

LETTER OF MR. GALLATIN.

After putting into the compositor's hands the letter of Mr. Canning, published in our last, we have met with the letter of Mr. Gallatin, to which it is in reply.

No. 5.—Albert Gallatin, Esq. to Mr. Secretary Canning.

UPPER BROADWAY, Dec. 28, 1826. The Undersigned, &c. did not fail to transmit to his government the note which Mr. Canning, &c. did in the honour to address to him on the 13th of November, in reply to the answer which had been returned by the Undersigned to Mr. Canning's note of the 11th of September.

Having now received a despatch from the Secretary of State of the United States, the substance of which he is instructed to communicate to Mr. Canning, the Undersigned, in performing that duty, will on those points to which he had already alluded in his former note, have but some explanatory remarks to add.

The right of Great Britain, which is that of every nation, to prohibit or allow foreign commerce with any part of her dominions, is unquestionable. That right, in reference to her colonies, has never been denied by the United States any more than with respect to any other part of her possessions, and it is also admitted that she may, within her own jurisdiction, prescribe the conditions on which such commerce shall be tolerated, and, at her will, again interdict altogether the intercourse thus permitted.

On the other hand, the United States, unless restricted by treaty, which in this case they are not, have precisely the same right to prohibit, to allow, and within their own jurisdiction, to regulate foreign commerce with their dominions, whether that commerce be with the foreign country itself, or with its colonies or possessions abroad. It was not inadvertently that the Undersigned used the word "right," as applied to the United States; he did not object to the use of the word as applied to Great Britain.

What has been contended for is that, since to any commerce there must always be two parties, the mutual consent of both is always necessary, in order that such commerce may at all exist; whatever its nature may be, whether of ancient or modern date, whether with colonies or with possessions of a different description, from the moment it does exist, it becomes a fact subject for negotiation, and there is no reason why an agreement should not, on that, as on any other species of trade, be founded on terms of just reciprocity, though relating to colonies, from an intercourse with which foreigners had formerly been, and might again be excluded.

The various relaxations of the colonial system of Great Britain, as they never were, nor could have been intended for the benefit of the United States, and as they were always accompanied with restrictions exclusively favourable to her, could not be viewed as a boon to them, and never were accepted as such. The extent to which the commerce when not laid under too severe restrictions, was carried on between the United States and the British colonies, is an irrefragable proof that it was equally advantageous to both parties.

No such pretensions had in fact been advanced. The proposals made by both parties, during the negotiation of the year 1824, were avowedly founded in a fair reciprocity, and brought the parties very near together. Unable still to agree on some points; it was concluded to suspend the negotiation, with a distinct understanding, that it should be again renewed at some convenient day.

Mr. King was, in 1825, empowered to treat on all the subjects of the previous negotiation. He was instructed, in the first instance, as being a subject of more pressing urgency, to call on the British Government to remove the impediments which prevented the execution of the St. Petersburg Convention.

Of this His Majesty's Government appears to have been fully aware. On the 22d of March, 1826, Mr. Vaughan addressed an official note to the Secretary of State of the United States, in which he says—

"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. B. 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. Adlington, late His Majesty's Charge d' Affaires in America with Mr. Huskisson, as Joint Plenipotentiary on the part of Great Britain.

Had the condition been limited to the commerce and navigation of the British colonies, had it been so intended and expressed, as that the United States might have satisfied it, by placing the intercourse between their dominions and the British colonies on the same footing in every respect, as the intercourse between the United States and the colonies of the most favoured nation; the condition, though not altogether free of objection, would at least have been apparently reciprocal.

But it appeared also extremely difficult, if at all possible, to understand what was meant—by placing that commerce and navigation on the footing of the most favoured nation. If Great Britain only asked to be placed on that footing, on giving the same equivalent which any other foreign nation may have given to the United States, in order to have privileges which she does not enjoy, the navigation law of the United States has already made provision in that respect. There is no privilege enjoyed in the United States, by the commerce and navigation of any foreign nation, which Great Britain may not obtain, by allowing to them the same reciprocal advantages which they enjoy in the ports of such foreign nation, and on which such privileges depend.

To comply with the condition thus understood, the United States would have had no new act to perform. This could hardly be presumed to have been the intention of the act of Parliament.

ed, without any suggestion that the colonial intercourse would form an exception. The acts of Parliament of the year 1825, in which that intention was to be discovered, never were officially communicated. That of the 27th of June, passed only a few days before that of the 5th of July, and not specially repealed by it, was not calculated to elucidate the object in view—and several causes concurred to induce a belief that this last act was not intended to affect the trade between the British colonies and the United States, as carried on under the act of June, 1822.

This belief, and the reasons for it, were distinctly expressed in a letter from the Department of State to a Member of Congress, of the 12th of December, 1825, a copy of which is enclosed. The letter was published in the American newspapers; a copy was furnished to Mr. Vaughan; and he is understood to have transmitted it to his Government.

That opinion was corroborated by the construction ultimately put on the act by the British authorities. It was thereby provided that certain privileges granted to foreign ships, should be limited to the ships of those countries which should comply with the conditions therein stated, unless His Majesty, by his Order in Council, should in any case grant such privileges, although the conditions had not been performed. And the act was declared to come in full force and operation, from the 5th January, 1826. It had at first been determined at Halifax, that the port should accordingly be shut against American vessels, after that day. This decision was afterwards revoked, although the condition had not been performed, and although no Order in Council had granted the privileges in question.

It now appears, that the act of the 5th of July, 1825, (6th Geo. IV. cap. 114) which contains no repealing clause of the former acts, refers, under the name of the law of navigation, to another act of the same date; (6th Geo. IV. cap. 109) that this, although it contains also no repealing clause, is understood and construed as having superseded all former acts on the same subject; and that the actual repeal of the act of 1822, (3 Geo. IV. cap. 41. sec. 3, 4,) is to be found in another act, also of the 5th of July, 1825, (6 Geo. IV. cap. 105.) entitled "An act to repeal the several laws relating to the customs."

The intricacy of those several acts, and the difficulty of understanding their precise meaning, of ascertaining what parts of former acts were actually repealed, & what is still in force, a difficulty which, in the case of the Jubilee, seems to have led into error one of the highest tribunals of Great Britain, may well account for the construction put upon those acts in the United States; affording, at the same time, a sufficient reason for having preferred a renewal of the negotiations to a pure acceptance of the conditions contemplated by the act of the 5th of July, 1825, (6 Geo. IV. cap. 114) had it been only for the purpose of ascertaining the true intent and meaning of the act.

Even so late as October last, Mr. Vaughan, as appears by his correspondence with Mr. Clay, was not provided with instructions that enabled him to give a satisfactory answer to the inquiries, whether, according to the British interpretation, American vessels might trade between the British colonies and foreign countries, and whether discriminating duties of every species had been abolished.

The proposition made during the last session of Congress, and to which Mr. Canning has alluded, affords an additional proof of the imperfect understanding, owing to the complexity of the several acts of Parliament which at that time prevailed, respecting their true object and intention. That proposition was only for a repeal of the discriminating duties, and, if adopted, would have been unavailing, since, not embracing a repeal of the restrictions on the circuitous intercourse, it is now understood that it would not have been accepted by the British Government, as a compliance with the condition required by the act of the 5th of July, 1825.

It is not intended, by these facts and observations, to convey any reproaches against His Majesty's government on account of the unexpected resolution which it has taken. But they satisfactorily show, that the United States could have entertained no doubt of the continued disposition of Great Britain to settle the colonial intercourse by an amicable arrangement; & that there were peremptory reasons for preferring that mode rather than to legislate on the subject.

Supposing even that the determination of the British Government not to renew the negotiation on that point had been communicated or known, the specific condition on which American vessels might be allowed to participate in the intercourse between the United States and the British colonies was so expressed in the act of Parliament as to have required explanations before it could be complied with.

The countries having colonies, was both distinct and reciprocal. Nothing more was asked than that they should grant to British ships the like privileges of trading with their colonial possessions, which were granted to their ships of trading with the British possessions abroad. No regard was paid to the importance of such colonial possessions. Sweden, by permitting British vessels to trade with the island of St. Bartholomew, was allowed privileges which were offered to the United States on very different terms—And, with the exception of some of the German States, these terms applied to no other maritime Power than the United States. All this Great Britain had a right to do: no complaint is preferred on that account: it was the condition which was required from them which they had to consider.

That condition was, that the United States should place the commerce and navigation of this country, (Great Britain) and of its possessions abroad, upon the footing of the most favoured nation.

Had the condition been limited to the commerce and navigation of the British colonies, had it been so intended and expressed, as that the United States might have satisfied it, by placing the intercourse between their dominions and the British colonies on the same footing in every respect, as the intercourse between the United States and the colonies of the most favoured nation; the condition, though not altogether free of objection, would at least have been apparently reciprocal. To require besides, that it should be extended to the commerce and navigation of Great Britain generally, that it should embrace that intercourse between her and the United States which is regulated by a special convention, that they should grant any privilege in that intercourse to British vessels, not stipulated by that convention, as the price for the permission of trading with the British colonies, was a total departure from the principles of a just reciprocity.

But it appeared also extremely difficult, if at all possible, to understand what was meant—by placing that commerce and navigation on the footing of the most favoured nation.

If Great Britain only asked to be placed on that footing, on giving the same equivalent which any other foreign nation may have given to the United States, in order to have privileges which she does not enjoy, the navigation law of the United States has already made provision in that respect. There is no privilege enjoyed in the United States, by the commerce and navigation of any foreign nation, which Great Britain may not obtain, by allowing to them the same reciprocal advantages which they enjoy in the ports of such foreign nation, and on which such privileges depend. To comply with the condition thus understood, the United States would have had no new act to perform. This could hardly be presumed to have been the intention of the act of Parliament.

But if, by that act, it was intended to require, as the condition for allowing to American vessels the privilege of trading with the British colonies, that the commerce and navigation of Great Britain and of her possessions abroad, should without any other equivalent, be generally placed on the same footing with the commerce and navigation of any other foreign nation, which, by reason of reciprocal advantages allowed to American vessels, may, now or hereafter, be entitled to greater privileges than Great Britain now enjoys, the condition was inadmissible.

British vessels, and those of several other nations, may now, by virtue of treaty stipulations, or of other reciprocal regulations, import into the United States, articles of the produce or manufacture of the countries to which such vessels respectively belong, on the same terms, and on the payment of the same duties of tonnage, and on the cargo, as if imported in American vessels. In every instance the privilege is reciprocal, and will cease with respect to any of those countries, whenever vessels of the United States may cease to be admitted into the ports of such country on the same terms as its own vessels.

In conformity with the navigation law of the United States, the prohibition to import, in foreign vessels, merchandise not the produce of the country to which they respectively belong, extends only to the vessels of such nations as have adopted a similar regulation. Great Britain is accordingly, one of the few nations to which the prohibition applies.

In pursuance of the treaty concluded in December, 1825, between the United States and Central America, whatever may be imported into, or exported from either country in its own vessels, to or from any foreign place whatever, may in like manner, and on payment of the same duties, be imported or exported in the vessels of the other country.

If, therefore, it was meant by the condition required, that the commerce and navigation of Great Britain, and of her possessions abroad, should be gratuitously and generally placed on the footing of the most favoured nations, the United States, in order to comply with it, and, as the price for the permission to trade with the British colonies, would have been obliged—1. to admit the importation of British merchandise in British vessels on the same terms, and on payment of the same duties, as if imported in American vessels, although the convention of 1815 should have expired, and the corresponding privilege was no longer allowed to American vessels in British ports; 2. to admit the importation, in British vessels, of the produce of every foreign country, although the importation into British ports, of the like produce in American vessels, should still be prohibited; 3. if the condition was intended to apply to privileges granted subsequent to the date of the act of Parliament, to admit the importation of such foreign produce in British vessels, even without being charged with any discriminating duties, and generally to allow the British vessels, without reciprocity, all the reciprocal advantages to which the vessels of Central America are entitled.

If this was not the intention of the act of Parliament, if the words "commerce and navigation of this country," were meant only to include the circuitous intercourse, the expressions used to convey the meaning must be admitted to have been much too general. This last interpretation has been suggested only by the observations that have occurred in the course of Mr. Canning's correspondence with the undersigned. If such or any other admissible construction was intended, the most obvious way of preventing both an erroneous interpretation of the condition and an unfounded expectation, in reference to a renewal of the negotiations, would have been an official communication of the act of Parliament, accompanied with a full and free explanation of the conditions required, and of the intentions of His Majesty's government on the whole subject. The government of the United States is animated with that of Great Britain to maintain with that of Great Britain not merely the forms of courtesy and amity, but to cultivate a cordial and lasting friendship, to settle every controverted question between them upon principles of justice and reciprocity, and by an enlarged liberality in their mutual intercourse to advance the real prosperity of both.

Entertaining this desire, it has learnt with regret the resolution of His Majesty's government to close the door against those friendly explanations, and that free and mutual expositions of the wishes and views of the parties, so essential between two nations whose interests and happiness are so interwoven as those of Great Britain and the United States, and which can be but partially and imperfectly interchanged, if mutual legislation is substituted to negotiation and to the ordinary mode of treating.

As the only alternative which this course has left, it was the President's intention to lay the whole correspondence which has passed the two governments on that subject, including the instructions given to the several American Ministers near His Britannic Majesty, before Congress at their present session. It will remain with that body to decide whether the Colonial Intercourse shall be altogether closed, whether that portion of it left open by the order in Council shall continue so, or on what conditions compatible with the interests of the United States that trade may be placed.

The undersigned has been further instructed to give at the same time, to His Majesty's Government, the assurance, that notwithstanding its late decision, that of the United States will be ready, at Washington or at London, to treat of the Colonial Intercourse whenever it may be the desire or inclination of Great Britain to negotiate on that subject. The undersigned, &c.

(Signed) ALBERT GALLATIN.

The Right Hon. George Canning, &c.

From the National Intelligencer.

EXTRACTS

From Governor Tomlinson's late Message to the Legislature of Connecticut.

No subject that will occupy your deliberations, is more important than the diffusion of knowledge among the People; whether we regard its influence upon human happiness, or our republican institutions. The appropriation by the constitution of the School fund, to the perpetual support and encouragement of public or common Schools, was the result of enlightened benevolence and profound wisdom. That fund amounts to more than one million seven hundred thousand dollars, and yields an annual dividend of more than seventy-two thousand dollars. The income of the fund, it is believed, under the management of the Commissioner, may, by its judicious investment, be considerably augmented. The proper and faithful application of the interest of this fund to the encouragement of education, will materially affect the character and happiness of all successive generations.

The system of common Schools, established by our ancestors, widely diffused the intellectual attainments and moral principles, indispensable to the perpetuity of republican Government. The division of the State into school societies, and districts, affords peculiar facilities for extending the benefits of education, while the distribution of the interest of the school fund, a-

mong the several school districts, according to the number of persons in each, between the ages of four and sixteen years, under the existing laws, secures to every youth in the State, the privilege of acquiring a common education. If the results of our system, improved as it has been, by the lights of experience, are not such as entirely to fulfil the anticipations of its founders, and the wishes of the philanthropist, it is not perceived, that the failure is to be attributed as much to any radical defect of the system, as to remissness in its execution on the part of those who have the immediate superintendence of the primary schools. Every effort should be made to impress upon their minds, a deep sense of the responsibility resting upon them, and of the blessings resulting from literary and moral instruction.

To elevate the character of our Common Schools, and to cause their utility to correspond with the magnificent means which are pledged for their support, instructors distinguished for learning, sobriety, and virtue, must be employed; and the schools, as well as the instructors, subjected to a rigid examination and inspection, the duties of the visitors of schools, as prescribed by law, are highly important; and on their faithful and thorough performance, the intellectual and moral improvement of our youth greatly depends. Your information and experience will enable you to determine whether any further legal provision be necessary to insure such performance. The improvement of a system which has been admired and imitated in other States, is worthy of your deliberate and careful attention. To neglect it, would be a contempt of those, from whom it has been derived, and a wrong to posterity.

The emigration of our citizens has arrested the progress of the population of this State, and diminished our political Union. To retain our youthful, intelligent, and enterprising citizens within the State, their attachment to their native soil, always strong, must be strengthened, by offering combined advantages, which they will not easily find elsewhere; they must see our colleges & other seminaries of learning patronised; the public burthens made equal & light; rigid economy practised in the various departments of the Government; justice speedily and impartially administered; agriculture, manufactures, commerce, and the arts, encouraged; and the condition of the State generally improved.

Our large manufacturing establishments, and the various mechanic arts, by furnishing lucrative employment, have kept in the State, many valuable citizens, and stimulated agriculture, navigation and commerce. But the manufacture of woollen cloths deserves encouragement. The large importations of wool and woollen goods have injured both the grower and manufacturer of wool; and by depressing those interests, may reduce us to a dependence on a foreign supply, for an article of prime necessity. These evils can only be effectually removed by the National Government, in which is deposited the power to levy duties on imports; and it is to be regretted, that a measure thoroughly matured for that purpose, and intended to sustain and protect the agricultural and manufacturing interests, after having been passed by the immediate Representatives of the People, was finally defeated in the other branch of Congress. Correct information, however, regarding the true interests and policy of our country, and steadiness of purpose and of effort in maintaining them, may, at a future day, produce a different result.

The object of punishment is to prevent the commission of crimes, either by destroying the power, or removing the disposition to commit them. The former can only be accomplished by a capital punishment, or the perpetual seclusion of the criminal from society, and the latter by his reformation.

In effecting the reformation of the criminal, an object of high moment, and uniformly sought by the benevolent and the good, his confinement to hard labor, with strict silence while engaged in work, and absolute seclusion from the society of man, in solitary cells, during the hours of rest, has a powerful influence. Such confinement has a strong tendency to destroy the habits of idleness, intemperance and dissoluteness, which are the most fruitful sources of crimes. By removing the criminal from all vicious associations, and from the contagion of evil example, and the moral poison of intercourse and conversation with his fellow prisoners, hardened in guilt, and skilled in the commission of crimes, and placing him in solitude to commune with his own heart, and to meditate on his past life, his present condition, and his future destiny, deep penitence and a thorough reformation, may, with confidence, be expected; and the criminal, especially if he be a young offender, may be restored to usefulness in that community, whose laws he may have violated. The punishment of offences in all cases, and especially, the length of time for which the criminal shall be confined to hard labor, ought to be regulated by the nature and aggravation of the offence, and the previous conduct and hardened character of the criminal, and to be so moderate as to secure the decided sanction and support of public opinion, and humanity itself in its prompt and rigid execution. Experience demonstrates, that the severity of punishment does not so much deter men from perpetrating crimes, as the certainty of it. Crimes will not be committed with expectation of enduring the punishment, but in the hope of escaping detection.

The results which have attended the penitentiary system, in other States, have satisfactorily proved, that a system of criminal law, may not only be executed without expense, but so as to yield considerable income to the State. No reason is discovered why our State Prison, instead of occasioning an annual expense of several thousand dollars, by an improvement of its

police, may not be made a source of actual profit to the State, while all the objects of punishment will be more effectually accomplished. This interesting and important subject occupied the deliberate attention of the General Assembly, at the last session; and the erection of a new State Prison was directed. The building of the edifice has been commenced, under the Commissioners appointed to superintend it; whose report will be duly laid before you. As the building will probably be completed before the termination of the current year, the expediency of establishing, during the present session, a system for the regulation and government of the prison, is suggested to your consideration.

To the National Government is committed the power to provide for organizing, arming, and disciplining the militia. Scarcely any difference of opinion has existed among the most enlightened and patriotic statesmen, as to the necessity of giving all possible efficiency to this powerful arm of our defence; and this subject has recently attracted the special attention of the National Government. During the past year, a Board of Officers was convened at Washington, to take into consideration the present organization of the Militia System, and to propose such alterations as their skill and experience might enable them to suggest, and their judgment should approve. Their report was laid before Congress at its late session, but the principles it expressed were not made the subject of definite action. The report presents the excess of the number of men, which the law of Congress requires to be enrolled in the Militia, as the primary defect of the system, and proposes so to alter the existing law, that no person shall be enrolled in the Militia who shall not have attained the age of 21 years; it being considered by the Board, that the public interest and safety in time of peace do not require an enrolment in the Militia, at an earlier age. The proposed exemption would preserve the rightful control of masters, guardians and parents, over their apprentices, wards and children; the due exercise of which, is at all times important to the best interests of society. The opinion has also been expressed by a Committee in one branch of Congress, in accordance with the principles sanctioned by the Board of Officers, that it is expedient to exempt all persons above the age of 35 from the performance of service in the Militia. A modification of the Militia System, which should limit the liability to enrolment in the Militia, to the period of life between the ages of 21 and 35 years, will considerably reduce the number of the Militia; but it will increase its efficiency. It is not deemed necessary to hold our citizens enrolled for a longer period, to accomplish any of the purposes for which the Militia may be called into the service of the United States. The necessity which demanded the enrolment that was required when the number of the population of the United States did not exceed four millions, no longer exists when their population is augmented to more than ten millions, and their maritime frontier will be defended by a powerful Navy, and by formidable Fortifications.

The States have reserved to themselves the appointment of the officers, and the authority of the training the Militia according to the discipline prescribed by Congress; and on the Legislature of the respective States devolves the duty of passing laws to effect those objects. The Militia of this State may be safely pronounced to be equal in organization, equipments, discipline, and efficiency, to the militia of any State in the Union. The exemption of such of our citizens as perform military service, and are armed, equipped, and dressed in uniform according to law, from the poll-tax, has had a powerful tendency to improve our Militia, and has been followed by results demonstrative of the correctness of that policy. The reduction of the tax, by diminishing the inducement to a complete equipment, and a full compliance with the law, may impair the efficiency, and repress the ardor of the Militia. It is therefore worthy of consideration whether the burthens of that class in the community ought not to be diminished.

In my judgment, frequent musters of the Militia, as they are generally, and perhaps, necessarily conducted, produce no considerable advantage. They are injurious to the Militia, by calling them from their homes and their customary employments; occasion considerable expense and loss of time, and undoubtedly, have a pernicious influence upon the public morals. If the musters for training do not increase the efficiency of the Militia, which is the opinion of experienced military men, the expediency of providing, that these musters shall be less frequent, seems to result. The Militia are the natural defenders of the country. They will never be dangerous to its liberty. Attached to the soil, and intelligent, they can neither be seduced by flattery, nor subverted to ambition. A band of freemen, exercising the privileges in their own hands, they may be pronounced, on high authority, to be "the Army of the Constitution." If their service be diminished and made light, in time of peace, it may be rightfully and reasonably expected, that they will with more alacrity, repair to the post of danger in war. The lenity and justice of our laws, the peaceable and regular habits of the people and their strong attachment to our confederated and State Governments, afford good ground of confidence that our Militia will not be called into the service of the United States, for any other purpose than national defence.

The resources of the nation have been applied by the permanent annual appropriation of two hundred thousand dollars, to procure arms to be distributed among the several States, in proportion to the number of Militia enrolled in each State, for the purpose of arming the great body of Militia, in case of any emergency requiring it.