



AND

North-Carolina State Gazette.

There are the signs of fair & delightful Peace, Unwar'd by party rage, to live like Brothers.

THURSDAY, DECEMBER 14, 1809.

No. 4.

DOCUMENTS,

WHICH ACCOMPANIED THE MESSAGE OF THE PRESIDENT OF THE UNITED STATES.

Letter from Mr. ERSKINE, Extraordinary Minister Plenipotentiary of His Majesty, to the SECRETARY OF STATE.

Washington, July 31, 1809.

SIR—I have the honor to enclose to you a true copy of an Order, which was passed by His Majesty in Council, on the 24th of May last.

In communicating this Order, it is with the deepest regret that I have to inform you, that His Majesty has not thought proper to confirm the late provisional agreement which I had entered into with you, on the part of our respective governments.

Neither the present time, nor the occasion, will afford me a favorable opportunity for explaining to you the grounds and reasons, upon which I concluded I had conformed to His Majesty's wishes, and to the spirit, at least, of my instructions upon that subject; nor, indeed, would any vindication of my conduct (whatever I have to offer) be of any importance, further than as it might tend to show that no intention existed, on my part, to practise any deception towards the Government of the United States.

In view of the satisfaction, however, to call upon you to that part of the enclosed Order, which protects the commerce and shipping of the United States from the injury and inconveniences which might have arisen to American citizens, from a reliance on the provisional agreement before mentioned; and I cannot but cherish a hope, that the further had consequences may result from an arrangement, which I had full belief would have met with His Majesty's approbation, and would have led to a complete and cordial understanding between the two countries.

With sentiments of the highest consideration, I have the honor to be, Sir, your most obedient humble servant.

D. M. ERSKINE.

The Hon. Robert Smith, &c.

The Secretary of State to Mr. Erskine.

Department of State, Aug. 9, 1809.

SIR—I have just received from Mr. Pinkney a letter, enclosing a printed paper, purporting to be a printed copy of a dispatch to you from Mr. Canning, which states, among other things, that from the report of your conversations with Mr. Madison, Mr. Gallatin, and Mr. Smith, it appears:

"1st. That the American Government is preparing, in the event of His Majesty's consenting to withdraw the Orders in Council of January & November, 1807, to withdraw contemporaneously, on its part, the interdiction of its harbors to ships of war, and all Non-Intercourse and Non-Importation Acts, so far as respects Great Britain, leaving them in force with respect to France, and the powers which adopt, or act under her Decrees.

"2d. That America is willing to renounce, during the present war, the pretension of carrying on, in time of war, all trade with the enemy's colonies, from which she was excluded during peace.

"3d. Great Britain, for the purpose of securing the operation of the Embargo, and the bona fide intention of America, to prevent her citizens from trading with France and the powers adopting and acting under the French Decrees, is to be considered as being at liberty to capture all such American vessels, as may be found attempting to trade with the ports of any of these powers; without which security for the observance of the Embargo, and raising it nominally with respect to Great Britain alone, would in fact raise it with regard to all the world."

I have the honor to request you to favor me with such explanations, as your candor will at once suggest, in relation to these impugned conversations.

I have to express to you, Sir, the surprise that is felt at the extraordinary pretensions set forth in this letter of instruction, and especially at the expectation that this government would, as a preliminary, recognize conditions, two of which are so manifestly inconsistent with the dignity and interest of the United States. I, however, would remark that had you deemed it proper to have communicated, in extenso, this letter, it would have been impossible for

the President to have perceived in its conditions, or in its spirit, that conciliatory disposition which had been professed, and which, it was hoped, had really existed.

I have the honor to be, &c. R. SMITH, The Hon. D. M. Erskine, &c.

From Mr. Erskine to Mr. Smith.

Washington, August 14th, 1809.

SIR—I have the honor to acknowledge the receipt of your letter of the 9th instant, informing me that you had just received a letter from Mr. Pinkney, enclosing a printed paper, purporting to be a printed copy of a dispatch to me from Mr. Canning, which states, among other things, "from the report of your conversations with Mr. Madison, Mr. Gallatin and Mr. Smith, it appears:

"1st. That the American Government is preparing, in the event of His Majesty's consenting to withdraw the Orders in Council of January and November, 1807, to withdraw contemporaneously, on its part, the interdiction of its harbors to ships of war, and all non-intercourse and Non-Importation Acts, so far as respects Great Britain, leaving them in force with respect to France, and the powers which adopt, or act under her Decrees.

"2d. That America is willing to renounce, during the present war, the pretension of carrying on, in time of war, all trade with the enemy's colonies, from which she was excluded during peace.

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The explanations which you request from me upon that subject shall be given with candor, and I will proceed, accordingly, to lay before you an abstract of the communications which I made to His Majesty's government relative to the unofficial conversations which I had with Mr. Madison (then Secretary of State) Mr. Gallatin and yourself, at the time and upon the occasion alluded to by His Majesty's Secretary of State (Mr. Canning) in that part of his instructions to me of which you inform me you have received a printed copy from Mr. Pinkney.

Upon referring to my despatches addressed to His Majesty's government of the 31st and 4th December last, in which these communications are detailed, I conclude that the conversations alluded to must have been held some days previous to that period, and were to the following effect:—

Mr. Madison (then Secretary of State) is represented by me to have urged various arguments tending to prove that the United States had exerted all their efforts to persuade the French government to withdraw their unjust restrictions upon neutral commerce, and that recourse might have been had to measures of more activity and decision against France than mere remonstrances, but that, in the mean time Great Britain had issued her Orders in Council, before it was known whether the U. States would acquiesce in the aggressions of France, and thereby rendered it impossible to distinguish between the conduct of the two belligerents, who had equally committed aggressions against the U. States.

After some other observations, Mr. Madison is stated by me at that time to have added, that as the world must be convinced that America had in vain taken all the means in her power to obtain from G. Britain and France a just attention to her rights as a neutral power by representations and remonstrances, that she would be fully justified in having recourse to hostilities with either belligerent, and that she only hesitated to do so from the difficulty of contending with both; but that she must be driven even to endeavor to maintain her rights against the two greatest powers in the world; unless either of them should relax their restrictions upon neutral commerce: in which case, the U. States would at once side with that power against the other which might continue its aggressions.

That every opinion which he entertained respecting the best interests of his country led him to wish that a good understanding should take place between Great-Britain and the U. States, and that he thought that the obvious advantages which would thereby result to both countries were a sufficient pledge of the sincerity of his sentiments.

These observations, Sir, I beg leave to remark, were made to me by Mr. Madison about a month after the intelligence had been received in this country of the rejection by His Majesty's government of the proposition made thro' Mr. Pinkney by the President for the removal of the embargo as respected G. Britain, upon condition that the Orders in Council should be withdrawn as respected the United States: and his sentiments were, as I conceived, expressed to me, in order that I might convey them to His Majesty's government, so as to lead to a reconsideration of the proposition above mentioned with a view to the adjustment of the differences upon that subject between the respective countries. But I never considered that Mr. Madison meant that the government of the United States would pledge themselves beyond the proposition respecting the embargo, as above stated—because that was the extent of the power of the President by the Constitution of the U. States.

I understood, very distinctly, that the observations of the Secretary of State were intended to convey an opinion as to what ought and would be the course pursued by the U. States, in the event of His Majesty's Orders in Council being withdrawn.

In these sentiments and opinions, you concurred, as I collected from the tenor of several conversations which I held with you at that period.

With respect to the second point, as stated in your letter to be contained in a "Despatch from Mr. Canning," I beg leave to offer the following explanation:

In the course of a private interview I had with Mr. Gallatin (the Secretary of the Treasury) he intimated that the non-intercourse law which was then likely to be passed by the Congress, might be considered as removing two very important grounds of difference with Great-Britain, viz. the non-importation act, as applicable to her alone, and also the President's proclamation, whereby the ships of Great-Britain were excluded from the ports of the United States, while those of France were permitted to enter—but that by the non-intercourse law, both powers were placed on the same footing. He did not pretend to say that this measure had been taken from any motives of concession to Great-Britain; but as, in fact, those consequences followed, he conceived they might be considered as removing the two great obstacles to a conciliation.

He adverted also to the probability of an adjustment of another important point in dispute between the two countries, as he said that he knew that it was intended by the United States to abandon the attempt to carry on a trade with the colonies of belligerents in the time of peace, & to trust to the being permitted by the French to carry on such trade in peace, so as to entitle them to a continuance of it in time of war.

And it may be very material to ascertain what "trade with the colonies of belligerents" was, in my conception, meant by Mr. Gallatin, as intended to be abandoned by the United States, I feel no hesitation in declaring, that I supposed he alluded to the trade from the colonies of belligerents direct from their mother country, or to the ports of other belligerents, because the right to such trade had been the point in dispute; whereas, the right to carry on a trade from the colonies of belligerents to the United States had never been called in question, and had been recognized by His Majesty's Supreme Court of Admiralty; and the terms even upon which such colonial produce might be re-exported from the United States had been formerly arranged in a treaty signed in London by the Minister Plenipotentiary of both countries, which was not indeed ratified by the President of the U. States; but was not objected to as to that article of it which settled the terms upon which such trade was to be permitted.

Such was the substance, sir, of the unofficial conversations which I had held with Mr. Madison, Mr. Gallatin, and yourself, which I did not consider or rep-

resent to His Majesty's government as intended with any other view than to endeavor to bring about the repeal of the Orders in Council by shewing that many of the obstacles which had stood in the way of an amicable adjustment of the differences between the two countries were already removed, and that a fair prospect existed of settling what remained; since the United States had exhibited a determination to resist the unjust aggressions upon her neutral rights, which was all that Great Britain had ever required; but I certainly never received any assurances from the American government that they would pledge themselves to adopt the conditions specified in Mr. Canning's instructions as preliminaries; nor did I ever hold out such an expectation to His Majesty's government; having always stated to them that in the event of His Majesty's thinking it just or expedient to cause his Orders in Council to be withdrawn that the President would take off the Embargo as respected England, leaving it in operation against France and the powers which adopted, or acted under her decrees according to the authority which was vested in him at that time by the Congress of the U. States, and that there was every reason to expect that a satisfactory arrangement might be made upon the points of the colonial trade which had been so long in dispute between the two countries.

As to the third condition referred to by you, specified in Mr. Canning's instructions, I have only to remark, that I never held any conversation with the members of the government of the U. States, relative to it, until my late negotiation—or had ever mentioned the subject to His Majesty's government—it having for the first time, been presented to my consideration in Mr. Canning's despatch to me of the 25th of January, in which that idea is suggested, and is stated to have been assented to by Mr. Pinkney.

It would be unavailing, at the present moment, to enter upon an examination of the "pretensions set forth in Mr. Canning's letter of instructions" (which you are pleased to term) "extraordinary."

I consider it however, to be my duty to declare that, during my negotiation with you which led to the conclusion of the provisional agreement, I found no reason to believe that any difficulties would occur in the accomplishment of the two former conditions, as far as it was in the power of the President of the United States to accede to the first, and consistently with the explanation which I have before given of the second point:—On the contrary, I received assurances through you, that the President would comply (as far as it was in his power) with the first condition, and that there could be no doubt that the Congress would think it incumbent upon them to assert the rights of the United States against such powers as should adopt or act under the decrees of France as soon as their actual conduct or determinations upon that subject could be ascertained—but that, in the mean time, the President had not the power, and could not undertake to pledge himself in the formal manner required to that effect.

I received also assurances from you, that no doubt could be reasonably entertained that a satisfactory arrangement might be made in a treaty upon the subject of the second condition mentioned in Mr. Canning's instructions, according to my explanations of it in the foregoing part of this letter, but that it necessarily would form an article of a treaty in which the various pretensions of the two countries should be settled.

The third condition you certainly, very distinctly informed me could not be recognized by the President, but you added what had great weight in my mind, that you did not see why any great importance should be attached to such a recognition; because it would be impossible that a citizen of the U. States could prefer a complaint to his government on account of the capture of his vessel while engaged in a trade absolutely interdicted by the laws of his country.

Under these circumstances, therefore, finding that I could not obtain the recognitions specified in Mr. Canning's despatch of the 23d of January (which formed but one part of his instructions to me) in the formal manner required, I considered that it would be in vain to lay before the government of the United States the dispatch in question, which I was at liberty to have done IN EXTENSIO, had I thought proper. But as I had

such strong grounds for believing that the object of His Majesty's government could be attained, though in a different manner, and the spirit, at least, of my several letters of instructions be fully complied with, I felt a thorough conviction upon my mind that I should be acting in conformity with His Majesty's wishes; and, accordingly, concluded the late provisional agreement in His Majesty's behalf with the government of the United States.

The disavowal by His Majesty is a painful proof to me that I had formed an erroneous judgment of His Majesty's views and the intention of my instructions; and I have most severely to lament that an act of mine (though unintentional) should produce any embarrassments in the relations between the two countries.

It is a great consolation to me, however, to perceive that measures have been adopted by both governments, to prevent any losses and to obviate any inconveniences which might have arisen to the citizens or subjects of either country from a reliance on the fulfilment of that provisional agreement, and I cannot but cherish a hope, that a complete and cordial understanding between the two countries may be effected.

I beg leave to add that it would have given me great happiness to have contributed to so desirable an object, and to offer you the assurances of the great respect and high consideration with which I remain, Sir, your obedient servant.

D. M. ERSKINE.

The Hon. R. Smith &c.

The Secretary of the Treasury to Mr. Erskine.

Washington, Aug. 13, 1809.

SIR—I do not believe, that in the conversations we have had respecting the practicability of an adjustment of the differences between the U. States and Great-Britain, we ever have misunderstood one another. Yet as from Mr. Canning's instructions lately published by your government, it would seem that some opinions are ascribed to several members of this administration, which they did not entertain, it appears necessary to ascertain whether on any point a misapprehension can have taken place.

I will forbear making any observations on what in the instructions is called the third condition, since it is not asserted that that inadmissible proposition was suggested at Washington.

The points embraced in Mr. Canning's first proposition formed the principal topic of our conversations, relative to a revocation of the Orders in Council. Yet in the manner in which that proposition is expressed, it goes further than had been suggested by the members of the administration. It is sufficiently evident from the proceedings of Congress, both previous and subsequent to the unratified agreement of April last, that the United States intended to continue the restrictions on the commercial intercourse with France, whilst such of her decrees as violated our neutral rights continued in force, and to remove these restrictions in relation to G. Britain, in the event of a revocation of the Orders in Council. But that state of things so far as it related to France was to result from our own laws known or anticipated by your government when they authorised an arrangement; and it was not proposed by us that the continuance of the non-intercourse with France should be made a condition of that arrangement. Whilst on that subject, I will add an observation, though perhaps not immediately connected with the object of this letter. I think that the object of that proposition so far as it agreed with your previous understanding of the intentions of this government, has been substantially carried into effect on our part. It is true that your government might at the date of the instructions have expected from the incipient proceedings of Congress, that Holland would be embraced by the restrictive laws of the United States. Not only however was the omission nominal, since American vessels were, at the time, by the decrees of that country refused admission into its ports; but under the same construction of our laws by which the commercial intercourse with Holland was permitted, that with Portugal was also considered as legal in the event of that country being occupied by British troops in the name of the Prince Regent.

It is therefore principally as respects the second condition which relates to the colonial trade, that erroneous inferences might be drawn from the expressions