

(Continued from last page.)  
2. That the British Government was satisfied, and actually offered, that the course should continue restricted to the direct voyage, as it then was by the respective laws of the parties; that is to say, that an American vessel, clearing from the British West Indies with their produce for an American port, should be required to land her cargo in such port; and, on the other hand, a British vessel, clearing from the United States, with their produce, for a Colonial port, should be required to land her cargo in such port.

But, thirdly, the point on which the parties could not then agree, was, that the United States insisted that American produce should be admitted into the British Colonial ports, upon the same terms as similar produce received from any where else; that is, either from a British possession or any foreign country.

Such an equal admission of our produce was contended for, in pursuance of the enactments of the Congress of the United States in the act of March, 1823.

Thus the two parties amicably separated, I repeat, with the perfect understanding of each, that the negotiation, in which such encouraging progress had been made, should be resumed and bro't to a final conclusion at some future day. To that renewed negotiation the U. S. had invariably looked, with the confident hope that, when the parties again met, they would be able to reconcile the only difference which obstructed an adjustment. They never could have dreamt that, without the smallest previous notice, and at the very moment of the arrival in England of a new American Minister, fully prepared to resume the negotiation, it was to be suddenly arrested, and the new grounds for the first time, taken, that the subject itself was of a nature to admit of no negotiation. — Entire confidence being reposed on the resumption of the negotiation, as the means on which both parties relied, upon the recall of Mr. Rush, in the Spring of 1825, Mr. King was sent to replace him, fully empowered to treat on all the subjects (including the colonial trade) of the previous negotiation. He was instructed, in the first instance, as being a subject of more pressing urgency, to invoke the interposition of the British Government to remove the impediments to the execution of the St. Petersburg Convention, which had been created by the British Commissioner at Washington. And he was informed that his instructions on the objects of the suspended negotiation should be transmitted to him in time again to open it. They would have been so transmitted, but that, upon his arrival in England, in the month of June, 1825, he was indisposed; that he learnt that His Britannic Majesty, was ill, and that Mr. Canning was also unwell; and moreover, that the British Cabinet was dispersed over the island, or upon the continent, in the pursuit of health and recreation. Happily, His Britannic Majesty, and his principal Secretary of Foreign Affairs, were restored to health. The British Cabinet did not reassemble until the Autumn of 1825, and Mr. King unfortunately remained feeble and unwell up to the period of his return to the United States, in consequence of his indisposition. If his instructions were not forwarded to him, it was because it was known that he was engaged in discussing the resumption of the St. Petersburg Convention. It was believed that his instructions did not admit of his entering upon the discharge of the more arduous duty of resuming the suspended negotiation. It would now seem to have been altogether useless to have transmitted them, the British Government having made up their mind, from the passage of the act of Parliament of July, 1825, to close the door of negotiation. Such a purpose was never hinted to the Government of the United States. On the contrary, as late as 22nd March, 1826, Mr. Vaughan addressed an official note to this Department, in which he stated, "I have received instructions from His Majesty's Government to acquaint you, that it is preparing to proceed in the important negotiations between that country and the United States, now placed in the hands of the American Minister in London; Mr. Huskisson has been already introduced to Mr. R. King, as His Majesty's Plenipotentiary, and the Minister of State, having the department of Foreign Affairs, has received His Majesty's commands to associate Mr. Addington, late His Majesty's Charge d'Affaires, in America, with Mr. Huskisson, as joint Plenipotentiary of the part of Great Britain.

The negotiations will, therefore, be forthwith resumed, and it will be for the Government of the United States to judge whether, considering the state of

the health of Mr. Rufus King, which Mr. Canning laments to say has been, since his arrival in England, far from satisfactory, will join any other negotiation in the commission with him." If the British Government had then intended to bar all negotiation, in respect to the colonial trade, no occasion could have been more fit than the transmission of that note, to communicate such intention. So far from any such purpose being declared, it is formally notified to the American Government that the British Government is preparing to proceed in the important negotiations, &c. and that the negotiations will be forthwith resumed, [of course including the colonial trade.] It appears, from the same note, that the British Government was perfectly acquainted with the feeble condition of Mr. King, and therefore made the friendly suggestion of associating some other person with him to conduct the negotiation. Mr. Vaughan was verbally informed that we should prepare, as soon as practicable, to renew the negotiation, and that the state of Mr. King's health would be taken into consideration. The President did deliberate on it, and your willingness to be associated with Mr. King, in that public service, was ascertained.

In the mean time, and before the necessary arrangements could be made for your departure, a letter from Mr. King, under date the 21st day of March, 1826, was received, desiring permission to return, which was promptly granted, and you were immediately appointed, by and with the advice and consent of the Senate, to succeed him. Without any unnecessary delay, you proceeded on your mission, charged with instructions, framed in the most amicable spirit, to renew the suspended negotiation in all points.

It is now necessary to turn back to the British act of Parliament of July, 1825. That act has never, to this moment, been officially communicated to the American Government by that of Great Britain, and it reached us only through other channels.

We did not suppose, whatever may be the general terms of its enactments, that it was intended to be applied to the U. States, until, at least, the experiment of the renewed negotiation should have been tried, and should have failed. We entertained that supposition because both parties, by all their correspondence and public acts, appeared to regard the renewed negotiation as the means of settling the existing difference. We had other cogent reasons for that supposition. If the British Government intended irrevocably to abide by the conditions which the act of Parliament prescribed, we believed not only that it would have been officially communicated, with a notification to that effect, but that the British Minister would have been instructed to give such information as might be necessary to enable as early to comprehend its provisions.

This information to a foreign government could not be deemed altogether unreasonable in respect to an act of Parliament, extremely complicated, spread out into eighty-six sections, besides various tables, and which was accompanied by a contemporaneous act relating to the same subject, also containing numerous provisions, and both referring to other acts of Parliament, the titles of some of which are not even recited. Not only was no such information ever communicated, but you will perceive, from the accompanying correspondence with Mr. Vaughan in the last month, that, up to that time, he was not provided with instructions to afford a satisfactory answer to the inquiry, whether, according to the British interpretation of the act of Parliament, American vessels may trade between the British Colonies and foreign countries, other than the United Kingdom, in like manner with British vessels; and whether all discriminating duties and charges imposed, either by the local authorities, or by the British Parliament, between vessels of the United States and British vessels, have been abolished.

The importance of the latter inquiry was increased by information which had reached us, that, lately, during the present year, the government of Nova Scotia had passed an act, by which American vessels were subjected to higher duties or charges than British. That we sincerely believed that negotiation, and not legislation, was the means by which it was expected an arrangement was to be effected by the parties, will further appear from a letter addressed by me, on the 25th day of December, 1825, to a member of Congress, a copy of which is here with transmitted. In that letter the opinion is expressed that the British Government could not have intended to apply the act of Parliament of 5th July, 1825, to the intercourse between the United States and the British Colonies, because, 1st, it would be inconsistent with professions made by that Government to this, and with negotiations between the two Governments contemplated, if not yet resumed; 2dly, no notice has been given at Washington, or at London, of such a purpose as that which, for the first time, is indicated at Halifax; 3dly, the British Minister here is unadvised by his government of any intention to close the Col-

onial ports against our vessels; and 4thly, no information has been received here from any British Colonial port, except Halifax, of such intention.

This letter was published in the American Gazette; a copy of it was furnished to Mr. Vaughan, which he is understood to have transmitted to his government. And it is believed to have had some effect in producing the revocation of an order of the local government, by which the port of Halifax was to have been closed against vessels of the United States from the 5th of January last. The order was, in fact, from whatever cause, revoked. And as that port, and all other British Colonial ports, remained, after that day, open to our vessels, we were confirmed in the belief that the act, in the present state of the relations of the two countries, was not intended to be enforced on the commerce of the United States. The belief was further strengthened by the terms of the 4th section of the act, which are: "And whereas, by the law of navigation, 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 and to export goods from such possessions to be carried to any foreign country whatever: And whereas, it is expedient that such permission should be subject to certain conditions; be it therefore enacted, that the privileges thereby granted to foreign ships, shall be limited to the ships of those countries which, having Colonial possessions, shall grant the like privileges of trading with those possessions to British ships, or which, not having Colonial possessions, shall place the commerce and navigation of this country, and of its possessions abroad upon the footing of the most favored nation, unless His Majesty, by his order in Council, shall, in any case, deem it expedient to grant the whole, or any of such privileges to the ships of any foreign country, although the conditions aforesaid shall not, in all respects, be fulfilled by such foreign country."

Now His Britannic Majesty was thereby authorized, by his order in Council, if he should in any case, deem it expedient, to grant the whole, or any of the privileges mentioned in the section, to the ships of any foreign country, "although the conditions aforesaid shall not, in all respects, be fulfilled by such foreign country." This investment of power in the Crown to dispense with a strict compliance with the conditions of the act, in relation to any Powers like the United States, not having colonies, seemed necessarily to imply discussion, and consequently, negotiation, with such Powers. It is not the object, in bringing forward the facts and observations which have been stated in vindication of the American Government, to convey any reproaches against that of Great Britain, or account of the late unexpected resolution which it has taken. These facts and observations, however, show that it ought not to excite any surprise that the Congress of the United States declined legislating on a matter which it appeared to them, was both most fitting in itself, and preferred by Great Britain, to be settled by mutual and friendly agreement. When deliberating on the only proposition which was made during the last session, that of a simple repeal of all discriminating duties, which it now appears would have been unavailing, and would have fallen far short of British expectations, they were unaware that they were acting under the pains and penalties of a British act of Parliament suspended over their heads: a non-compliance with the strict conditions of which subjected the United States not only to the forfeiture of all intercourse with the British Colonies, but was to be attended with the further consequence of terminating all negotiation even between the parties.

I will now proceed to a consideration of the specific conditions required by the act of Parliament, the non-fulfilment of which is the professed ground of the late British order in Council. These conditions are understood to be contained in the fourth section of the act which begins by reciting, "And whereas, by the law of navigation, 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, and to export goods from such possessions to be carried to any foreign country whatever: And whereas, it is expedient that such permission should be subject to certain conditions." It then proceeds to enact, in respect to countries not having colonial possessions, "That the privileges thereby granted to foreign ships shall be limited to the ships of those countries (not having colonial possessions) which shall place the commerce and navigation of this country, and of its possessions abroad, upon the footing of the most favored nation, unless His Majesty, by his order in Council, shall, in any case, deem it expedient to grant the whole or any of such privileges to the ships of any foreign country, although the conditions aforesaid shall not, in all respects, be fulfilled by such foreign country." In considering this act of Parliament, the first circumstance which commands attention is the marked difference which it makes in the conditions required of foreign Powers, between those which have colonies and those which have none. From the

Colonial Powers it only demands that they should grant to British ships privileges of trading with their colonies, like those which the British law of navigation grants to those Powers, of trading with the British Colonies, that is to say, that such Powers should allow to British vessels the privilege of importing British produce into their colonies, and of exporting goods therefrom, to be carried to any country whatever, except the parent country. But from the Powers having no colonies, the act demands that they should place the commerce and navigation, both of the United Kingdom and its possessions abroad, upon the footing of the most favored nation. With the Colonial Powers the act proposes an exchange of Colonial trade for Colonial trade, exclusive of the trade of the parent country. With powers not having colonies, it proposes to give the British Colonial trade, only in exchange for a trade between those Powers and the United Kingdom, and all its possessions abroad. From the Colonial Powers it asks nothing but mere reciprocity; which, viewing the vast extent of the British Colonies in comparison with those of any other Power, is only nominal. The act, on the contrary, is not satisfied with demanding from the Powers having no Colonies, reciprocity of privileges, but it requires that, in consideration of the permission to import their produce into the British Colonies, and to export therefrom produce of those colonies to any foreign country, except Great Britain, those powers should at once extend to the commerce and navigation of the United Kingdom, and its possessions abroad, the full measure of all commercial privileges which they may have granted to the most favored nation. It is impossible not to see that this discrimination made by the act of Parliament between different foreign powers, operates exclusively upon the United States. All the maritime states have Colonies, and, therefore, will be let into the trade with the British Colonies upon the less onerous conditions. The United States are the only Power, not having Colonies, which trades or is ever likely to trade, to any extent, with British Colonies. And, if they alone had been named in the second class of powers described in the act, the application of its more burdensome conditions would not, in that case, have been more exclusively confined to them. The trade of the United States will bear an advantageous comparison with the trade of any of the Colonial powers, either in its amount, or the value or variety of the articles which it comprehends, is greatly superior to that of most of them, and justly entitles us to demand from Great Britain as favorable terms as those which are extended to any of them. It is true, that the act holds out the idea of some mitigation of these conditions in the authority confided to the king. But on what considerations His Britannic Majesty might be induced, by his order in Council, to exercise the dispensing power vested in him, is not stated in the act itself, nor have they been disclosed by any order in Council, or in any other manner which has come to our knowledge. The very investment of such a power, I repeat, implied friendly explanations and discussions, and consequently, the means of negotiation, which the British Government now rejects as altogether inadmissible. Being, therefore, unable to ascertain the undivulged considerations which might have led to some relaxation or variation of the conditions of the act of Parliament, we are confined to an examination of these specific conditions themselves.

They require that the United States, to entitle themselves to the permission of importation and exportation which is granted by the British law of navigation, should place the commerce and navigation of the United Kingdom, and of its possessions abroad, upon the footing of the most favored nation. The first observation occurring is, that, at the very moment when the British Government is putting forth the new principle that the regulation of the trade of the parent country and of its colonies, depends upon two rules, essentially different, the one admitting, and the other excluding all consultation with foreign States; this act confounds them together, & requires not merely that we should place the British colonies upon the footing of the most favored colonies, but that to entitle us to enjoy the privileges of an intercourse with those colonies, we must comply with the requirement of placing the navigation and commerce, both of the parent country and all its possessions abroad, on the footing of the most favored nation.

The first difficulty which is encountered, in ascertaining the precise nature and extent of the conditions prescribed by the act of Parliament, is, that it furnishes no definition of the terms, "the most favored nation," which it employs. According to one interpretation of those terms, they import the gratuitous concession of commercial privileges. According to another, they imply the nation which enjoys the greatest amount of commercial privilege, whether granted with or without equivalents.

That the first was not the sense in which the British Government intended to use those terms, we conjectured; because, if it were, nothing remained to be done by the American Government to

bring itself within the conditions of the act of Parliament, and we apprehended that the British Government required some positive act. Great Britain, in that sense of the terms, is, in respect to the commerce and navigation both of the parent country and its possessions abroad, on the footing of the most favored nation. Whatever commercial privileges are granted by the United States to any foreign nation, by act of Congress, or by treaties, are founded upon equivalents. Holding out the principle of fair reciprocity to all nations, we neither ask, nor profess to bestow, commercial boons. Thus, in respect to alien or discriminating duties, we have not abolished them in behalf of any nation which has not professed to abolish them as to us. If they are now levied upon British vessels, coming to the United States from British colonies, countervailing duties are now also levied upon American vessels entering British colonies, and have been constantly, as Mr. Canning declares, from 1823. If the amount of American tonnage admitted to entry in British colonial ports, and of British tonnage entering American ports from British colonies, were exactly equal, the collection of duties on one side would neutralize the collection on the other. But, as there is much more American than British tonnage employed in the colonial trade, we pay a greater amount of those duties than Great Britain. And, consequently, if there were cause of complaint on either side, on account of their existence, it would be with us. It would not, therefore, have been in the first, but must have been in the second, meaning of the terms, that they are employed in the act of Parliament.

Great Britain is understood, then, to have demanded that the United Kingdom and its possessions abroad, should be allowed to enjoy, in the ports of the United States, the greatest extent of commercial privileges which we have granted, no matter upon what ample equivalent, to any foreign nation whatever. In order to ascertain the latitude of concession thus required, it is necessary to glance, and it shall be done as rapidly as possible, at the state of our commercial relations with other foreign Powers.

By the general law of navigation (see 6th vol. of the laws of the U. S. page 180,) it is enacted, that, after the 10th day of September, 1818, no goods, wares, or merchandise, shall be imported into the United States from any foreign port or place, except in vessels of the United States, or in such foreign vessels as truly and wholly belong to the citizens or subjects of that country of which the goods are the growth, production, or manufacture, or from which such goods, wares, or merchandise, can only be, or most usually are, first shipped for transportation: *Provided, nevertheless, that this regulation shall not extend to the vessels of any foreign nation which has not adopted, and which shall not adopt, a similar regulation.*

Great Britain had, long prior to the passage of that act, adopted and continues to enforce, the restriction on which it is founded; whilst almost all other nations have abstained from incorporating it in their navigation codes. A vessel, therefore, of the United States, on entering a British port, being limited by British law, to the introduction of goods the produce of the U. States, a British vessel, on entering their ports, is limited to the introduction of goods being of British produce: whilst the vessels of all other nations, which have not adopted the restrictive regulation, are allowed, on entering a port of the United States, to introduce any foreign produce whatever, by paying the alien and discriminating duties from which vessels of the United States are exempted.

By particular arrangements with various Powers, some by treaty, and others by separate but reciprocal acts of the Governments of the United States and those Powers, the alien duties of the U. States are abolished as to them: and their vessels and those of the United States, are allowed the reciprocal liberty of importation and exportation at the same rate of duty upon both ship and cargo.

Thus, by the act of Congress of January, 1824, "so much of the several acts imposing duties on the tonnage of vessels in the ports of the United States, as imposes a discriminating duty between foreign vessels and vessels of the United States is hereby suspended, so far as respects vessels truly and wholly belonging to subjects or citizens of the Kingdom of the Netherlands, of Prussia, of the Imperial Hanseatic Cities of Hamburg, Lübeck, and Bremen, of the Dukedom of Oldenburg, of the Kingdom of Norway, of the Kingdom of Sardinia, and of the Empire of Russia." And it enacts a like suspension of the discriminating duties on the cargo of any of the vessels of those several countries.

But it further enacts that the suspension of those duties shall "continue in behalf of each of the above-mentioned nations on condition that so long as the vessels of the United States, and truly and wholly belonging to the citizens thereof, & all goods & merchandise of the produce and manufacture thereof, laden therein and imported into any of the said nations in Europe, respectively, shall be exempted from all and every discrimina-

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