their aim and bearing to be passed over in silence: of these, the fact that will call for the attention of Lord Palmerston, is the revival, in another form, and the perpetuation which it ensures, of the same invidious operation against the trade of the United States, which formed so just a ground of complaint under the order in council so recently revoked. Although this measure is apparently general, and nominally embraces all foreign nations, yet its provisions, practically, operate, if they be not intended so to do, exclusively to the detriment of the trade of the United States.

It cannot be denied, that the articles of wheat, flour and lumber, which it is the principal object of the bill to divert from the direct to the indirect intercourse, are those for which, so far as foreign powers are concerned, the British West Indies rely chiefly, if not entirely, upon the United States.

Proceeding upon these facts, the obvious policy and intention of the bill are to invite such produce from those of the United States in more immediate proximity with British northern possessions, without any idea, most certainly, that any European supply can go in that way. Such a measure is not the less offensive in effecting so serious and exclusive an operation by means of an equality merely nominal.

On any other supposition, it would be considered as affording fresh ground to lament that, though, for substantial considerations, the direct trade has been nominally restored, the desire of excluding the United States from the fair advantages of such trade, was sufficient to induce a measure involving other nations in a common exclusion; and that, too, before any estimation could be formed, from experience, of the effects upon British colonial interests of the arrangement so recently concluded, and now in a fair course of experiment.

The undersigned prays leave once more to repeat, that his urgency upon this subject is, comparatively, but little influenced by the consideration of commercial advantage; to which, if he has referred in some detail, it has been more for the purpose of illustrating the effect of the bill, than pertinaciously to dwell on the amount. He proceeds upon a thorough persuasion of the disappointment such a measure must produce in the minds of his Government, and of the people of the United States; and an unfeigned apprehension of the consequences of such disappointment, and the mischievous effect must be produced by so early and unreasonable an attempt to take away, by indirect means, those advantages which have been so recently conceded to them.

In the same spirit, he may remark, that such a measure, coming in such a shape, and aiming at such purposes, following so hastily upon an arrangement by which both nations hoped to extinguish ancient jealousies, and to place their intercourse upon a foundation of mutual amity, meeting measures of voluntary relaxation on the part of the United States in their scale of duties on West India produce, must be too well calculated to revive the same system of countervailing and retaliatory legislation, which both Governments have heretofore deplored, and recently resolved to abrogate.

The undersigned must persuade himself, however, that the present bill has been framed without due attention to its real import and effect, rather than with a deliberate view of, in any manner, evading the terms and spirit.

of the arrangement recently concluded. But under no circumstances can he doubt that he is yet in season to invite a revision of the bill, and that liberal and impartial examination of its provisions, in connexion with the whole subject, which will lead to its entire relinquishment.

The undersigned takes this occasion to offer to Viscount Palmerston the assurances of his highest respect and consideration.

LOUIS McLANE.

No. 30.—*Mr. McLane to Mr. Van Buren.*

LONDON, *January 6th, 1831.*

SIR: I received, but not in time for a reply, by the last packet, your despatch of the 27th November, stating the doubt which has arisen with our Government, whether, under the act of Parliament of 5th July, 1825, and the other British colonial regulations, "an American vessel could be permitted to clear from the United States with a cargo destined for two or more British colonial ports."

In the same despatch you state that, under your view of the subject, the following questions present themselves:

1. Whether a vessel of the United States clearing from a port of the United States for the British colonies, should be bound to clear for a particular port in the said colonies, and to proceed direct to the port of her destination, without touching at any intermediate place.

2. Whether a vessel of the United States landing a part of her cargo at a British colonial port, and proceeding with the remainder to another British colonial port, shall be subjected to the payment of other duties than those accruing upon the goods landed at such port; and to the payment of the duty on the tonnage of the vessel at more than one of the several ports which she may enter in the course of the same voyage.

You further request that I "will take an early opportunity to lay the subject informally and confidentially before the Earl of Aberdeen, and apprise the department, as speedily as possible, of his decision upon it."

You will, I am sure, upon reflection, be satisfied, that no decision could be obtained from the Secretary of Foreign Affairs, were I to lay the subject before him informally and confidentially, that could be of any public utility. The construction of British commercial regulations properly appertains to the Board of Trade, and the Secretary of Foreign Affairs interferes only as the organ of communicating the decision of that board to the representatives of the foreign Government.

The effect of a confidential conference or communication upon the subject, might be, in other respects, prejudicial, and there are many reasons why, in the present posture of affairs, I have felt it safer to avoid any official application to that officer relative to this negotiation. Some of these may be inferred from the tenor of the letters which you will have received from me since the date of your despatch.

Entertaining no doubt, in my own mind, of the meaning of the acts of 5th July, 1825, and of the existing colonial regulations, I preferred a conversation with the President of the Board of Trade, apparently for the purpose of explaining my own impressions, rather than with a direct view to an inquiry

from my Government; and, I am happy to add, that those impressions were fully and entirely assented to and confirmed.

There is no doubt that an American vessel may clear from the United States, with a cargo destined for two or more British colonial ports, and that, clearing for one or more of those ports, she may, without proceeding directly to the port of her destination, touch at any intermediate port, whether British or foreign. She may, moreover, discharge part of her cargo at such intermediate port, and there take in other cargo in lieu of it for importation into the United States, or any foreign port, excepting the British European ports, but not for importation into i. e. to be landed in a British colony.

The privileges of passing from one British colonial port to the other, and of discharging a part of the cargo at one, and a part at another, and taking in a part or the whole of her return cargo at either, were allowed even under the act of 1822.

It ought not to escape you that the privilege of this act being confined to the United States only, and, consequently, to the direct intercourse between their ports and the British colonies, it might not have been lawful for one of our vessels pursuing that trade, to touch at an intermediate *foreign* port.

Under this law, however, until the continuity of the voyage had been broken, little difficulty could have existed. But when the acts "concerning navigation," and "to regulate the trade of the British possessions abroad," of 5th July, 1825, opened the colonial trade to all nations upon the same footing, the right of an American vessel, on her voyage to the British colonies, to touch at an intermediate foreign port, followed as a matter of course, being no where prohibited.

Nor can there be any doubt that a vessel of the United States landing a part of her cargo at a British colonial port, may proceed with the remainder to another British colonial port without being subjected to the payment of other duties than those accruing upon the goods landed at each port, or to the payment on the tonnage of the vessel at more than one of the several ports which she may enter in the course of the same voyage. Such vessel may, moreover, take in any part of her return cargo at one more of the colonial ports for importation, either into the United States, or into any foreign port, excepting British European ports; the only restriction upon her trade with the several colonial ports, being to the landing at one port of any produce or cargo laden at another.

This course of trade is always allowable; the principle of the British navigation and commercial system being to treat all the colonial ports as one, and the only regulations to which the vessel is subjected being the payment of tonnage entry, if any such be chargeable, at the first port of entry; the duties on so much of her cargo as shall be actually discharged at any one port; and the necessity of reporting at each, the several parts and amounts of her cargo which may be intended for landing or for exportation.

The tonnage duties here mentioned, however, must be understood as relating, rather to such as may be imposed or authorized by the acts of Parliament for the regulation of the colonial intercourse, than to those local or port charges which, being in the nature of tolls, or exactions for dock, or other local improvements, make a part of the municipal regulations by the local legislatures. To these, however, both British and American vessels must be equally liable, and they will not be allowed, in any instance, to impair the privileges secured by the colonial legislation of the mother country, or to contravene such legislation.

It is believed that none such exist at present, and, indeed, I am not aware of any particular tonnage duty which is now chargeable. If, however, any such do exist, and an attempt should be made by the local officers, illegally, to exact those, of either character, from an American vessel, such particular case would become the proper subject of remonstrance here, and would be certainly decided according to the rules and principles to which I have adverted.

Taking the British law of navigation of the 5th July, 1825, and the acts of the same date "to regulate the trade of the British possessions abroad," as now explained, as the basis, you will be enabled, without difficulty, by reference to *Hume's Digest*, heretofore forwarded to the department, to trace, at once, all the objects and provisions of the British colonial regulations, which it may be important for the Government, or our merchants, to know in relation to the trade authorized by the arrangement recently concluded.

It is obvious, that the subject of Mr. Rush's despatch of the 12th August, 1824, to which you have referred me, was no more than an inquiry, at the instance of the Consul at Barbadoes, into the then existing colonial regulations; and that Mr. Huskisson's interference, at that time, was merely to ascertain the opinion of the Board of Trade of the import of those regulations, and not to adopt any new provisions, or to make any alteration in those already in force.

No. 33.—*Mr. McLane to Mr. Van Buren.*

LONDON, *March 14, 1831.*

SIR: Your despatch, number 27, dated the 4th February, transmitting an official pamphlet, containing several protocols of the conferences between the American and British plenipotentiaries in the year 1818, relative to the West India trade, was received by me on the 7th instant.

This is the first opportunity I have had of examining this pamphlet, or the protocols which it contains. It is referred to in my original instructions, as forming a part of the documents left at the legation by Mr. Gallatin; but it was not to be found in the archives when I took charge of the legation. As early as the 29th of May, 1830, I officially informed the department of the want of this document, and of the necessity of my being furnished with it, if the Government expected me to press those points in our relations to which its contents particularly relate.

In answer to that communication, Mr. Brent, in his letter of the 19th July last, informed me that the pamphlet in question could not be found, but that copies of so much of Mr. Rush's communications to the department as related to the *navigation of the river St. Lawrence*, would be made and forwarded.

Independent, however, of the particular terms of the British article annexed to the 11th protocol, my general knowledge of the subject, enabled me, in my letter to Lord Palmerston, to refer to the British act of the 8th May, 1818, offering a course of trade which was not accepted by the United States, from an apprehension that it designed to favor the circuitous in preference to the direct intercourse; and, to the subsequent acts of 1822 and 1825, which, not merely in the way of overture, but positively and totally

disclaimed any advantage to the circuitous trade. If these positive enactments failed to illustrate the true principles of the previous colonial regulations of Great Britain—of the adjustment of 1825, and of the agreement recently concluded—an overture made by the British plenipotentiaries in 1818, and rejected by our Government in the same year, could not have been more effectual. In fact, the alleged treatment of that overture was no slight impediment in the way of my late negotiation, and, by Mr. Vezev Fitzgerald, in particular, was alluded to in terms of unequivocal disapprobation. The treatment which this proposition of the British plenipotentiaries received in 1818, and the circumstances under which our negotiations of that year terminated, stripped of most of its advantages, even as evidence of the terms to which Great Britain was, at that time, willing to accede; and, in my view, seemed to make it more proper to press the argument upon the positive enactments of the acts of 1822 and 1825, and the clear stipulations in the letter of Lord Aberdeen.

On the receipt of your last despatch, however, I invited an interview with Lord Palmerston, which he afforded me on the 9th instant, in which I fully explained to him the bearing and import of the protocols contained in the pamphlet, in connexion with the whole subject; and I also informed him of the light in which this measure was viewed by my Government, and of the approbation by the President of the remonstrance I had submitted. I took this step in pursuance of your instructions, rather than from a hope of producing much effect in the present situation of the subject.

The present bill is less unfavorable than that proposed by Mr. Herries, in respect to the article of flour, on which it leaves the duty, in the direct trade, as imposed by the act of 1825; and of white or yellow pine timber, on which it proposes a duty of twenty-eight shillings per thousand feet of inch thick, until the first of January, 1834, and of twenty-six shillings until the first of January, 1836, at which period the duty will return to the rate specified in the act of 1825. It increases it, however, even beyond that proposed by Mr. Herries, on staves and headings, until the first of January, 1836, when it will be reduced to the rate of 1825. On all other articles, excepting bread and biscuit, flour or meal not of wheat, peas, beans, rye, oats, barley, Indian corn, rice, and live stock, there is no change from the duty of 1825; and the importation of all these, in the direct trade to the West Indies, is permitted duty free, but then no duty whatsoever is payable on the importation of American produce into the northern colonies. In this respect alone, is the measure liable to any material objection, as intended to encourage the indirect trade through the colonies.

On the growers of produce in the United States, this measure is calculated to confer greater advantages than they have heretofore enjoyed; enabling them to supply their productions not merely for a part of the consumption of the northern colonies, but for the whole export trade of those colonies to England and elsewhere.

In respect to lumber, even both the producer and the shipper enjoy superior advantages to those afforded them by the restricted intercourse; while of flour and of all articles admitted duty free, or at the rate prescribed by the act of 1825, our shipping must have the exclusive carrying. As the subject may now be considered as having passed beyond my power, if not as absolutely disposed of, it becomes proper for me to inform you, generally, of what has occurred since the date of my despatch number 28.

I determined to bring the subject to the immediate attention of Lord

Grey, who, it is but just to say, has always professed the best disposition towards our country, and, in this particular instance, has appeared inclined to meet our expectations as far as the present situation of the ministry would permit. Accordingly, on the 15th February, I obtained an interview with Lord Grey, at which Lord Oakland, the President, and Mr. Poulett Thompson, the Vice President of the Board of Trade, were present. On this occasion, the whole subject was fully discussed and explained on both sides, and I distinctly required that the bill should be conformed to the terms and spirit of the agreement concluded with Lord Aberdeen.

In reply, it was repeated that the letter of Lord Aberdeen could not be considered in the light of an agreement, at least in the nature of convention or treaty: that this Government had uniformly insisted upon legislative regulation for this trade instead of convention; the former admitting more readily of occasional modifications: that the act of 1825, itself, was but a legislative measure, liable to be repealed whenever the interest of Great Britain or her colonies made it desirable; and that an assent to a renewal of the intercourse, according to that act, could not have greater force, especially when coupled, as it was, with the reservation in respect to the schedule of duties annexed to the act of 1825. The suspension of the direct intercourse was again attributed to our remissness, and hence it was inferred that we could not reasonably object to a temporary protection of those interests which had been thereby fostered. It was further observed that all the measures of Great Britain, subsequently to the act of 1825, had looked to the system of free ports in the northern colonies; and that as, in this respect, the United States would be placed upon the same footing with all other nations, we could have no just grounds of complaint. That, independently of this principle, the change in the rate of duty from that prescribed by the act of 1825, was confined to two commodities, and that for a limited period; and that, with respect to a great number of articles, forming of themselves a considerable trade, the duty had been taken off altogether.

To these observations, the general topics and remarks contained in my letter to Lord Palmerston were opposed by me, and urged in a manner most likely, in my judgment, to produce effect. In addition to these, I suggested other views more appropriate to the form of the present discussion. I stated that all the considerations by which it was now attempted to sustain the proposed measure, might have been urged, with more propriety, before the letter of Lord Aberdeen; and that if they were then insufficient to prevent the agreement on the part of Great Britain to restore the direct trade, they could not be sufficient now to authorize its violation. The letter of Lord Aberdeen, I observed, must be received as meaning something beneficial; and the assent to renew the intercourse, could mean only that intercourse which had been interdicted, namely, the direct trade, as regulated by the act of 1825. That the letter of Lord Aberdeen was not an agreement merely, but an agreement to restore the direct trade, was proved by the fact of the issuing the order in council of the 5th of November last, actually restoring the trade according to the act of 1825.

Consequent upon these positions, I asked, even admitting the mere power of Parliament to repeal the law of 1825, whether Great Britain could, consistently with good faith, arbitrarily rescind, within a month, or a year, the order in council of the 5th November last, and re-enact that of 1826? This question could not be answered in the affirmative; and it was frankly admitted that such a course would be improper. I, therefore, agreed that it

would be equally a breach of faith, and a violation of that agreement, to accomplish the same end by covert and indirect means.

The act of Parliament imposing a less rate of duty on American cotton, when imported through the British colonies, than when imported directly from the United States, and Mr. Barbour's correspondence with Lord Aberdeen upon that subject, (of which I have heretofore informed you) were referred to, and were supposed to justify the principle of the present measure; as, in that case, the principle was reconcilable with our commercial convention, or, at least, was acquiesced in by the late administration of our Government.

Independently, however, of the material fact, that the colonial trade, both direct and indirect, was expressly excluded from the convention, the discrimination as to cotton, and the basis on which it was attempted to be justified, afforded no apology for the present measure; but, on the contrary, demonstrated its impropriety.

If that case could not be distinguished from the present, it would itself be a violation of existing treaties, and ought, for that reason, to inculcate greater caution, if not more liberality, in future. The discrimination in the cotton duty was justified, however, upon the ground that it did not propose to give any preference to the indirect trade, but merely to adopt the difference to the additional cost of the circuitous route, and the landing and re-lading of the cargo in a colonial port, and thus placing both trades upon an equality.

That, giving the utmost latitude to the reservation in Lord Aberdeen's letter, and the most liberal consideration to the interests of the northern provinces, this precedent would authorize them to ask no more than to be placed in fair and equal competition with the direct intercourse; which, if it ultimately diverted the trade from the indirect channels, would do so by gradual means, thereby attaining the object, and in the manner professed by Great Britain.

More than this would not merely give a preference to the indirect trade, but would continue a monopoly which they could neither demand, nor Great Britain concede, without a breach of her agreement.

That the present measure went beyond these limits, would not be denied; and no equality in any part of the trade could be predicated of its provisions. Although in this interview Lord Grey expressed no positive opinion, he evidently inclined to favor the measure proposed by the Board of Trade, and we separated with an assurance from him that he would give the subject his mature consideration.

It appears to me, therefore, that no further interference on my part would be either useful or proper, and I shall accordingly abstain from making it, unless something, not at present foreseen by me, shall call for it.

No. 36.—*Mr. McLane to Mr. Van Buren.*

LONDON, *April 22, 1831.*

I send, herewith, the new bill concerning the colonial trade, which has passed both Houses of Parliament, and now only wants the approval of the King to become a law. This, I am informed, will be given in a few days,

under a commission issuing for this, with various other bills which have passed during the present session.

This bill will be found to correspond, in all respects, with the statement in my despatch of the 14th March, number 33, in which I informed you of what had been previously done, and that my negotiation, on this subject, was finally closed.