

ALBERT GALLATIN



ALBERT GALLATIN, an American statesman and financier, and for twelve years (1801-13) Secretary of the Treasury, was born at Geneva, Switzerland, Jan. 29, 1761, and died at Astoria, N. Y., Aug. 12, 1849. He was educated at the University of Geneva, but came to America in 1780, and served as a volunteer in the Continental Army. In 1783, he became for a year professor of French at Harvard University, and in the following year settled in Pennsylvania, and was elected to Congress from that State. Owing to the fact, however, of his having been so few years a resident of the New World he was not allowed to take his seat until 1795. He served three terms as Representative, and in 1801 was appointed Secretary of the Treasury by Jefferson, having already won reputation as an able student of finance by his "Sketch of Finances" (1796); and "Views of Public Debt," (1800). Gallatin remained at the head of the Treasury Department, doing excellent work, and on account of his financial knowledge and good judgment, second only in that respect to Alexander Hamilton, was influential in directing the retrenchment policy of the government and shaping its attitude in the matter of financial reform. In 1813, he went to St. Petersburg as envoy extraordinary; but upon the English refusal of the mediation of Russia he proceeded to Ghent, where he and his associates negotiated and signed the treaty of peace (Dec. 24, 1814). A year afterward he, with Adams and Clay, signed a commercial convention between England and the United States. Declining to resume his former post at the head of the Treasury, he accepted that of minister to France, which he held between the years 1816 and 1823. In the latter year he again refused a Cabinet position and also a nomination for the Vice-presidency in 1826, though he served for a year (1827) as minister to England. In 1830, he was chosen president of the council of the University of the City of New York, and he filled the office of president of the National Bank, 1830-39. Gallatin's political views were those of a moderate anti-Federalist. He was greatly interested in science, and was not only the first president of the American Ethnological Society, but president of the New York Historical Society from 1843 until his death. His writings, in six volumes, edited by Henry Adams, appeared in 1879. See also the same editor's "Life of Albert Gallatin."

SPEECH ON THE BRITISH PEACE TREATY

TERMINATING THE WAR OF 1812-14

[A treaty of amity, commerce, and navigation between the United States and Great Britain was concluded on the nineteenth of November, 1794. Subsequently it was ratified by the President. On the second of March, 1796, the President proclaimed it the law of the land, and the same day communicated it to the House of Representatives in order that the necessary appropriations might be made to carry it into effect. On the twenty-sixth of April following, in Committee of the Whole, on the subjoined resolution: "Resolved, as the opinion of this Committee, that it is expedient to pass the laws necessary for carrying into effect the treaty with Great Britain," Mr. Gallatin spoke thus:]

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MR. CHAIRMAN,—I will not follow some of the gentlemen who have preceded me by dwelling upon the discretion of the legislature; a question which has already been the subject of our deliberations, and been decided by a solemn vote. Gentlemen who were in the minority on that question may give any construction they please to the declaratory resolution of the House; they may again repeat that to refuse to carry the treaty into effect is a breach of the public faith which they conceive as being pledged by the President and Senate.

This has been the ground on which a difference of opinion has existed since the beginning of the discussion. It is because the House thinks that the faith of the nation cannot, on those subjects submitted to the power of Congress, be pledged by any constituted authority other than the legislature, that they resolved that in all such cases it is their right and duty to consider the expediency of carrying a treaty into effect. If the House think the faith of the nation already pledged they cannot claim any discretion; there is no room left to deliberate upon the expediency of the thing. The resolution now under consideration is merely "that it is expedient to carry the British treaty into effect," and not whether we are bound by national faith to do it. I will therefore consider the question of expediency alone; and, thinking as I do that the House has full discretion on this subject, I conceive that there is as much responsibility in deciding in the affirmative as in rejecting the resolution, and that we shall be equally answerable for the consequences that may follow from either.

It is, however, true that there was a great difference between the situation of this country in the year 1794, when a negotiator was appointed, and that in which we are at present; and that consequences will follow the refusal to carry into

effect the treaty in its present stage which would not have attended a refusal to negotiate and to enter into such a treaty. The question of expediency therefore assumes before us a different and more complex shape than when before the negotiator, the Senate, or the President. The treaty in itself and abstractedly considered may be injurious; it may be such an instrument as in the opinion of the House ought not to have been adopted by the Executive; and yet such as it is we may think it expedient under the present circumstances to carry it into effect. I will therefore first take a view of the provisions of the treaty itself, and in the next place, supposing it is injurious, consider, in case it is not carried into effect, what will be the natural consequences of such refusal.

The provisions of the treaty relate either to the adjustment of past differences or to the future intercourse of the two nations. The differences now existing between Great Britain and this country arose either from non-execution of some articles of the treaty of peace or from the effects of the present European war. The complaints of Great Britain in relation to the treaty of 1783 were confined to the legal impediments thrown by the several States in the way of the recovery of British debts. The late treaty provides adequate remedy on that subject; the United States are bound to make full and complete compensation for any losses arising from that source, and every ground of complaint on the part of Great Britain is removed.

Having thus done full justice to the other nation, America has a right to expect that equal attention shall be paid to her claims arising from infractions of the treaty of peace, namely, compensation for the negroes carried away by the British; restoration of the western posts, and indemnification for their detention.

On the subject of the first claim which has been objected to as groundless, I will observe that I am not satisfied that the construction given by the British government to that article of the treaty is justified even by the letter of the article. That construction rests on the supposition that slaves come under the general denomination of booty, and are alienated the moment they fall into the possession of an enemy, so that all those who were in the hands of the British when the treaty of peace was signed must be considered as British and not as American property, and are not included in the article.

It will, however, appear, by recurring to Vattel when speaking of the right of "Postliminium," that slaves cannot be considered as a part of the booty which is alienated by the act of capture, and that they are to be ranked rather with real property, to the profits of which only the captors are entitled. Be that as it may, there is no doubt that the construction given by America is that which was understood by the parties at the time of making the treaty. The journals of Mr. Adams, quoted by a gentleman from Connecticut, Mr. Coit, prove this fully; for when he says that the insertion of this article was alone worth the journey of Mr. Laurens from London, can it be supposed that he would have laid so much stress on a clause which, according to the new construction now attempted to be given, means only that the British would commit no new act of hostility—would not carry away slaves at that time in possession of Americans? Congress recognized that construction by adopting the resolution which has been already quoted, and which was introduced upon the motion of Mr. Alexander Hamilton, and it has not been denied that the British ministry during Mr. Adams' embassy also agreed to it.

But when our negotiator had, for the sake of peace, waved that claim; when he had also abandoned the right which

America had to demand an indemnification for the detention of the posts, although he had conceded the right of a similar nature which Great Britain had for the detention of debts; when he had thus given up everything which might be supposed to be of a doubtful nature, it might have been hoped that our last claim—a claim on which there was not and there never had been any dispute—the western posts should have been restored according to the terms of the treaty of peace.

Upon what ground the British insisted and our negotiator conceded that this late restitution should be saddled with new conditions which made no part of the original contract I am at a loss to know. British traders are allowed by the new treaty to remain within the posts without becoming citizens of the United States; and to carry on trade and commerce with the Indians living within our boundaries without being subject to any control from our government. In vain is it said that if that clause had not been inserted we would have found it to our interest to effect it by our own laws. Of this we are alone competent judges; if that condition is harmless at present it is not possible to foresee whether under future circumstances it will not prove highly injurious; and whether harmless or not it is not less a permanent and new condition imposed upon us. But the fact is that by the introduction of that clause, by obliging us to keep within our jurisdiction as British subjects the very men who have been the instruments used by Great Britain to promote Indian wars on our frontiers; by obliging us to suffer those men to continue their commerce with the Indians living in our territory, uncontrolled by those regulations which we have thought necessary in order to restrain our own citizens in their intercourse with these tribes, Great Britain has preserved her full influence with the Indian nations. By a restoration of the posts under that condition we

have lost the greatest advantage that was expected from their possession, namely, future security against the Indians. In the same manner have the British preserved the commercial advantages which result from the occupancy of those posts by stipulating as a permanent condition a free passage for their goods across our portages without paying any duty.

Another article of the new treaty which is connected with the provisions of the treaty of 1783 deserves consideration; I mean what relates to the Mississippi. At the time when the navigation of that river to its mouth was by the treaty of peace declared to be common to both nations, Great Britain communicated to America a right which she held by virtue of the treaty of 1763 and as owner of the Floridas; but since that cession to the United States, England has ceded to Spain her claim on the Floridas and does not own at the present time an inch of ground either on the mouth or on any part of that river. Spain now stands in the place of Great Britain, and by virtue of the treaty of 1783 it is to Spain and America, and not to England and America, that the navigation of the Mississippi is at present to be common.

Yet, notwithstanding this change of circumstances, we have repeated this article of the former treaty in the late one, and have granted to Great Britain the additional privilege of using our ports on the eastern side of the river, without which, as they own no land thereon, they could not have navigated it. Nor is this all. Upon a supposition that the Mississippi does not extend so far northward as to be intersected by a line drawn due west from the Lake of the Woods, or, in other words, upon a supposition that Great Britain has not a claim even to touch the Mississippi, we have agreed, not upon what will be the boundary line, but that we will hereafter negotiate to settle that line.

Thus leaving to future negotiations what should have been finally settled by the treaty itself, in the same manner as all other differences were, is calculated for the sole purpose either of laying the foundation of future disputes or of recognizing a claim in Great Britain on the waters of the Mississippi, even if their boundary line leaves to the southward the sources of that river.

Had not that been the intention of Great Britain, the line would have been settled at once by the treaty according to either of the two only rational ways of doing it in conformity to the treaty of 1783; that is to say, by agreeing that the line should run from the northernmost sources of the Mississippi either directly to the western extremity of the Lake of the Woods, or northwardly till it intersected the line to be drawn due west from that lake. But by repeating the article of the treaty of 1783, by conceding the free use of our ports on the river, and by the insertion of the fourth article, we have admitted that Great Britain in all possible events has still a right to navigate that river from its source to its mouth. What may be the future effects of these provisions, especially as they regard our intercourse with Spain, it is impossible at present to say; but although they can bring us no advantage they may embroil us with that nation; and we have already felt the effect of it in our late treaty with Spain, since we were obliged, on account of that clause of the British treaty, to accept as a gift and a favor the navigation of that river which we had till then claimed as a right.

The seventh article of the treaty is intended to adjust those differences which arose from the effects of the present European war. On that article it may also be observed that whilst it provides a full compensation for the claims of the British, it is worded in such a manner, when speaking of the indemnifica-

tion for spoliations committed on the American commerce, as will render it liable to a construction very unfavorable to our just claims on that ground. The commissioners to be appointed by virtue of that article are to take cognizance and to grant redress only in those cases where, by reason of irregular or illegal captures or condemnation, made under color of authority or commissions from the King of Great Britain, losses have been incurred, and where adequate compensation cannot now be actually obtained by the ordinary course of judicial proceedings.

If Great Britain should insist that since the signing of the treaty they had, by admitting appeals to their superior courts, afforded a redress by the ordinary course of judicial proceedings; if those courts were to declare that the captures complained of were neither illegal nor made under color, but by virtue of authority or commissions from the king; and if that construction should prevail with the commissioners, the indemnification which our plundered merchants would actually receive in consequence of the provisions of this article would fall very short of their expectations and of their just claims. Yet this article, considering the relative situation of the two countries at the time when the negotiation took place, is as much as could reasonably have been expected by America. When a weak nation has to contend with a powerful one it is gaining a great deal if the national honor is saved even by the shadow of an indemnification and by an apparent concession on the part of the aggressor; and however objectionable the article might appear at first view, I am, on the whole, satisfied with it.

The remaining provisions of the treaty have no connection with past differences; they make no part of the convention which was the avowed object of Mr. Jay's mission; they apply