

The Commercial System
Established by the Orders in
Council, 1807-1808

by Rosco C. Ingalls

1911

Submitted to the Department of History of the
University of Kansas in partial fulfillment of the
requirements for the Degree of Master of Arts

Master Thesis

Ingalls, Rosco C. 1911

(History)

The commercial system
established by the Orders
in Council, 1807-1808

H. C. Inyarr

English Orders

in Council

The Commercial System established by the
Orders in Council, 1807-1808.

by

Rosco C. Ingalls.

This paper is submitted to Professor Carl L. Becker,
Department of History in the University of Kansas, as a
partial fulfillment of the requirements in a candidacy
for the degree, Master of Arts.

Lawrence, Kansas.

May 25th, 1911.

Approved May 25, 1911.

Carl Becker.

Professor of History

Bibliography.

I. Source.

1. American State Papers: Foreign Relations, Vol. III. Washington, 1832.
2. Annals of Congress. Washington, 1853.
3. Baring, Alexander. An Inquiry into the Causes and Consequences of the Orders in Council and an Examination of the Conduct of Great Britain towards the Neutral Commerce of America. N.York, 1808.
4. Brougham, Henry. Speech before the House of Commons, April 1st, 1808, in Support of the Petitions from London, Liverpool and Manchester, against the Orders in Council. Philadelphia, 1808.
5. British and Foreign State Papers. London.
6. Castlereagh, Lord Viscount. Memoirs and Correspondence. 12v. London, 1848-1853.
7. Edinburgh Review. Edinburgh and London, 1802--.
8. Gentleman's Magazine. London, 1731 --.
9. Hansard, T.C. Parliamentary Debates. London, 1812.
10. Journals of the House of Commons. London.
11. MacDonald, Wm. Documentary Source Book of American History, 1606-1898. N.York, 1909.
12. Miles, H. Weekly Register. Baltimore, 1812.
13. Richardson, James D. Messages and Papers of the Presidents, 1789-1897. Washington, 1899.
14. Stephen, James. War in Disguise or the Frauds of Neutral Flags. New York, 1806.
15. Statutes of the United Kingdom of Great Britain and Ireland. London, 1809.

The Commercial System established by the
Orders in Council, 1807-1808.

Outline.

- I. Introduction - - - - - pp. 1-4.
 1. General character of period 1806-12.
 2. Plan and aim of paper.
- II. The Commercial System previous to 1807. pp. 4-18.
 1. Relation of the United States to West Indies.
 2. Attitude of Great Britain towards America.
 3. Growth of American carrying trade.
 4. British measures interfering with American carrying trade.
 5. James Stephen and "War in Disguise".
 6. The U.S. an agricultural community: advantageous location for West Indian and European markets.
 7. American trade gradually assuming a continental character.
 8. Importance of the American market to Great Britain.
- III. British Restrictive System of 1807 - 1808 - -pp. 18-40.
 1. Brest to Epe Blockade, May 16th, 1806.
 2. Berlin Decree a pretext for Great Britain to strike at neutral commerce.

3. Whig Order of Jan'y. 7th, 1807.
4. Tories criticize Whig Order.
5. Report of Committee on State of West Indies.
6. Correspondence of Spencer Perceval with
Cabinet ministers.
7. Theory of self-sufficiency of Great Britain.
8. Tory Orders in Council, Nov. 11th, 1807.
9. Action on Orders by Parliament, March- June, 1808.

IV. Opposition in Parliament to the Orders. - - - pp. 40-54.

1. Session of 1808.
 - a. Petitions for peace and against
policy of Orders.
 - b. Whig opposition: lines of attack.
 - c. Tory defense, method of
 - d. Results.
2. Situation of Great Britain in 1809.
3. Session of 1809.

- a. Speech by Jas. Stephen.
- b. Modification Order in Council.

V. Results of the Restrictive Measures. - - - - -pp, 54-64.

1. State of Great Britain's commercial relations
1808-1809.
2. The Linense Practice.
 - a. Meaning of
 - b. Method of

VI. Summary.

1. Commercial objects of the Orders.
2. The System did not represent a consistent
and united aggressive policy.

I.

Introduction.

From 1806 to 1812 international trade relationships were dominated and determined, in a large measure, by the policies followed in England, in France, and in the United States of America. In France, Napoleon had launched his "grand scheme for excommunicating Great Britain from the society of nations", his Continental System. England had replied with measures establishing a Continental Blockade. And the United States had voiced her protest against the adoption of these policies and, at the same time, had given some indication of her ambitions by the adoption of a Restrictive System. It was a period in which great commercial issues were at stake. For England and for France, it was a "life and death struggle" from which England emerged the fittest. For the United States, it was a period preparatory to that of the War of 1812 by which she completed the achievement of her independence from England and established her rights and position as a maritime power. A study of the commercial policy, either of England, of France or of the United States, would be a reasonable task for the pretensions of any paper. But these policies are so interdependent and so closely related that it is a difficult matter to attempt this separate treatment. Perhaps, however, if we can detach a portion of the

subject-matter from the whole and can succeed in giving it a clear and a fair portrayal, our efforts will not have been in vain. It is this more or less fragmentary treatment which our paper attempts while, at the same time, trying to be true to the implications and the relations of the remaining parts of the subject.

Before beginning our task, it may be well to roughly outline the matter with which a full statement of the commercial relations of this period would be concerned. We tabulate, for that reason, the principal measures relating to trade regulations as they existed between 1806 and 1812. We may gain from this a sense of the importance of the complicated relations of the period.

1806 - May 16th. The "Brest to Elbe" blockade.¹

Nov. 21st. The Berlin Decree.

1807 - Jan. 7th. British Order in Council prohibiting coasting trade.²

Nov. 11th. British Orders in Council.³

Dec. 17th. The Milan Decree.⁴

Dec. 22nd. The American Embargo Act.⁵

1809 - Mar. 1st. Embargo removed and Non-intercourse substituted.⁶

Apr. 19th. Erskine's arrangement.⁷

Apr. 26th. British Order in Council modifying the blockade.⁸

Aug. 9th. Proclamation renewing Non-intercourse with Great Britain.⁹

References for page 2.

1. Amer. State Papers: For'n Relations, Vol. III P. 267.
2. " " " " " " " " P. 289.
3. " " " " " " " " P. 267.
4. " " " " " " " " P. 269.
5. " " " " " " " " P. 290.
6. Annals of Congress, First Session, Part 8II, P. 2814.
7. MacDonald, Source Book, P. 284.
8. Richardson, Messages and Papers, Vol. I P. 472.
9. Amer. State Papers: For'n Relations, Vol III PL 241.
10. Richardson, Messages and Papers, P. 473.

1810 - May 1st. Act of Congress governing trade relations with Great Britain.

Nov. 2nd. President's proclamation declaring French Decrees rescinded.

1811 - Mar. 2nd. Supplementary Non-intercourse Act.

1812 - Apr. 4th. American Embargo.

June 18th. Declaration of war by the United States against Great Britain.

This paper concerns itself primarily with the British side of the question. It is an inquiry into British policy in the issuance of the Orders in Council for the regulation of trade during the years 1807 to 1809. It regards these measures as essentially commercial in character and endeavors to show the reasons for that attitude. This involves a four-fold plan of consideration; first, a review of the commercial situation as it existed previous to 1807; second, a statement of the development of the Orders in Council System in 1807 and of what that System consisted in its final form; third, a study of the Parliamentary Debates to set forth the evidence concerning commercial motives for the Orders as it is to be found, (a) in the session of 1808, (b) in the session of 1809; fourth, a consideration of the results of the System as shown by statistics on British trade relations in 1808. This will include also a statement of the methods used in the license practice and the interpretation which that practice gives to the Orders in Council System. It is believed that the evidence here adduced will be sufficient to indicate that the Orders in Council System does not

References for page 3.

11. Annals of Congress, 11th Congress, Vol. II p. 2582.
12. Richardson, Messages and Papers, Vol. I p. 482.
13. Annals of Congress, 11th Congress, Part III p. 1138.
14. " " " " " Vol. II p. 2262.
15. " " " " " " II p. 2322.

represent a clear-cut and definitely understood policy as is so frequently supposed; that the Orders of November 11th were dictated by motives which aimed at the establishment of a commercial monopoly rather than at retaliation upon France; that the Orders in Council System did not achieve the results which were expected of it and that the system could not be, and was not, rigorously enforced.

II.

The Commercial System previous to 1807.

The review of the commercial system previous to 1807 will involve tracing the growth of the United States as a maritime power and will set forth her relations with the Continent and with England; and, primarily, the purpose will be to indicate the attitude of British statesmen and merchants towards the growth of a commercial rival, such as the United States, and their concern for the maintenance of British maritime superiority.

The United States came as a bold protest against the English colonial policy and the commercial system. It was an unique experiment in the development of statehood and of nationality. English statesmen, monarchically prejudiced, had little faith in the success of the task which the infant nation had undertaken. The United States had succeeded thus far in

making good her protest and England soon began to feel the effects of the break in her system. These came from the West Indian possessions. These islands, in the course of their development, had become dependent upon the colonies on the coast of America for lumber, live-stock and provisions. The changed relations of these colonies with the mother-country could not be expected to revolutionize, at the same time, their relations with the sister colonies in the West Indies. And it did not. England was now forced, practically as a condition of the existence of the West Indian planter, to grant further relaxations of her navigation laws to permit the continuance of an intercourse between the West Indies and America. It was not an easy matter for England to do this since the navigation laws had long been considered, both within Parliament and without, as the pillar of British maritime superiority. Parliamentary debates abounded in rhetorical ~~assertions~~ and eulogies on the navigation laws as the source of British power and glory. It was asserted that the United States could have no just cause for complaint if Great Britain should rigidly enforce her navigation laws, for it was the prerogative of every mother-country to maintain a monopoly of the trade with her colonies. It was believed that the great advantage of possessing colonies was an exclusive trade with them as the due return for having given them birth and, subsequently, support. Practical

considerations, however, made it necessary for Great Britain to abandon her theory of rigid adherence to the colonial system and to acknowledge that American produce was a necessity to the planter in the West Indies.

The act of Parliament which first permitted this intercourse with the United States sought to confine it to British ships manned by British seamen. But British shipping was found to be inadequate to colonial needs. The West Indian governors had met the situation by the issuance of proclamations which opened their ports to the American shippers; ^{and} Parliament had ~~protected and~~ sanctioned this practice by granting Bills of Indemnity.

The renewal of hostilities between England and France in 1793 necessarily opened the French West Indian ports to the United States. France could not cope with British naval superiority. The admission of the United States to these ports aroused the jealousy of Great Britain. The "Rule of 1756", so-called because of its promulgation in that year, was now more rigorously enforced. It declared to be illegal all trade with the colonies of an enemy in time of war because such a trade was not permitted in time of peace. American practice had found a means of evading the rigors of this rule and Great Britain had, for a long time, given assent to it. This evasion was accomplished by a practice known

as the breaking of the continuity of a voyage. This meant the continuance of a trade for France with her colonies by means of an indirect intercourse thru the United States. The American trader proceeded in this manner: sailing from a French West Indian port to an American port, he would land there, pay duties and thence re-export to France. The entrance at the American port was held to break the continuity of the voyage and thus legalize it. America profited greatly by this practice, much to the surprise of Great Britain who had thought that the expense to be incurred by such a procedure would offer an effectual discouragement to the trader. The carrying trade thus conducted was proving profitable business; the United States was becoming a great carrier of trade and a rival whom Great Britain regarded jealously. British interests were being injured to a considerable extent. The number of British ships entering inwardly and clearing outwardly from ports of the United States had greatly diminished ^{Since} ~~after~~ 1790. Some 550 ships with a capacity of 115000 tons had cleared inwardly and outwardly from United States ports in 1790; the returns from the custom-house showed about 100 entries in 1799 and about 140 in 1800. The returns for three years, 1790-1792, showed an average of some 280 entries of American ships with a capacity of 54000 tons; the total for the entries in 1800 were 1057 ships with a capacity

of 236000 tons. The export trade of the United States, no distinction being made between domestic and foreign exports prior to 1803, showed an increase of 143.94% between the years 1790 and 1801.¹

A decision in the "Polly Case", rendered February 5th, 1800, held that the landing of a cargo and the payment of a duty in a port of the United States broke the continuity of the voyage and legalized the trade carried by a neutral between the mother-country and a colony. Sir Wm. Scott, who gave this opinion, reversed it a few years later in the case of the "Essex". This decision, rendered in July, 1805, was among the "signs of the times" and was for the purpose of getting at American practice in this carrying trade which had assumed such alarming proportions. It held that "mere touching at any port without importing the cargo into the common stock of the country will not alter the nature of the voyage"; that the existence of an "original intention" to send the vessel on was sufficient to make the voyage continuous and that "a continuous voyage from the colony of the enemy to the mother-country or to any parts but those to which the vessel belongs will subject the cargo to confiscation".⁸ Scores of American vessels were seized on the basis of this decision. Its effect was to condemn a large portion of the American traffic with Europe. (See below for statistics estimating the amount of this carrying trade with Europe.)

References for page 8.

16. Adams, History of the U.S., Vol. II Ch. XIV.
"Relations with England". See also
Parliamentary Debates, particularly
Vols. VI - XI for discussions
relating to American affairs and the
intercourse of the United States with
the West Indian Islands.
17. U.S. Public Document. Serial 2236 Doc. 49 Part II p.12.
18. " " " " 3267 " 212 p. 4447.

Closely following the "Essex" decision came that famous pamphlet by James Stephen. "War in Disguise or the Frauds of Neutral Flags" was published in October 1805. It was a powerful and very effective pamphlet in its influence upon British judicial and popular opinion. It confirmed the British ~~tendency of~~ jealousy and hostility towards the rapidly growing maritime power of America. Stephen was a thoroughgoing commercialist and it is this spirit of commercialism which actuates and dominates the entire pamphlet. Bitter towards the American carrier whose activities he deemed "fraudulent", deeply concerned for what he took to be the undermining of British maritime superiority, he sought to create a favorable sentiment for measures which would strike vital blows at the growing prosperity of the American carrying trade and which would react favorably to British interests at the same time. "War in Disguise" was thoroughly given over to this idea. It is interesting to note in this pamphlet the argument and its proposed remedy for the situation. James Stephen was intimately associated with the origination of the Orders in Council System. He was among those who fathered the measure. This fact should make the presentation of his views relating to commerce of a neutral a commentary of no mean importance upon the policy which dictated the Orders in Council. It is with this idea in mind that we now give

our attention to "War in Disguise" and note it's distinctly hostile attitude towards American commerce and it's emphasis upon the necessity for the maintenance of British maritime superiority. The sentiments expressed in this pamphlet can easily be motives for the action taken by ministers in November 1811.

"War in Disguise" had for it's basic principle the idea that the continued superiority of Great Britain at sea was essential as providing an effective obstacle to the ambition of France to become an universal empire. It regarded British maritime superiority as never more decisive than in the present period yet could not see that it was seriously inconveniencing the enemy or working hardships upon him. It saw his commercial and colonial interests ruined in appearance only, not in reality. France had neutral carriers for her colonial produce and of these carriers the United States was the worst offender as it was by the frauds of her flag that the just deserts to British supremacy upon the sea had disappeared. This colonial trade existed only because Great Britain had not exercised her full belligerent rights. The results of this relaxation in belligerent rights were; that colonial produce is poured into the continental markets to rival and to undersell that of the British merchants and planters in those markets; that the enemy has derived full benefit from his colonies without the expense of

protecting them; that the neutral frauds have depressed the maritime power of Great Britain and exalted that of France; that France is enabled to use all her naval power in offensive operations and has it concentrated near the seat of her empire while the British navy must remain widely scattered from the necessity of protecting her commercial interests; that the paramount evil of the independence and the growing commerce of the United States is in its seduction of British seamen, a means by which the neutral carrier is nourished with the life-blood of the British navy; that this growing neutral commerce was a great discouragement to the commerce of Great Britain and that the relaxation of belligerent rights had thrown the world's carrying trade into the hands of the Americans who threatened the maritime superiority of Great Britain and were further offenders in so much as they were frustrating British hostilities against the commerce and the revenue of France. The situation was one which called for effectual remedial measures by Great Britain. It was within her prerogative to apply this remedy for it was only by the gratuitous concession of belligerent rights that neutrals were enabled to carry the colonial trade of British enemies. These concessions could be withdrawn after a reasonable notice and the penalty for the violation of belligerent rights made the seizure and the confiscation of the ship and the cargo. Such a procedure would speedily prove

an effective remedy. The enemies would soon give up the use of neutral bottoms in their colonial trade, finding that no protection was afforded by them; they would hoist again their own commercial flags and there would be restored to Great Britain the just fruits of her naval superiority. "Our seamen would be enriched, our imports would be very largely increased and every western breeze would waft into the channel, not a neutral sail or two to furnish diplomatic squabbles and litigation in the admiralty but numerous and valuable prizes and sometimes entire fleets of merchantmen with their convoys taken from enemies and under hostile colors". This remedy would restore to the belligerent superior at sea those natural advantages which he ought justly to enjoy. "He (Napoleon) calls us the 'tyrants of the sea' but if the throne is ours he has filched away the scepter and our naval diadem, like his own iron crown of Lombardy, is, in a commercial view, cumbersome and worthless".¹⁹

Stephen's protest against the growth of the commerce of the United States voiced the British attitude towards the commercial independence of the new republic. Great Britain was finding this maritime carrier of the New World a rival of no mean size, and some means must be found to enable Great Britain to maintain her monopoly. This was the issue which overshadowed all others in British councils.

There was some justification for this

References for page 12.

19. Stephen, James - " War in Disguise or the Frauds
of Neutral Flags".

attitude of Great Britain in the growth of American maritime activity. America had great length of coast line and an abundance of harbors. Conditions were favorable for her inhabitants, New Englanders especially, to become a sea-faring people. Intercolonial communication had been largely by sea. Geographical conditions had determined this. The coastwise trade had been a large factor in bringing about a common bond between the Americans. The achievement of independence marked the beginning of a period of pronounced maritime expansion for the United States tho she remained essentially an agricultural community for many years. She possessed an abundance of products from agriculture, from the fisheries and from the forests. She drew her supply of manufactured articles from England and from Europe, principally from England, and gave her raw material in exchange.²⁰ The total values of her exports, being the products of agriculture, of forests, of sea and of manufactures, for the years 1803-1810 will make clearer this point. It will indicate also the extent to which the United States was using her resources in raw materials.²¹

Not the least of America's advantages was her central position in relation to the West Indian and the European markets. Intercourse with these markets was very remunerative and was rapidly assuming regularity. English tho had not at first appreciated these advantages which America possessed or, if so, had

References to page 13.

20. Semple, Amer. History and its Geographical Conditions,
pp. 115-131.

21. U.S. Public Document, Serial 2236 Doc. 49 Part II pp. 62-70.

Total value of Agricultural Products exported

1803	\$32995000
1804	30890000
1805	31562000
1806	30125000
1807	37832000
1808	6746000
1809	23234000
1810	33502000.

Total value of exports being the product of forest.

1803	\$ 4850000
1804	4630000
1805	5261000
1806	4861000
1807	5476000
1808	1399000
1809	4584000
1810	4978000.

Total value of exports being the product of the sea.

1803	\$2635000
1804	3420000
1805	2884000
1806	3116000
1807	2904000
1808	822000
1809	1710000
1810	1481000.

Value of manufactures exported.

1803	\$ 1355000
1804	2100000
1805	2300000
1806	2707000
1807	2120000
1808	344000
1809	1506000
1810	1917000.

remained largely indifferent to them. Englishmen repeatedly assured themselves that America could not become a maritime power or a manufacturing country. The Americans themselves did not realize their resources. They were strongly prejudiced against manufactures until experience showed that many articles could be made as cheaply as they could be imported from Europe and there would still be left to the manufacturer and the capitalist ample returns for his labor and the risk involved.²²

American vessels were becoming more and more the favorite carriers on the ocean. They were fast, safe, took better care of goods, loaded and unloaded most quickly, enjoyed comparatively low rates of insurance and were thus enabled to handle valuable cargoes at a fair margin of profit. The Yankee was proving himself a shrewd competitor ^{of} for the British merchant. European conditions, too, favored the development of the United States as a maritime power and her immense carrying trade on the eve of the institution of the Orders in Council System. The extent of this carrying trade may be gathered from the accounts of the exports from the United States to European ports between the years 1803 and 1810. The foreign re-exports will indicate the carrying trade.²³

American commerce was gradually assuming a continental character. Her vessels would ship for European ports where payment for the cargoes was received principally in bills of exchange on London.

References for page 14.

22. See first few volumes of Niles Register; articles relating to the growth and development of American manufactures: see also speech by Henry Brougham in support of petitions against the policy of the Orders in Council made before Parliament April 1st, 1808.

23. U.S. Public Doc. Serial 3135 Doc. 26 pp. 10-19.

" " " " 3135 " 117 p. 8.

" " " " 2827 " 2130 p. 305.

Total values of exports from U.S. to European countries for years ending Sept. 30th 1803 - 1810.

To France.

	Domestic.	Foreign.
1803	\$1877040	2598674
1804	3220112	5604942
1805	3079862	9885602
1806	3226698	8197694
1807	2716141	10315678
1808	708680	2126396
1809	xxxxxx	xxxxxxx
1810	16782	1670.

To the United Kingdom.

	Domestic.	Foreign.
1803	\$16459264	1342090
1804	11787659	1418842
1805	13939663	1472600
1806	12737913	2855583
1807	21122332	2027650
1808	3093978	106327
1809	5326194	239405
1810	111388438	892435.

To Europe generally "for a market".

	Domestic.	Foreign.
1803	\$ 178699	156754
1804	86827	534064
1805	189608	628608
1806	85695	212385
1807	31505	42191
1808	xxxxxx	xxxxxx
1809	288314	2206295.

To Spain.

	Domestic.	Foreign.
1803	\$ 1745888	230221
1804	2304293	597143
1805	2327155	1656312
1806	1363283	1758954
1807	1181231	3547907
1808	542378	901003
1809	1289220	1290003
1810	3487951	1218601.

To Italy.

	Domestic	Foreign.
1803	\$ 376695	1208977
1804	118441	1552708
1805	142475	2320099
1806	185346	4587727
1807	250257	5501226
1808	58085	1312173
1809	49206	1106539
1810	71803	656691.

To Belguim & Holland.

	Domestic	Foreign
1803	\$ 1451710	2535239
1804	2064158	11757002
1805	1783503	14959380
1806	3609964	15015565
1807	3098234	13086160
1808	382121	02227722
1809	421294	697070
1810	74194	28992.

To Denmark & Norway.

	Domestic	Foreign.
1803	\$ 366550	334310
1804	477211	1155965
1805	435926	1481767
1806	356695	1052954
1807	572150	836468
1808	11740	138863
1809	958584	3327766
1810	3962739	654051.

To Germany.

	Domestic	Foreign.
1803	\$ 1542132	2057225
1804	1358775	4302348
1805	1039517	2583010
1806	1677687	4914651
1807	912225	2248057
1808	24963	204852
1809	709981	1682662
1810	1018713	644568.

Per cent of exports to Europe.

1803	66.77
1804	66.06
1805	63.57
1806	63.95
1807	65.40
1808	30.00
1809	64.80
1810	70.14.

With these bills of exchange the American vessel would go to a British port where her lading was completed with British manufactures. Sometimes the American vessel went from home direct to a British port in which case that part of the cargo in excess of the British consumption was reexported to the continent by England acting as a middleman. This had been the course of American commerce previous to 1804. Subsequent to that date, changes in the methods of the neutral carrier were in evidence. The American intercourse with the continent was assuming a more direct character and in this situation Great Britain scented consequences fraught with grave injuries to her trade and commerce. She foresaw her merchantmen being relegated to a subordinate position in the estimation of the nations. Such a position would be in direct contradiction to her traditions and hopes. Great Britain could not sit passively by and see her merchantmen removed to a secondary and less remunerative position. She would not permit without a struggle the loss of the continental markets for her wares and manufactures nor could she see her colonial produce supplanted on the continent by that of the West Indies. British interests were bound to attempt some measures which would tend to prevent the United States from absorbing and from being absorbed by the continental trade. The development of a trade which tended to become more and more direct with the continent meant

the displacement of British manufactures by continental manufactures. British commerce was expected to suffer in proportion as the return lading of the trader consisted of continental manufactures in place of British manufactures. British statesmen felt themselves duty-bound to protect their commercial interests and to maintain the supremacy of Great Britain upon the sea. It is believed that the anxiety for the protection of commercial interests and for the maintenance of naval supremacy gave direction to British councils in these years.

The relation of the American market to that of Great Britain was very important. The importance of this relation was none the less diminished because of the changed conditions described above. The authors of the Orders in Council seemed to have forgotten this or, rather, to have ignored it either from choice or from a misunderstanding of the situation. The principal demand for British manufactures came from America. The British manufactures consumed by America was far in excess of the amount of American produce consumed by Great Britain. The continuance of a free and unrestricted intercourse with the continent was necessary if America was to keep this adverse balance satisfactorily adjusted. The bills of exchange on London issued by the continental buyers of the American produce paid for the manufactured articles taken from England. It was to the

advantage of American interests to consider Great Britain as the principal source from which to draw her manufactured articles. British manufacturers undersold all rivals in the market. Just as England acted as a middleman for the distribution of American produce in a good many instances, so the United States served as a kind of distributing agency for British manufactures when they were in excess of her own consumption. We have, thus, the development of a three-cornered trade relation, the continuance of which was of vital importance for the interests of all concerned and especially so for Great Britain. It was a matter of paramount importance that she should have open as many markets for her goods as it was possible to find and to maintain. The results of the industrial revolution and of the application of steam to machinery emphasized the importance of this. Great Britain had now an increased capacity for the output of cotton and woolen goods and of hardware. The loss of markets in this period of development might easily produce disastrous effects. The Orders in Council System was, doubtless, an attempt to secure these open markets and to establish, at the same time, a commercial monopoly for the British merchant. The decision to follow this course did not give due recognition to the risk involved by incurring the ill-will of the United States. It was almost a certainty that the United States would consider the Orders as evidence of a

policy of antagonism to her trading interests. It is very much open to question whether or not the British councils calculated upon the possibility of America turning from her agricultural interests to those of manufacturing as a result of the policy they were adopting. It was in this fact that a serious blow could be, and was, dealt to British interests. The course of events succeeding the adoption of the Orders in Council System indicates the great changes which were effected. The British ministers at that time, however, choose to attempt this experiment in commercial aggrandizement and to do it under the guise of retaliatory measures upon an enemy for abuses to her commercial interests. They defended the Orders as being retaliatory measures upon France. This was very largely a popular defense and obscured the real points at issue. We take it that this review of the commercial situation previous to 1807 points to commercial motives as predominant in the shaping of British policy.²⁴

III.

The British Restrictive System of 1807-1808.

We have now to consider the British Restrictive System of 1807-1808 and to see of what it consisted in the final form. The points of interest in this matter are: firstly, the connexion of a Whig ministry with the issuance of the Order of January 7th, 1807 and of a Tory ministry with the issuance of those

References for page 18.

24. Adams, History of U.S. Vol. IV. pp. 74-79.

Mahan, Sea Power xxx French Revolution, Vol. II. pp. 355-6.

Rose, Napoleonic Studies; Article, "Napoleonic and
British Commerce".

Baring, "An Inquiry into the Causes and Consequences
of the Orders in Council and an Examination
of the conduct of Great Britain towards
Neutral Commerce".

For further material on these matters see Parliamentary
Debates for the period.

of November 11th. This change in ministries, of politics so opposite in kind, is quite suggestive as to the policy we may expect to be contained and asserted in the issuance of the Orders; secondly, a report upon the commercial state of the West Indies presented to Parliament in July 1807; thirdly, the correspondence of Spencer Perceval with cabinet ministers concerning the adoption of measures against neutral commerce; finally, the completion, by the passage of laws, of a commercial system designed to make Great Britain the center of the world's commerce. We hope to show by this the ~~pre-~~
~~dominantly~~ commercial motives which had to do with the development of the system and then to see to what extent those motives are reflected and put into practice by the system adopted. A consideration of these points will reveal, even more clearly, the extent to which commercial interests overshadowed and displaced retaliatory aims as the explanation of the Orders in Council System.

May 16th, 1806, Great Britain issued a notification of blockade from the river Elbe to the port of Brest, both points inclusive.²⁵ It was not a rigorous blockade. It permitted neutral vessels, laden with goods neither the property of British enemies nor contraband of war, to approach and to enter these ports; it permitted vessels to sail from these ports provided the port of destination did not belong to, or was not in

References for page 19.

25. British and Foreign State Papers, Vol. I. p. 1512.

possession of, any of His Majesty's enemies. By the issuance of this order, Great Britain evidenced an apprehension of the result to herself of the neutral trade with France and with the Continent. Napoleon either did not see this or overlooked it. He made the blockade order the pretext for the issuance of his Berlin Decree. In doing this, he disregarded the tendency of events and ignored experimental evidence as to the results of such restrictions upon neutral trade. The Directory, in January 1798, had attempted a similar measure with disastrous results.^{26.}

The issuance of the Berlin Decree was a fortunate circumstance for Great Britain in that it furnished the pretext for the issuance of the Orders in Council which, under the guise of retaliatory measures upon France, struck at the neutral carrying trade. Napoleon made a mistake when, by the issuance of the Berlin Decree, he imposed vexatious restrictions which would tend to keep the neutral out of his service. The natural tendency of the situation, after the issuance of the Berlin Decree, was to make for common interests between England and the United States. It was the business of Great Britain to assist and to encourage the American trader in finding opportunities for continuing his intercourse with the continent. He would have been a valuable agent for supplying the demands for British goods in those parts of the continent to which Great

References for page 20.

- W6. Mahan, Sea Power xxxx French Revolution Vol. II. pp
279, 353, 396-7.
- Cambridge Modern History Vol. IX. Ch. XIII. - "The
Continental System". pp. 361-3.

Britain would not have had ready access. Great Britain thought she was self-sufficient whereas she needed co-operation and needed it badly. Great Britain blundered when she did not take advantage of Napoleon's mistake. The issuance of the Orders in Council placed the United States between two fires, the one builded by France the other by England. It was risky business to continue in this situation and, for the moment, the American trader attempted to abandon the ocean. The results of this is noticeable in all the trade statistics for the period. The policy adopted by Great Britain interferred very seriously with the most remunerative branch of her foreign commerce, the direct trade with America. Further, it crippled her indirect trade with the continent thru the agency of the United States. The step was one which brot about serious consequences in the course of British prosperity during the next few years.

It is necessary to locate ourselves definitely if we would avoid confusion when speaking of the Orders in Council. Chronologically, this inquiry concerns itself with Orders issued on January 7th, 1807, November 11th, 1807 and April 26th, 1809. These dates roughly represent the period covered by the rise and fall of the Orders in Council System. The Order of January 7th was issued by a Whig ministry; the others by a Tory ministry. It is necessary to keep this point in mind when undertaking any inquiry into the policy of

Reference for page 21.

27. See notes to page 14.

of the Orders in Council. We discover, at once, by it that the consideration of the matter was not above politics. In the order of importance, we consider those of November 11th to have given the fullest expression to the aims and the tendencies of British ministers. It is upon these, and upon the complementary acts passed by Parliament, that we center our attention; it is to these measures that we refer when speaking of the commercial system of the Orders in Council. They represent the fullest expression of this attempt at the world-wide regulation of commerce for the purpose of subjecting it to the interests of Great Britain. They form the central portion of our inquiry.

A Whig ministry had succeeded to power in January, 1806 and had continued until April, 1807. The Tories were then restored under the leadership of Portland but in reality guided by Spencer Perceval. The Whigs were thus in charge of the administration at the time of the issuance of the Berlin Decree. Their reply to it was the Order of January 7th. This Order aimed at the coasting trade of France. Its principle was the right of retaliation and, in its effect, it was an extension of the Rule of 1756 so as to prohibit trade between any two hostile ports. Its operation was particularly hard on American ships which had been in the habit of going from place to place in Europe either seeking the best market or gathering a cargo. It was a conservative and legitimate expression of retaliation.

References for page 22.

28. Adams, History of U.S., Vol. IV. pp. 55-62.

Temperley, Life of Canning, pp. 68-69.

Parliamentary Debates, Vol. IX. p. XII.

List of His Majesty's Ministers as it stood in March, 1807.

Viscount Sidmouth - - President of the Council.
Lord Erskine ----- Lord High Chancellor.
Lord Holland - - Lord Privy Seal.
Lord Grenville - -First Lord of Treasury (Prime Min.)
Right Hon. Thos. Grenville - -First Lord of Admiralty.
Earl of Moira - - Master General of the Ordnance.
Earl Spencer - - Sec'y of State for Home Dep't.
Lord Howick - - Sec'y of State for For'n Affairs.
Right Hon. William Windham - - - Sec'y of State
for Dep't of War and the Colonies.
Lord Ellenborough - - -Lord Chief Justice of the
Court of the King's Bench.
Lord Henry Petty - - - Chancellor and Under-Treasurer
of the Exchequer.
Earl Fitzwilliam - - -A seat without an office.

List of His Majesty's ministers as it stood April 1807.

Earl Camden - - -President of the Council.
Lord Eldon - - - Lord High Chancellor.
Earl of Westmoreland - - Lord Privy Seal.
Duke of Portland - - First Lord Of Treasury
Prime Minister.
Lord Mulgrave - - - First Lord of Admiralty.
Earl Bathurst - - - President of Board of Trade.
Lord Hawkesbury - - Secretary of State for Home
Department.
Right Hon. Geo. Canning - - - Secretary of State
for Foreign Affairs.
Lord Castlereagh - - Secretary of State for Dep't of
War and the Colonies.
Right Hon. Spencer Perceval - - - Chncellor and
Under- Treas. of the Exchequer.

29. Mahan, Sea Power xx French Rev. Vol. II. p. 275.

30. Mahan, Sea Power xx French Rev. Vol. II. p. 276

See notes to page 14; Exports to Europe generally

"for a market".

The Whigs were inclined to be more liberal with neutral commerce than the Tories were. This is revealed by the debates on the Order of January 7th. They began in February. The most significant speech, made by Spencer Perceval, showed clearly the end towards which British legislation might be expected to approach. He gave expression to that everywhere prevailing desire to get at neutral commerce. This speech contains the germ of Perceval's theory of retaliation. He accepted without question the right of retaliation. He believed in the expediency of retaliation and argued that two objects be kept in view when resorting to these measures. The objects should be; firstly, an effort to most effectively counteract the evils to British commerce resulting from the measures of the enemy; secondly, an effort to most effectively "retort upon the enemy the evils of his own injustice". The attainment of the first of the two objects was the more important. He thought the chief effects of the Berlin Decree upon British commerce would be to occasion a greater inconvenience in the introduction of British goods to the continent and, as a consequence, an advance in prices. However that might be, he did not think that the present measure had gone to the right spot and was dissatisfied with it. It was not extensive enough in its operation. He did not consider that the greatest injury could be

done to the enemy by striking at his coasting trade. That procedure would make no very serious impression upon him. It is here that Perceval showed the extent of his pretensions by proposing another plan, his plan, one that would prevent the importation of commodities from the colonies of France and Spain and the countries under their dominion. He wanted to get at the colonial trade of the enemy. He believed that measures could be enacted which would prevent this importation completely, which would advance the price of those colonial articles, which would make the means for their conveyance so ^{much} more perilous, that British commodities could meet them satisfactorily in the European markets. His essential interest thus showed itself to be that of getting British commerce on a favorable footing in the competition of the continental merchants. To him, there was no necessity for consulting neutrals as to the operation of these restrictions on the colonial trade; a reasonable time for receiving notices of the acts was all that they might ask. He would attach no blame to Great Britain for the issuance of these measures because the enemy had forced her to adopt such a policy. If the United States had any complaints to make they must be directed to France, the original aggressor, not to Great Britain. He suggested further that it be made a requirement that no goods be carried to France except that they first touched at a British port, entered at the custom-house and paid a duty. This was a means for

enhancing the price of goods in the foreign markets so ~~h~~ that British commodities would be able to find a better sale there.^{31.} This speech foreshadows the essential features of the system adopted~~d~~ in November. It ~~has~~ outlined a policy for a thoro-going blow at neutral commerce and has done it under the pretext of retaliating upon France. It gives expression to the deep concern for the welfare of British commerce of the continent. It desires to place them on an advantageous basis of competition in the continental markets. It is interesting to watch the development of this plan.

The Whig defense adopted a conservative attitude and took care to point out the worth to Great Britain of neutral commerce with the British enemies. It indicated how America exported to continental nations but imported from England; how, to deprive the United States of her continental markets would be to take away her means of purchasing from Great Britain; how the countries of the enemy were a source of supply for some of the raw material which Great Britain used in her manufactures; how these materials might be obtained thru the agency of the neutral and how the intervention ~~of~~ the neutral might serve to bring about the very thing to which Napoleon was the most hostile, namely, the introduction of British goods into countries under his control.^{32.} Retaliation after this fashion could have been persisted

Reference for page 25.

31. Parliamentary Debates Vol. VIII. p. 629. Speech by
Spencer Perceval Feb'y. 4th, 1807.

32. Parliamentary Debates, Vol. VIII. Debate of Feb'y 4th,
1807. Speeches by Sir John Nicholls, Lord
Temple and others.

in with reasonable expectations for success. It saw sufficient reasons from abstaining from any measures severely injurious to the American commerce. The course of events might have been far different had a policy such as this prevailed. Commercial interests were too aggressive for it, however, and moulded the course which Great Britain followed.

The next guide post which is to indicate to us that the spirit of commercialism was in the ascendancy ^{ant} ~~and was tending towards the measures of November 11th, 1807~~ is to be found in an action instituted by the Portland ministry shortly after it had come into power in April. This was the appointment of a commission to investigate the commercial state of the West Indian islands. The committee was appointed July 9th. It was to report to the House its proceedings from time to time and was to sit notwithstanding any adjournment of the House. Mr. Ellis reported from the committee July 27th. The report was ordered to lie on the table and with the appendix to be printed. It was printed August 8th. The House resolved, August 10th, to take it into consideration early in the next session. August 14th Parliament was prorogued and did not resume business until ²³ January 21st, 1808. There is nothing significant in the action taken upon this report. The report itself, however, is important as an indication of the British attitude towards neutral commerce.

References for page 26.

33. Commons Journals, Vol. LXII p. 669, 770, 835, 848.

Members of the committee were; Mr. Dent, Mr. Long, Earl Temple, Mr. Bathurst, Mr. Evan Baille, General Gascoyne, General Tarleton, Mr. Vansittart, Lord Viscount Castlereagh, Mr. Rose, Mr. Manning, Mr. Sharp, Mr. Lushington, Mr. Hibbert, Mr. Alderman Shaw, Sir Wm. Curtis, Mr. Dickinson, Mr. Hawkins Browne, Mr. Archibald Campbell, Mr. Tremayne, Mr. Geo Henry Rose, Mr. Ellis, Mr. Irving, Mr. Anthony Browne.

The report of the committee strengthened the complaint against America as a neutral and a rival carrier. It was another link in the chain which was being forged to protect the sale of British manufactures on the continent. The ministers took no immediate action upon the report it must certainly have confirmed them in the adoption of any plans which they might have been considering. Two months later, the results of these plans are to be seen in the adoption of the orders in Council System of November 11th, 1807.

The report states that the committee had found the condition of the West Indian planter to have progressively deteriorated since 1800; that the price of sugar had decreased while the cost of cultivation was steadily increasing; that the profits on the cultivation of sugar previous to 1800 had averaged about 10% but that since that time they had fallen to 2 1/2% and 1 1/2% and in some cases to no return of interest whatever. The committee suggested that a possible remedy for this situation would be an increase in the bounty allowed on exports, which measure would perhaps afford relief if accompanied by restrictive measures of such a character as to render the expenses on British and foreign produce equal in the continental markets. It commented upon the very unfavorable state of the continental markets in the supplying of which the British merchant had formerly enjoyed nearly a monopoly but

where now he was scarcely able to enter into any competition whatever with the planter of the hostile colonies. The report attributed the primary reason for this condition to the "facility of intercourse between the hostile colonies of Europe under the American neutral flag by means of which not only the whole of their produce is carried to market but at charges little exceeding those of peace: while the British planter is burdened with all the inconvenience, risk and expense resulting from a state of war!" The primary recommendation of the report was of the following nature: "to counterbalance, in some degree, the advantages thus enjoyed by the hostile colonies to the detriment of the British planter it has been recommended that a blockade of the ports of the enemies settlements be resorted to; such a measure, if it could be strictly enforced, would undoubtedly afford relief to our export trade. But a measure of more important and certain advantage would be the enforcement of those restrictions on the trade between neutrals and the enemies' colonies which were formerly maintained by Great Britain and from the relaxation of which the enemies' colonies obtain indirectly, during war, all the advantages of peace; while our own colonies, in the intercourse with whom that system of monopoly which has been held essential to the commercial and military navy of this country, is rigorously enforced, are deprived of the advantages of which, in former wars, they carried their produce to the foreign markets and which,

in the present war, by means of our decided naval superiority, would have amounted to the exclusive supply of the whole of Europe: and when those extraordinary measures are taken into consideration which have been adapted to exclude British colonial produce from the European market, it appears to be a matter of imperious and evident necessity to resort to such a system as, by impeding and restricting, and, as far as possible, preventing the export of the produce of the enemies' colonies from the places of it's growth, shall compel the continent to have recourse to the only source of supply which, in that event, would be open to it."

The committee had not been forgetful of the American relation to the West Indies. They investigated this and concluded that the trade between the United States and the West Indies was very convenient and advantageous and "one which the colonies could not relinquish without essential detriment unless it were compensated by other advantages, but that it was not essential to their existence nor equivalent to the disadvantages of their situation". They could therefore conclude their report by saying that "unless some speedy and efficient measures of relief are adopted the ruin of the great number of planters and of persons in this country holding annuities and otherwise dependent upon these properties for their income must inevitably

soon take place, which must be followed by the loss of a vast capital advanced on securities in those countries and by the most fatal injury to the commercial, maritime and financial interests of Great Britain".³⁴

The next trace we have of negotiations ~~is~~ being conducted concerning neutral commerce is that of a letter from Lord Castlereagh to Spencer Perceval, October 1st, 1807.³⁵ And when we remember that Lord Castlereagh was a member of the committee on the commercial state of the West Indies this communication is of significance. It is as follows. "The more I have had time to reflect on our future prospects in this war, the more impressed I am with the conviction that neither peace nor independence can be the lot of this nation, till we have found the means of making France feeling that her new anti-social and anti-commercial system will not avail her against a power that can, for its own preservation, and consequently legitimately, counteract at sea what she lawlessly inflicts and enforces on shore. I wish you would turn in your mind, whether we are of necessity bound to postpone measures in furtherance of this great purpose with reference to the American question or whether, even upon the reservation of the late government, the right of retaliation may not be exercised by us without prejudice to these discussions. ~~xxxxxxx~~ The details of such an arrangement will require much consideration:

References to page 30.

34. Parliamantary Debates Vol. IX. Appendix, p. LXXX.
35. Castlereagh Correspondence, Vol. VIII. pp. 87-8.

the general principle is sufficiently obvious".

Perceval's reply to the communication of Lord Castlereagh was a paper of suggestions on the subject for the use of the Cabinet. It dealt principally with the policy and the justice of retaliation. The opinions of the various members of the Cabinet concerning the proposed measures were asked for and received by Perceval. The course of this correspondence tends to indicate that it was the intention of Perceval and Castlereagh to force British commerce upon France, not to take it from her. All the cabinet opinions were in the hands of Perceval by the end of October and the task of drafting the proposed orders was begun. The draft was completed in the first days of November and sent to Lord Bathurst, President of the Board of Trade, who protested against the principle of the proposed orders, stating, in his reply, that the "object of the proposed orders, the general, was, in fact, nothing but the colonial trade carried on thru America"; and that it risked war with Russia and America without materially hurting France. The protest of Lord Bathurst, however, was ignored. Commercial interests had their say and carried the day. American commerce was now to be checked in order to stimulate British commerce. The final form of the Orders differed greatly from the wording of the original draft. 36

Reference for page 31.

36. Adams, History of the U.S., Vol. IV. pp. 83-104.

Perceval and his supporters were proceeding upon a belief in the theory of the self-sufficiency of Great Britain. This was the British maritime point of view and is expressed best in the words of Geo. Canning to Lord Strangford, October, 22nd, 1807²⁷. These words being contemporary^{with} and perhaps suggested by, the correspondence relative to the adoption of measures against neutrals are worthy of note as giving expression to the viewpoint of British ministers. Canning wrote as follows: "if ever the period should arrive, which the rashness and the fury of Bonaparte are hastening, and to which the shutting of the ports of Portugal is one main step — when Great Britain being excluded from all continental intercourse, by the willing or the forced consents of the governments of Europe, should cease to feel and common interest in them and should treat them all as one common enemy ---- the nations who now flatter themselves that they are the most necessary to her existence, who fancy that their commerce is one of the mainsprings of her power, would perhaps be the first to feel that that power is not created by foreign commerce, tho the use of it is mitigated and controlled by the relations of Great Britain with the continent, that this country has in itself in its own consumption and its own colonies ample means of self-existence: and that in her intercourse with other nations she bestows more benefit than she receives, even

Reference for page 32.

37. Temperley, Life of Canning, pp. 81-82.

when that intercourse is supposed to be most beneficial and most studiously regulated in her favor".

Spencer Perceval in his correspondence does not deny the commercial character of the Orders. Writing to Chas. Abbott, Speaker of the House of Commons, he says: "the short principle is that trade in British produce and manufactures and trade either from a British port or with a British destination is to be protected as much as possible. For this purpose, all the countries where French influence prevails to exclude the British flag shall have no trade but to or from this country or from its allies. All other countries, the few that remain strictly neutral (with the exception of the colonial trade which backward and forward they may carry on) cannot trade but thru this being done as an ally with any of the countries connected with France. If, therefore, we can accomplish our purpose, it will come to this, -- that either those countries will have no trade, or they must be content to accept it thru us. This is a formidable and tremendous state of the world; but all the part of it which is particularly harrassing to English interests was existing thru the new severity with which Bonaparte's decrees of exclusion against our trade were called into action. Our proceeding does not aggravate our distress from it. If he can keep out our trade he will; and he would do so, if he could, independent of our orders. Our orders only add this circumstance; they say to the enemy,

Reference for page 33.

38. Adams, History of U.S., Vol. IV. P. 98.

'if you will not have OUR trade, as far as we can help it, you shall have NONE; and as to so much of any trade as you can carry on yourselves, or others carry on with you thru us, if you admit it you shall pay for it. The only trade, cheap and untaxed, which you shall have shall be either direct from us, in our own produce and manufactures, or from our allies whose increased prosperity will be an advantage to us'".

The commercial system which was established November 11th, 1807 was a very complicated affair, comprising the issuance of a series of Orders in Council and numerous instructions relating to them. Three Orders in Council were issued on November 11th. The first, an Order declaring the dominions of his Majesty's enemies and of countries under their control to be in a state of blockade with exceptions specified in the Order; the second, an Order containing certain regulations under which trade to and from the countries of an enemy was to be carried on; the third, an Order declaring the future sale and transfer of vessels belonging to the enemy to the subjects of a neutral country to be ~~invalid~~. These were followed, on November 18th, by a draft of instructions to commanders of his Majesty's ships of war and privateers to act in due conformity to and in execution of the Order in Council of November 11th declaring the dominions of his Majesty's enemies to be in a state of blockade. Five Orders were issued on November

25th. The first, an Order approving a draft of instructions to the commanders of ships of war and privateers for protecting goods going to or coming from any port of the United Kingdom, to whomsoever the property may appear to belong. The second, an Order establishing certain regulations as to vessels clearing out from Great Britain with reference to the Order of November 11th. The third, an Order appointing the time at which notices concerning the effect of the Order in Council of November 11th shall be presumed to have been received at the different places specified in the Order. The fourth, an Order establishing certain regulations as to vessels clearing out from ports of Gibraltar and Malta with reference to the Order in Council of November 11th. The fifth, an Order respecting the produce and manufactures of the enemy on board British ships. Finally, on December 18th, an Order declaring that his Majesty's Orders of November 11th shall not extend to permit the produce of the colonies of an enemy to be brot direct to any British port in Europe.^{39.}

The system here adopted asserted the "legal validity of a blockade which in most cases would be purely fictitious"^{40.} An actual blockade, such as was asserted by these Orders, was beyond the powers even of the British navy. The ministry relied upon British maritime superiority to maintain the commerce and the shipping of England and to force the trade of the enemy to pass thru her ports. The chief object of the Orders

References for page 35.

39. Parliamentary Debates Vol. X. pp. 126 - 148. Orders
in Council presented to the House of Commons
by His Majesty's command January 26th, 1808.
40. Cambridge Modern History Vol. IX. p. 367.

was to make Great Britain "the center and the warehouse of the world's commerce". Just as they aimed to make England the center of European and general commerce, so they aimed, by exceptions granted in these Orders, to enable the British colonies to become the centers of local commerce. The enemy was to have no trade~~s~~ except thru Great Britain and, in this trade, preference was to be given to British manufactures and produce.⁴¹ Such were the heights to which British pretensions aspired. Theoretically, they seemed possible of attainment: practically, they were accompanied by disastrous consequences to British domestic and foreign interests. England found that she was not self-sufficient.

This system of commercialism was completed by Parliamentary action. ^{The act of} 48 Geo. III c. 26., March 28th, 1808,⁴² regulated the duties on the exportation of goods and completed the commercial regulations under which trade was to be conducted. The preamble of the act stated that to accomplish the object of the late Orders in Council duties of customs must be granted upon certain goods when exported from Great Britain. These duties were listed under three schedules. Schedule "A" applied to the exportation of foreign goods, wares and merchandise, not being imported by the East India Company, which, upon importation, were allowed to be secured in warehouses without the payment of duties. Schedule "B" applied to the exportation of foreign goods, wares and

References for page 36.

41. Mahan, Sea Power xx French Rev., Vol. II. p. 285.
42. Parliamentary Debates, Vol. X. pp. 684, 691, 927,
1076, 1246, 1254 - 1255.

Action on passage of this bill in House of Commons
Feb'y 18th second reading of Orders in Council
Bill moved; followed by lengthy debate; vote
taken stood 214 to 92 for the second reading.
Later, consideration of Bill postponed by vote
of 118 to 32. March 7th (Monday) Bill ordered
to be read a third time on Thursday. March 11th
Bill read third time; vote, 168 to 68.

Action on this Bill in the House of Lords.

March 23rd House resolved itself into Committee
of whole on the Bill and after considerable
discussion agreed to the preamble of the Bill.
March 25th Orders in Council Bill read third
time. A number of amendments were offered by
Lords Auckland and Grenville but all were
negatived and the Bill was passed. Following
the third reading and passage of the Bill
giving effect of the Orders in Council the
following protest was entered upon the Journals
and was signed by Grenville, Ponsonby, Nugent,
St John, Spencer, Rawdon, Erskine, Essex, Grey,
Lauderdale; Ponsonby (of Immoihilly) Holland,
Jersey, Clifton and Auckland. Points of dissent;
(1) Passage of Bill violates standing Order
of the House; (2) coupling of commercial
regulations of the highest importance with the
matter of aid and supply; the precipitancy
with which the Bill had been hurried thru
when evidence was about to be heard as to the
effects of the Orders in Council; (3) considers
the Orders in Council to be unjust, unnecessary
and injurious in the highest degree to the most
important interests of the country.

merchandise, not imported by the East India Company, which, upon importation, were not allowed to be secured in warehouses without the payment of duties. Schedule "C" applied to the exportation of goods, wares and merchandise, the growth, produce or manufacture of any place within the charter limits of the East India Company, not having been imported by the said company. The duties were high enough, in many instances, to seem almost prohibitory. (See below for the schedules.) Further provisions of the act show how clearly the system was dominated by the idea of commercial monopoly. Vessels which might have sailed from certain ports before the times limited in the Orders in Council, should they come into or be brought into a British port pursuant to a warning given in accordance with the Orders in Council, were not to be prevented from proceeding, without the payment of duties imposed by this act, to any port of a country in amity with his Majesty and from which the British flag was not excluded. But this, of course, could apply only to a few ships.⁴³ Cotton wool or yarn and Jesuit's bark were excepted from this permit. Importers were allowed to warehouse goods under the general warehousing regulations. Warehoused goods might be destroyed at the owners request without the payment of duty and upon payment only of any charges and expenses that might have accrued on them. Warehoused goods had to be cleared within

References for page 37.

45. Commons Journals, Vol. LXIII Appendix, p. 558.

We have the following information on this point. It is taken from a report of the number of neutral vessels which came into or were brought into a British port under the operation of the Orders in Council of November 11th, 1807. The report is dated March 7th, 1808. The account is made up for 18 ports. 70 American, 4 Portuguese, 1 Hamburg and 2 Bremen vessels came into these ports. Of the 70 American vessels 64 were held to have begun their voyage prior to the time when notice of the effect of the Orders in Council was held to have been received. One American vessel was brought into port for having proceeded towards an enemy's port after being warned not to do so. Five American vessels were held to have begun their voyage subsequent to the time notice of the Orders was held to have been received. 25 of the 70 vessels remained in port at the time of this report; 3 had landed their cargoes and cleared for America in ballast; 34 had sailed under certificates either for the original port or for a certified port; 3 had sailed with king's license; 4 sailed for London without certificate; one sailed for the original port without certificate. The other vessels remained in port.

fifteen months either for exportation or for home consumption. If the importer failed to remove the goods within that time the customs commissioners sold the goods at public auction. The proceeds of such sale were applied to the payment of storage charges. The overplus, if any, went to the owner. If a price could not be obtained equal to the full amount of the duties and charges upon the goods they were to be effectually destroyed by the customs officers and the owner could have no claim to the value of goods so destroyed. Warehoused goods might be re-exported to the country from which they were brought, or to the country owning the vessel in which the goods had been imported, without the payment of duties imposed by this act, paying warehousing expenses only, provided that the British flag was not, at the time of reexportation, excluded from such country. All goods imported directly from the British colonies were exempt from the payment of duties and could be exported to any port whatever. A similar exemption was given to all goods imported by the East India Company or under their license. Permission was given to suspend this act by an Order in Council with respect to any country for the time being in amity with his Majesty and to allow the exportation to such countries of any goods, without the payment of duties for exportation and subject only to such terms as his Majesty might think fit to impose. The King could prohibit the exportation of goods to any country from which

the British flag was excluded. All mon~~ey~~ accruing from the duties imp~~o~~sed by this act were to be paid into his Majesty's exchequer and to be kept separate from all other branches of the public revenue. The application of this money was to be voted by the House of Commons.

^{The act of} 48 Geo. III c. 38.m, April 14th, 1808,⁴⁴
 permitted the importation of goods in any vessel whatever from countries from which the British flag was excluded. The attention Great Britain was paying to the sustaining of commerce is shown by the passage of this act. It meant the acceptance of enemies' merchant ships as carriers of British trade with the restricted ports.^{115 The act of} 48 Geo. III c. 71., June 18th, 1808,⁴⁶ amended^{that of} 48 Geo. III c. 26. so as to permit the exportation of certain goods without the payment of duties.^{Finally, the act of} 48 Geo. III c. 126., June 30th, 1808, authorized the license system.

The above account represents the completed commercial system as it was enacted by Orders in Council and by acts passed by Parliament. There is no open withdrawal from its pretensions until the issuance, in April 1809, of the modifying Order in Council by which the blockade limits were narrowed to a much smaller portion of the European coast. Meantime, as we shall see later, Great Britain employed a very extensive practice of mitigating and relaxing her belligerent declarations by means of the license system.

References for page 39.

44. Commons Journals, Vol. LXIII, Index.

The Bill was ordered March 18th. Presented and read, day appointed for second reading, to be printed, 21st; Bill committed 24th; Committee deferred 28th; Bill considered 29th; Reported, to be engrossed, day appointed for third reading, 30th; passed 31st; agreed to by the Lords April 11th; Royal assent, April 14th.

45. Mahan, Sea Power x x x French Rev., Vol. II. p. 284 note.

46. Commons Journals, Vol. LXIII, Index.

House resolves to go into Comm. on this matter May 18th; considered 19th. Resolutions reported and agreed to; Bill ordered thereupon 20th; Presented and read, day appointed for second reading, to be printed 23rd; second reading deferred 25th; Bill committed 26th; Committee deferred 30th; Bill considered 31st; reported, to be engrossed, day appointed for third reading, June 1st; third reading deferred 2nd; Bill passed 3rd; agreed to by Lords 13th; Royal assent 18th.

IIII.

Opposition in Parliament to the Orders in Council.

We have now to consider the opposition to the Orders in Council as it was expressed in Parliament during the sessions of 1808 and 1809. In reviewing the session of 1808, January 21st to July 4th, we may consider it ~~in~~ three lines of action. These are; first, the presentation of petitions for peace and of petitions against the Orders in Council as representing a useless attempt to secure an alteration in the policy of the administration; second, the course adopted by the Whigs in their opposition to and condemnation of the Orders in Council of November 11th; third, the method of defense, in so far as any was affirmed by the Tory ministers, in meeting the contentions of the opposition. The points to be brot out by this consideration have a direct bearing upon the belief that the Orders in Council System represents an attempt to establish a monopoly of commerce for the interests of Great Britain.

The movement for petitioning ministers to open negotiations for peace appears to have become quite general by the time for the opening of this session. The Tories objected to the presentation of the petitions and were inclined to attribute them to party influence rather than to actual distresses. Thw Whigs denied that party influence had been used to secure the petitions

and defended them as constitutional means of giving expression to the distress which they were experiencing. The Whigs were willing to encourage the petitions as a means of bringing the ministry to an attitude favorable towards the negotiation of peace. The Tories, on the other hand, opposed the presentation of petitions on the grounds that the acquisition of peace would be retarded, that ministers would be embarrassed in their negotiations and that negotiation on any basis but that of equality and independence would be premature and thereby defeat the hopes of the petitioners. The petitions did not accomplish anything. They were allowed to be read and were then ordered to lie on the table. Such was the fate of the petitions for peace from the inhabitants of Bolton and of Oldham in Lancaster. The petitioners cited the depressed state of manufactures, the consequent reduced price of labor and the threatened want of employment. This situation was attributed to the unfavorable state of foreign commerce as a result of the war. They urged the necessity for the restoration of peace and asked that negotiations be undertaken to effect that end.⁴⁷

Organized opposition to the Orders in Council on the part of the manufacturers and merchants was in evidence by the early part of March. A petition respecting the Orders in Council signed by 400 merchants of Liverpool was presented March 3rd. The Speaker stated that the usage of the House prevented the reception of

References for page 41.

47. Parliamentary Debates, VolL X. pp. 61, 78, 86,
90 - 93, 692 - 694, 708, 803, 1182.
January 21st to March 18th, 1808.

a petition against a duty bill and unless it could be shown that the petition was otherwise it could not be accepted. Following a short debate, a vote was taken on receiving the petition. The result was 80 to 128, or a majority of 48 against receiving it. The following day there was presented a petition, against the Orders in Council, framed in consequence of the rejection of the Liverpool petition. It was rejected by a vote of 57 to 111.⁴⁶

March 10th Alderman Combe presented a petition from the merchants and manufacturers of London praying to be heard before the House with evidence against the Orders. The petition was read by the clerk and ordered to lie on the table. The petitioners recited their belief that the Orders were ruinous to their private interests and to the commerce and manufactures of the empire at large. The Orders had been recommended by an opinion that they would be beneficial to the commercial interests of the country. This the petitioners believed to be an erroneous opinion. The relation of American commerce to Great Britain, the interdependence of the two countries and the American trader as a circulating agent for British produce and manufactures in the enemies dominions were points which the petitioners emphasized.⁴⁹

The presentation of such evidence did not alter the determination of ministers to persist in their policy. They ignored the evidence of petitions and were

References for page 42.

48. Parliamentary Debates, Vol. X. pp. 889 - 898, March
3rd and 4th, 1808.
49. Parliamentary Debates, Vol. X. pp. 1056 - 1058.
March 10th, 1808.

hastening to the passage of the Orders in Council bill. They did agree, however, to refer the Orders to a committee of the whole House in order that the petitioners might be heard but only with the understanding that evidence was not to be submitted against the Orders in Council bill. The petitioners thus got their case before Parliament. They were represented by Henry Brougham whose efforts, exhaustive tho they were, produced no results in this session. It was not until the strength of the opposition was increased several fold and ministers could no longer afford to disregard the exhaustion of British domestic interests that attention was given to modifying the Orders in an attempt to mitigate their rigors.

We turn now to the course of the opposition to the Order in Council of November 11th. It centers around those Whigs who had been members of the ~~just~~ preceding ministry.

Lord Grenville began his criticism of the Order on the opening day of the session, January 21st. He questioned the constitutionality, the expediency, the justice of the Order and the authority for saying to America, as the Orders distinctly expressed, "not a ship of yours shall sail which shall not be made subject to confiscation by us or to conditions which will subject it to confiscation by the enemy". This speech gives direction to the opposition during the remainder of the session. These characteristic notes are, in addition to

the attack on the grounds of constitutionality, expediency and justice of the Orders, the difference between the Order of January 7th and the one of November 11th, the inefficacy of the Berlin decree without the aid of the Orders in Council, the criticism to be borne by Great Britain for a system originated by France and the necessity for avoiding an open rupture with, ~~and~~ the hostility of, America.⁵¹

Lord Auckland, January 27th, urged an explicit and prompt avowal of the object, the meaning, and the presumed effects of the Orders in Council. Grenville seconded Auckland in urging this speedy explanation and full discussion of the Orders.⁵² These efforts produced no results. The Tory ministers did not supply the explanation demanded.

The Whigs obtained but little satisfaction from the ministers during the entire session. February 18th Lord Grenville moved for copies or extracts of all information received by the government previous to November 11th, 1807 showing that the French government had begun to execute its decrees with increased vigor as was asserted in the preamble of the Order of November 11th. The motion was carried, 47 to 38.⁵³ We can find no record of this information being supplied. The ministers were not at all disposed to comply with this request. The Whigs presented resolutions also supporting their contention that there was no evidence concerning the

References for page 44.

51. Parliamentary Debates, Vol. X. pp. 21-68. Jan'y 21st.
52. " " " X. pp. 150-155, 164,
311, 314-320, 330 -332, 431-434, 466-468,
472-485. Jany. 27th - Feby. 15th, 1808.
53. Parliamentary Debates, Vol. X. pp. 642, 675-697.
Feby. 18th, 1808.

increased rigor in the enforcement of the Berlin Decree but they were unable to effect anything by this means. The only return they received was an increased dissatisfaction with the existing ministry and its policy.⁵⁴

March 8th Lord Erskine made a very extensive attack upon the attitude of ministers and their policy with respects to the Orders in Council. A somewhat close attention to its more interesting points will perhaps be worth while. He criticised the state of Parliamentary action by which no satisfactory discussion of the Orders had resulted. The ministers had continually avoided a presentation of facts upon which to base a reasonable decision and could not be induced to defend their measures in other than loose and general terms. The entire course of procedure followed by ministers in this matter was such as to cast suspicion upon the purpose and aim with which they had and were acting. Tho the magnitude of the measures which they were considering was akin to a commercial revolution and tho it risked the friendship of America, yet ministers not only did not call Parliament for its counsel but, by repeated prorogations, prevented it from assembling. The subject was too complicated for the private councils of the crown. Further, they had not all considered its certain consequences as was shown by the fact of the issuance of the first Order, tho operative upon distant countries, without the issuance of notices which in less than a week afterwards they

References for page 45.

54. Parliamentary Debates, Vol. X. pp. 780-786, 804-806.

Feby. 26th and Feby. 29th, 1808.

acknowledged to be indispensable. That the Orders were not matured measures is further shown by the issuance of the numerous supplemental Orders, explanations and instructions. He pointed out another fact which argued for dissimilarity in the Orders of January 7th and of November 11th. The Tory ministers had made no communication, either directly or indirectly, with their predecessors before issuing the Order. Now, altho they had previously disparaged the Whig councils as weak and incapable, they cite them as authority for their own acts. Such a procedure was rather disconcerting to the Whigs. These points furnish a good commentary upon the conditions under which the Orders in Council System was developed.⁵⁶

The Whigs, at this time, could do nothing more than keep alive the agitation against the Tory Orders in Council. They did this by continuing their attacks on the lines which we have indicated.

We have now to consider the method of defense used by the Tories in their answers to the Whig demands. They offered no detailed explanation of the measures, such as the merits of the situation demanded. In this respect, a study of the Parliamentary ^{History} is disappointing. It was frequently stated that this desired information would be given soon but no record is found of its being presented. Ministers had their own reasons for such dilatory tactics and, too, they were in the majority and in

Reference for page 46.

55. Parliamentary Debates, Vol. X. pp. 929-976. March
8th, 1808.

charge of the administration. There are, however, frequent statements by ministers and their supporters which give some indication as to the defense they were inclined to adopt. The worth of this evidence is that it all points to commercial considerations as being predominant motives in the adoption of and the continuance in the Orders in Council policy. This is revealed thru the ministerial attitude towards the American situation; thru their defense of the principle of retaliation and the extent to which they believed Great Britain justified in using it; thru statements having a direct bearing upon the ~~ex~~ commercial aims of the Orders.

The Tories were not nearly so liberal as the Whigs in their attitude towards America⁵⁶. They would adhere strictly to the "maritime rights of Great Britain" and the defense of their naval rights against, what was considered, the aggressions of America. They endeavored to discourage all talk of war with Americans and made light of the results of such a war if it should occur. From a belligerent point of view they did not consider America a serious fact. Lord Castlereagh gave typical expression to this attitude by saying that "the consequence of a war would be the loss to America of her whole export trade whilst only one fourth of our exports would be endangered by that event. Our means of shutting American produce in her ports, in consequence of our great marine, were far more extensive than her internal

Reference for page 47.

56. Parliamentary Debates, Vol. X. pp. 1043, 1067,
1231-1239, 1284, 1346-1351; Vol. XI. pp. 707-709,
1045-1053.

means of excluding us and consequently a considerable portion of what this country now exported to America would find its way into that country notwithstanding a war. We are not, from the mere apprehensions of a war with that country, to shrink from the assertion of those maritime rights so essential to our national strength and prosperity".^{51.} Great Britain felt secure in maritime superiority and relied upon it to bring her success. She was bent on maintaining intact this source of her strength.

Ministers based the justification of their Orders upon the measure of France. They argued that the Orders were necessary as measures of self-preservation and that Great Britain had a right to go as far as France had gone in her measures against commerce. They did not feel constrained to abide by the law of nations when France was not; and as for injuries to neutrals, these would be but consequential to the measures directed against the enemy. The neutral could have no just cause for complaint Great Britain in case of injury. Great Britain was not at fault; the adoption of these Orders had been unavoidable and indispensable for the preservation of British power. France was the first offender and it was necessarily to her that America must go with any demands for reparation which she might choose to present. Such was the defense of the principle of retaliation urged by the Tories. It permitted the establishment of a European blockade.^{52.}

References for page 48.

57. Parliamentary Debates, Vol. X. p. 684.
58. " " " X. pp. 1-5, 9, 11, 15,
28, 40, 67-68, 152-153, 163, 313, 326, 330,
336, 476, 674-675, 678, 708, 786, 972, 1052,
1062, 1064, 1283.

Nevertheless,

There is, ~~yet~~, running thru the defense of the ministers, an undercurrent of sentiment identified with commercial interests which occasionally appear on the surface. These statements are important as they tend to get at the true intent and meaning of the Orders in Council. They furnish a positive evidence. It was admitted that the surplus of the produce of the British colonies over the English consumption was not able to supply the demands on the continent. A circuitous trade thru Great Britain was therefore to be permitted with the enemies' colonies and on this a duty was to be placed ~~as~~ sufficiently high as to prevent its having an advantage^{59.} over the British colonial produce in the European markets. Such a measure was of course contradictory to their declared intentions of starving the enemy. This plan constituted the revenue aspect of the Orders in Council System.

The other aspect of the System was the blow at the foreign commerce of France. It was asserted that Great Britain derived but little advantage from her maritime superiority, while France, who did not dare show a flag on the ocean, had carried on an extensive trade in neutral bottoms and was thus enabled to consume colonial produce at a much less rate than the English. France was enjoying by this means all the advantages of peace while British trade was suffering under depression. To prevent this was the great object of the Orders.^{60.} It is believed that something like this is the true explanation

References for page 49.

59. Parliamentary Debates, Vol. X. p. 471.

60. " " " X. pp. 485, 671-673, 1288.

of the Orders in Council.

Between the closing of this session and the opening of the next, in January 1809, the situation had altered sufficiently to change the attitude of the Tories towards to opposition and the policy of the Orders. Great Britain was experiencing a great deal of distress both in her domestic and in her foreign affairs. The government was weak and the opposition of the press was growing. The commercial system which had been established seemed to be creating the very evils which it was made to counteract. The attempt to make England a warehouse for the worlds commerce was proving a failure.⁶¹ The embarrassed situation of the ministry made it an impossibility to assume the same attitude towards the commercial policy involved in the Orders as had been assumed in the former session.

To get at the real motive for the modification Order of April 26th, 1809 should be an essential part of an inquiry which concerns itself with the policy of the Orders in Council. This paper, however, has to offer no satisfactory explanation of this point; it can only give a few suggestions that have come as the result of this inquiry. We do not feel that the modification Order was essentially an effort to conciliate America. The real reason must lie in other than conciliatory motives as will be suggested by glancing at statistics on the commercial situation subsequent to the issuance

Reference for page 50.

61. Adams, History of U.S., Vol. V. pp. 46-62.

of the Order of November 11th and noting the close connexion of that situation with the issuance of that Order. We believe that the situation which had resulted was so far different from what had been anticipated as to hold the key to the understanding of ~~the~~ ^{the modification} ~~why~~ ~~of the~~ Order of 1809. This, however, because of the lack of available material, we are unable to establish at this time. It is presented here only as a tentative suggestion which may be confirmed later by further inquiry.

The Parliamentary History gives but a fragmentary account of the proceedings concerning ~~the~~ ^{such} modification of the Orders in Council System as was made before the close of this session. A study of the History for this period affords us but little valuable material for the solution of our question as to the why of the modification. The deliberations which led to it are recorded elsewhere. The retraction of the Orders was not the direct result of Parliamentary deliberations. It was made thru Cabinet action. To the record of this action we do not have access now.

The important speech of this session, from the viewpoint of the policy formulated in the Orders in Council, is that made by James Stephen. This speech confined itself almost entirely to the commercial aspects of the Orders. Its dominating interests were in the commercial welfare of Great Britain. It is sort of a

sequel to "War in Disguise". When it is remembered how intimately Stephen has been connected with the Orders in Council System, we are ready to give some weight to his words and, if his speech is to be accepted as the official defense of the Orders, to ask that the opinion of the Orders as primarily measures of retaliation of France be no longer accepted. It is to secure the acceptance of this viewpoint that this paper bends its efforts.

Stephen was opposed to any repeal or relaxation of the Orders. He considered them to be just measures and held that their true intention was remedial and self-defensive. They were to be self-defensive as an answer to the Berlin Decree and to Napoleon's system of excluding British commerce from the continent. Existing conditions had necessitated, on the part of Great Britain, some such action as was advanced in the Orders if she were to continue an intercourse with the continent or even with America. He insisted that the benefits of the American indirect trade with the continent was already practically lost because of the Embargo and Non-Intercourse. Reckoning without these, it would soon be discontinued anyway by reason of the enforcement of the Berlin Decree. The result would be the loss of the American market for the British manufactures. The system of continental remittances thru bills of exchange on London could be expected to diminish in the same proportion as British manufactures were supplanted by

European manufactures in the supply of the American and the West Indian markets. Thus he considered the growth of the American direct trade with the continent as essentially detrimental interests of Great Britain. The use of continental manufactures as substitutes for those of the British make must continue to grow and the "habitual preference" for British manufactures in the American markets would soon be lost forever. "These would have been the natural and sure effects of the security, facility and advantage of taking returns for the products of the New World and of the East Indies directly from the continent as compared with the risk and the consequent heavy charges to be sustained in the same way by trading with the blockaded British isles". An exclusive consumption of continental wares in her home markets, in the foreign West Indies and in the other foreign markets of the New World would soon have become absolutely necessary to the interests of American commerce. Thus Great Britain stood in danger of being shut out exclusively from supplying any of the markets of the New World. And herein the remedial aspect of the Orders in Council. Great Britain must somehow retain the trade beyond the Atlantic. It was therefore necessary to institute a system which would offer effectual interference to the further growth and development of the independence of American commerce. The revenue and the strength of the navy of Great Britain

depended upon the maintenance of her maritime superiority. It was to accomplish this that the Orders in Council had been undertaken.^{62.}

The Order in Council of April 26th, 1809, marks the modification of the commercial system as it had been formulated in 1807-1808. The reasons assigned for this were the "divers events whic have taken place ~~xxx~~ affecting the relations between Great Britain and the territoties of the other powers". All previous Orders were revoked and annulled with the exceptions afterwards expressed in the new Order. The blockade was narrowed to the coasts of France, Holland and so much of Northern Italy as was under the domination of Napoleon. Vessels were to be allowed immediate access to any port legalized by the Order, tho such access had been illegal under the former Orders. No interference was to be offered to any ship proceding towards these ports.^{63.} This haste to make good the change may be some indication to the cause which prompted it.

V.

Results of the Restrictive Measures.

Our concern thus far has been with what we may call the theoreticaklside of the Orders in Council

References for page 54.

62. Parliamentary Debates, Vol. XIII. Appendix, Pp. XVIII-
XXIX.
63. American State Papers; Foreign Relations, Vol. III.
p. 241.

System. We have endeavored to trace the development of the factors concerned in the origination of the Orders and have tried to show that the incorporation of these factors in the System, as it was completed in the early months of 1808, has made for the creation of an extensive plan for subjecting all commerce, and particularly that of the United States, to the interests of Great Britain. The survey of the commercial situation previous to 1807, the tracing of the development of the System during 1807-1808 and the study of the Parliamentary History, all these have shown the British devotion to the idea that their commercial and maritime superiority was of primary importance and must be maintained.

We turn now to another side of the System, that of actual practice and results. In doing this, we shall follow a two-fold plan of consideration. Statistics concerning Great Britain's commercial relations in 1808 furnish some suggestions as to why the modification Order was issued in 1809. It is our first concern to indicate these. Having done that, we shall then consider the methods of the license practice. Our purpose is to show, in the first instance, the effects of the Orders in Council upon British commerce and, in the second instance, to show more clearly the commercial aspect of the System when interpreted by the license practice.

Prices of grain and provisions gradually increased after 1805.⁶⁴ The production of manufactures

References for page 55.

64. Levi, History of British Commerce, p. 125-126.
Commons Journals, Vol. LXVII. Appendix, p. 752.
Gentleman's Magazine, 1807-1810.

stood at a minimum. Many laborers were without employment and suffered severely because of the high prices. The extent of their distress is partially indicated by the many petition against the policy of the Orders in Council presented to Parliament by the manufacturers of London, Liverpool etc. The existence of a very extensive pamphlet literature against the Orders also indicates distressing conditions in home affairs.⁶⁵ This was due, in a large measure, to the attempt at making Great Britain the center of the world's commerce. An excessive amount of foreign goods had accumulated in the British warehouses. The West Indian and the South American produce, now deprived of the American carrier for the European markets, found its way to England and increased the oversupply of produce there. The business of the British merchant was seriously interrupted by these conditions.⁶⁶

The intercourse of Great Britain with the American and the continental markets was greatly diminished in 1808. It does not appear to have been so seriously affected in the period succeeding the issuance of the Order of January 7th as it was in the period succeeding the issuance of those Orders of November 11th. The adverse variations which take place in these trade relations is so closely connected with the enforcement of the Orders in Council System that it seems at once possible to attribute these results to the working conditions of the System. It was in this respect that British commercial interests suffered grievously. By this

References for page 56.

65. Mahan, Sea Power xxx French Rev. Vol. II. pp. 304-305,
329, 341-342.

Edinburgh Review, Vols. XI, XII, XIV have extended
reviews of these pamphlets. They indicate,
fairly well, contemporary opinion for and
against the policy of the Orders in Council.

66. Commons Journals, Vol. LXVI. Appendix Pp. 657-658.

Report of Select Committee appointed to inquire
into the State of Commercial Credit. March 7th,
1811.

The Committee consisted of 21 members, 13 of
whom were commercial men representing both
sides of the House. Committee was appointed
March 1st, 1811. See Parliamentary Debates,
Vol. XIX. pp. 123-129.

means it was shown that the policy of Great Britain could not continue so aggressive.

The amount of cotton imported by Great Britain from the United States during 1808 shows a progressive diminution for each successive quarter of the year and is about thirty two million pounds less than the amount imported in 1807. The amount imported in 1807 was an increase of nearly seventeen million pounds over that of the previous year. The Orders in Council and the Embargo are responsible for the large decrease in 1808. The situation with respect to the importation of cotton from the continent of Europe for the same years is quite similar altho not exactly parallel. The amount imported in 1807 is about three million pounds less than the amount imported in 1806. The importation in 1808 was about two and a half million pounds less than in 1807.⁶⁷

The table given below is self-explanatory concerning the almost complete interruption of commercial relations with the United States.⁶⁸ The facts therein are to be attributed to the operation of the Orders in Council and the Embargo.

The official value of exports from Great Britain to the continent of Europe in 1806 was £13216386; in 1807 was 12,689,590; in 1808 was £11,280,490. The official amount of imports from the continent of Europe into Great Britain for 1806 was £8197256; for 1807 was £7,973,510; for 1808 was £4,210,671. The official value of prize goods for 1806 was £735,938; for 1807 was £837,852; for 1808 was

Reference for page 57.

67. Commons Journals, Vol. LXIV. Appendix p. 640.

Amount of Cotton Wool imported into Great Britain in years ending January 5th, 1807, 1808, 1809.

Quarter ending 1806-1807.	United States	Imported from Continent of Europe.
April 5th - - - - -	6896244 pounds	- - - 2202988pounds.
July 5th - - - - -	7644844 "	- - - 1497767 "
Oct. 10th - - - - -	8903421 "	- - - 1700126 "
Jany 5th - - - - -	4104884 "	- - - 1970167 "
Totals - - - - -	27549393 "	= = - 7371048 "
1807-1808.		
April 5th - - - - -	9277484 "	- - - 2429673 "
July 5th - - - - -	10827705 "	- - - 489012 "
Oct. 10th - - - - -	15105407 "	- - - 655894 "
Jany 5th - - - - -	8879483 "	- - - 1169012 "
Totals - - - - -	44090079 "	- - - 4743591 "
1808-1809.		
April 5th - - - - -	9004849 "	- - - 886442 "
July 5th - - - - -	2537942 "	- - - 379833 "
Oct. 10th - - - - -	476962 "	- - - 485255 "
Jany. 5th - - - - -	208644 "	- - - 692260 "
Totals - - - - -	12228397 "	- - - 2433111 "

68. Commons Journals, Vol. LXVII. Appendix p. 761.

" " " LXIV. " p. 648.

(See following page.)

Imports from and exports to United States from Great Britain.

	Official value of		Number of ships employed.			
			Entered inwards.		Cleared outwards.	
	Imports.	Exports.	Br.	Amer.	Br.	Amer.
1805-	£1766556 -	£7146765 -	72 -	427 -	52 -	452
1806-	1999884 -	8613124 -	54 -	539 -	39 -	558
1807-	2847522 -	7921120 -	84 -	653 -	38 -	706
1808-	836342 -	3992060 -	12 -	134 -	56 -	217
1809-	2205331 -	5187615 -	44 -	616 -	51 -	273
1810-	2614605 -	7813317 -	35 -	692 -	99 -	645

Imports into Great Britain from United States.

	1806-7.	1807-8.	1808-9.
1st Quarter	- 510677 - - - -	603470 - - - -	482028
2nd "	- 490251 - - - -	662880 - - - -	266950
3rd "	- 641085 - - - -	991835 - - - -	77666
4th "	- 357871 - - - -	589337 - - - -	9836
Total	1999884	2847522	836480

Exports from Great Britain to United States.

1st Quarter	-2392527*	2642798	977730
	120106	67833	7853
2nd "	2199065	1834451	864074
	82878	29809	8483
3rd "	2969011	2914589	1741974
	111306	72853	19559
4th "	719117	351391	349754
	19112	7396	22632.
Total	8613122.	7921120.	3992059.

* Top line = British manufactures
Lower line = Foreign merchandise.

L1774752.^{69.}

A further effect of this new commercial system which excluded the American carrier by its requirements was to transfer a large amount of the trade to European flags. From 1807 to 1810 there was a diminution of 7750 British seamen engaged in the European trade and an increase of 12324 in the number of foreigners engaged in that trade.^{70.} It was to considerations such as these, which were contrary to the expectations and aims of the Orders in Council System, that we believe it possible to attribute the modification Order of April 26th 1809.

However disastrous the Orders in Council System may have been upon British commerce, it would have been much more so had it been rigidly enforced. In fact it was greatly relaxed by the license practice,^{and} its natural operation was greatly counteracted by this means. In addition to this practice, to counteract the natural operation of the Orders, there were accidental circumstances such as the opening of Spain and Portugal to Great Britain and the practice of a large body of American adventurers working on the assumption of the non-enforcement of the Embargo.

The license practice consisted of an aggregation of individual permissions to carry on a traffic forbidden by the existing laws of Great Britain.^{71.} Its purpose was to diminish the inconvenience resulting to Great Britain from the closing of the continental ports

References for page 58.

69. Commons Journals Vol. LXVII Appendix p. 761.
70. Parliamentary Debates, Vol. XVII. p. 547.
71. Mahan, Sea Power xxx French Rev. Vol. II., P. 307.

to her wares. It was also for the purpose of ministering to the demands of the continent. The intercourse with the continent was continued in this manner despite all prohibitions to the contrary. The granting of every license was in contravention of the British declaration of hostility to France and was a relaxation of her aggressive retaliation upon the enemy. The Orders in Council professed to institute a severe system of deprivation of necessities from France but now the severity and hardships that would result from the enforcement of these measures was mitigated by the license practice. This practice, at its face value, is to be accepted in no other light than as commercial in its motives and methods.

The existence of the license practice side by side with the Orders in Council was not consistent policy on the part of British councils if they were to defend themselves on any principle but that of commercial regulation and the establishment of monopolistic privileges. The Orders when accompanied by the license practice could not be strictly retaliatory upon France and Napoleon for "retorting upon the enemy the evils of his own injustice" since they permitted a large trade to be carried on between Great Britain and the continental ports which the Continental blockade professed to close. Every vessel holding a British license was admitted to any port from which the Orders in Council excluded them. Altho the Orders operated to prevent a neutral from trading directly with

France or any country under her dominion they did not prevent the cargo of that neutral being taken to these same ports if done so under authority of a license. Great Britain was prepared by the license traffic to take every opportunity to introduce to the continent at any point and by any agency all merchandise which came from her warehouses. Such a practice was not a means calculated to starve the continent into submission. It was more the expression of a willingness and desire to feed the continent upon profitable terms than it was to occasion privation and want. The only defense for the license practice was that the Orders in Council could not be carried out rigidly and that it facilitated British trade.

The license practice had existed before the time of the Orders in Council. Its coexistence with them was established in 1808. 48 Geo.III c. 126, June 30th, 1808 authorized the granting of licenses. The act gave permission to remove goods secured in ware-houses in the port of London to the out-ports for exportation to any part of Europe. Licenses requiring the Sign Manual of his Majesty were to be granted by one of his Majesty's principal secretaries of State pursuant to the authority of any Order in Council. A copy of the Order in Council was required to be attached to the license as authority for issuing it. The act also authorized the exportation of goods in vessels of less burdeh than were then allowed by the existing laws.

We give below ¹⁰⁰¹ a copy of one of these licenses granted in accordance with the provisions of the above mentioned act. It was granted to an American vessel July 14th, 1812 but, being under the act cited, its form is that of all other licenses which were issued for trading purposes. The requirements complied with in the obtainance of this license furnishe us the essential acquaintance with the methods and details of the license practice. Anyone who would engage in the business of the license & traffic had to meet the following requirements; first, he must petition the Lords of his Majesty's Privy Council for an Order in Council granting him permission to export a cargo; second, the Lords granted this privilege by issuing an Order in Council which was to be taken to the clerks in his Majesty's Privy Council office and there recorded by them. A fee was collected for this registration; third, having secured the registration of the Order it was necessary to procede to ~~one~~ of the principal secretaries of State to present the Order as authority for the issuance of a license. The license granted, a fee collected and the public stamp added before the license was delivered. The license was then taken to the port of lading where the cargo was paid for in accordance with the duties imposed by schedules "A", "B" and "C" of 48 Geo III c. 126. The certification by the customs officers completed the form of the license. Its final form was, then, the license itself certified by the customs officers and to it was

Reference for page 61.

72. Niles Register, Vol. III. p. 119.

"To all commanders of His Majesty's ships of war and privateers and all others whom it may concern,-- Greeting:- I, the undersigned, one of His Majesty's principal Secretaires of State, in pursuance of the authority given me by His Majesty by Order in Council, under and by virtue of powers given to His Majesty by an act passed in the 48th year of His Majesty's reign, entitled 'an act to permit goods secured in warehouses in the port of London to be removed to the outports for exportation to any port of Europe: for empowering His Majesty to direct that licenses which His Majesty is authorized to grant under His Sign Manual may be granted by one of his principal Secretaries of State, and for enabling His Majesty to permit the exportation of goods in vessels of less burden than are now allowed by law, during the present hostilities and until one month after the signing of the preliminary articles of peace' and in pursuance of an Order in Council as hereunto annexed, do hereby grant this license for the purpose set forth in the said Order in Council to W-----B-----& Co. of Liverpool; and do hereby permit them to export on board the American ship N----- of about 200 tons burden, J.C-----, Master, from Liverpool, direct to any port of the United States of America, a cargo consisting of such goods as are permitted by law to be exported (being either British or American property) and protecting the said vessel, and the goods as aforesaid laden therein, from capture or molestation by any ship of war or privateer bearing His Majesty's commission, on account of any hostilities that may exist during the time of the said voyage and during her return to the port of Liverpool with the said cargo, in case the said vessel shall not be permitted to land the same, or any part thereof, in any port of the United States; the master to be permitted to receive his freight and depart with his crew and vessel in ballast to any port not blockaded: Provided, the vessel taking the benefit of this license shall clear out from the port of shipment in the United Kingdom before the 15th of August next and the time of clearance from the port of lading shall be endorsed on this license. This license to remain in force for one voyage only".

Given at Whitehall the 14th of July, 1812 in the 52nd year of His Majesty's reign.

(Signed) Sidmouth.

Endorsed -- Port Liverpool.

This is to certify that the ship or vessel called the N---- of Baltimore, Md., of the burden of 285 tons, whereof J.C---- is master hath this day been cleared outwards for Baltimore described in the corksheets granted for shipping the same.

Given under our hands and seals of office at the custom house, this 23rd day of July, in the year of our Lord 1812.

(Signed.) Itavaenish, Collector.

(Signed.) Israel Wood, Comptroller.

Reference to page 61.
(continued).

At the Council Chamber, Whitehall,
the 14th of July, 1812.

Present:-

The Lords of His Majesty's most honorable Privy Council.

Whereas there was this day read at the board
the humble petition of W----- B----- & Co., of
Liverpool.

It is ordered in Council that a license be granted to the said petitioners, permitting them to export on board the American ship N ----- of about 200 tons burden, J.C-----, Master, from Liverpool direct to any port of the United States of America, a cargo consisting of such goods as are permitted by law to be exported (being either British or American property) and protecting the said vessel, and goods as aforesaid laden therein, from capture or molestation by any ship of war or privateer bearing His Majesty's commission, on account of any hostilities that may exist during the time of the said voyage and during the time of her return to the port of Liverpool with the said cargo in case the said vessel shall not be permitted to land the same, or any part thereof, in any port of the United States; the Master to be permitted to receive his freight and depart with his crew and vessel in ballast to any port not blockaded: Provided, the vessel taking the benefit of said license shall clear out from the port of shipment in the United Kingdom before the 15th of August next and that the time of clearance from the port of lading shall be endorsed on the said license. Such license to remain in force for one voyage only. And the Right Honorable Viscount Sidmouth one of His Majesty's principal Secretaries of State, is hereby specially authorized to grant such license in case His Lordship shall see no objection there-to, annexing to such license the duplicate of this Order herewith sent for that purpose.

(Signed).

Chetwynd.

attached the Order in Council as authority for issuance. Each license was good for one voyage.

Some of the specific purposes for which licenses were issued are given thru the recommendation of the Lords of the Privy Council concerning the fees to be collected in the Privy Council office. The collection of these fees, as they related to the license practice and trade navigation, were as follows; first, for the registration of an Order in Council directing the Secretary of State to prepare a license permitting navigation and trade a fee of three pounds and 15 shillings was to be collected for each cargo included in the Order; second, for the registration of an Order in Council admitting to entry goods not legally imported or for relanding cargoes a fee of three pounds and 12 shillings was to be collected - in those cases requiring a duplicate a fee of one pound and one shilling; third, for the registration of an Order in Council discharging a vessel from a quarantine or from an embargo or for allowing the exportation of grain and provisions when the same was prohibited by Order in Council a fee of three pounds, 12 shillings and one pence was to be collected; fourth, for the registration of an Order in Council allowing the exportation or carrying coastwise of gunpowder, saltpetre or other military and naval stores when the same was generally prohibited a fee of one pound, 12 shillings and 6 pence¹ was to be collected. These regulations indicate, in addition

Reference for page 62.

73. Commons Journals, Vol. LXIII., p. 837-839.

to a part of the fee resulting from the issuance of a license, evidence that is of more importance, namely, the nature of the operations which Great Britain stood ready to permit in her commercial relations. It shows clearly that the granting of a license was considered a relaxation in the rigors of a prohibition which had been imposed by Orders in Council.

Prior to April 6th, 1808 the fees collected in the Privy Council office were divided among the clerks of the office. Subsequent to that date they were paid to Messrs. Drummond and Company to the joint account of the clerks in the Council office. At the end of each quarter the accounts were audited by the Lords and the clerks then given the amount of the quarter's salary. The salaries of others connected with the office and of any incidental expenses that might accrue were also paid with these fees. The surplus for every quarter was paid to Messrs. Drummond and Company to the account of the consolidated fund. ⁷⁴

The amount of all fees received at the Secretary's office for the Home department was placed to the general fee account of that office, divided equally with the foreign and colonial departments and applied towards the discharge of the expenses of the establishments of the three offices. ⁷⁵

The revenue aspect of the license practice was of no small proportion. The payment of duties upon the lading of a cargo for exportation completed the requirements

Reference for page 63.

74. Commons Journals, Vol. LXVIII. Appendix, p. 914.

Fees received at Privy Council Office.

1804-	£5476	16s.
1805-	3796	11
1806-	7776	16
1807-	12696	00
1808-	20150	17
1809-	66649	3
1810-	85905	15
1811-	33683	1
1812-	42676	14

The rate of fee is £3 15s. on each cargo specified and 11 1s. on each duplicate Order annexed to the license.

75. Commons Journals, Vol. LXVIII., Appendix, p. 914.

" " " LXIII., Appendix, p. 600.

1804	£4850	07
1805	4212	10
1806	9664	14
1807	13886	10
1808	16023	6
1809	31295	16
1810	38539	18
1811	14690	00
1812	14465	17

These fees were received at the Secretary of State's office for the Home Department. The public stamp duty of £1 10s. was added on each license before being delivered.

for obtaining a license. The duties were regulated by the schedules provided in 48 Geo. III c. 26.^{76.} The amount of revenue resulting from the payment of these duties was, to January 5th, 1809, £32256; to February, 1812, \$7,987,117.^{77.}

We have now completed a representation of the organization and method in the license practice. How that practice operated is a more detailed study for another time.

Our task of describing the commercial system of Great Britain as it was established by the Orders in Council in 1807-1808 now comes to a close. We have endeavored to show that the real object of the Orders was not so much retaliation upon France as it was the commerce and the carrying trade of the United States. As evidence supporting this, we have pointed out the growth of the spirit of jealousy in Great Britain in her attitude towards American relations from 1805-1807. With the ascendancy of that spirit James Stephen was actively identified. He was also closely associated with the issuance of the Orders in Council. His pamphlet, "War in Disguise" in 1805, and his speech before Parliament in March 1809 represent his views both before and after the Orders in Council System was instituted. These opinions are the same in both cases. They were; that the commercial interests of Great Britain must be protected, that America was the source of greatest danger to the continued superiority of Great Britain on the ocean and that the Orders in Council System was the best means of affording an effectual check to that rival. In July,^{1807,} this opinion

References for page 64.

76. 48 Geo. III, c. 26.

Schedule "A".

Duties payable on the exportation of certain foreign goods not imported by the East India Company and which upon importation are allowed to be warehoused without payment of duties thereon.

Esquit's bark - - - - -	the pound,	6 shillings.
Cochineal - - - - -	" "	7 "
Cocoa nuts - - - - -	" cwt.	L1.
Coffee - - - - -	" "	8 s.
Hemp - - rough or undressed -	" "	15 s.
Hides, viz: buffalo, bull, cow or ox,	the hide	3s.
Indigo - - - - -	the pound	2s.
Prize goods, viz: goods taken and condemned as prize, not being of the growth, produce or manufacture of any country or place within the charter limits of the East India Co., and not being particularly enumerated or charged with duty in this table, for every #100 value thereof - - - - -		-L20.
Prohibited goods - for every L100 value thereof -		-L20.
Sugar, brown, - - - - -	the hanna cwt	- 10s.
Sugar, white, - - - - -	the cwt.	17s.
Yarn, Viz; cotton yarn - -	the pound	2s.

Schedules "B" & "C" were similar in amount and imposed the same duty on prize goods as did "A".

77. Commons Journals, Vol. LXIV. Appendix, P. 641.

" " " LXVII. " P. 761.

" " " LXVIII. " P. 600.

Levi, History of British Commerce, p. 109.

Number of commercial licenses granted: 1803, 836:
1804, 1141: 1805, 791: 1806, 1620: 1807, 2606: 1808,
4910: 1809, 15226: 1810, 18356: 1811, 7602.

found expression thru a report of a commission which had been appointed to investigate the commercial state of the West Indies. Lord Castlereagh, of the ministry, was intimately associated with this commission and it was thru his pen that the subject of commercial regulations was actively opened for Cabinet discussion. Neutral commerce and not retaliation was the substance of the correspondence which resulted. In fact, at no time during the rise of the Orders in Council System does the aim of retaliation upon France appear to take precedence to the desire to get at neutral commerce. The System, when completed in the early months of 1808, reflected the attitude of the times which preceded its adoption. In addition to these circumstances, there remains, yet to be kept in mind, the license practice. Since that meant, in practically every case where it was employed, a relaxation of the declarations of hostility which had been put forth in the Orders, the extent to which it was permitted and encouraged again placed commercial considerations in the foreground.

There is one other point which we have tried to make clear. The Orders do not represent the expression of a continuous policy on the part of successive ministries. Because of this fact there exists in the System certain elements of uncertainty and experimentation. These are introduced by the fact that a Whig ministry was identified with the issuance of the Order of January 7th, 1807 whereas a Tory ministry issued those of

November 11th, 1807. This party division marked the lines of opposition from the first. The Tories criticized the Whig Order as being an inadequate measure and remedy for the situation. The Whigs, after they had been removed from the government and placed in the position of the minority, formed the center of opposition against Tory policy. They opposed all the steps in the progress of the Tory System from its first appearance before Parliament in January 1808. Their aggressive opposition and the uncertainty and the unwillingness of the ministry to give an adequate or satisfactory explanation of the policy they had adopted represents the lack of coherence and of unity in the System.

We may say, then, that the real object of the Orders in Council was to get at American commerce and to sustain British maritime superiority, that their policy and method, because of the alignment of political parties in the adoption and support of the measures, was more or less of an experiment and that they do not represent adherence to a clearly defined and consistent aggressive policy.

The Orders in Council.

(From a Handbill printed in London.)

Proposed inscription for the lid of a chest in the archives of the Privy Council.

Beneath, are deposited
all that remains of the once celebrated
Orders in Council.
Circumscribed by this narrow boundary
and reduced to a few shreds of
worthless parchment,
those haughty and innovating decrees
which, in their life time, convulsed empires
and tore the scanty morsel
from the grasp of starving millions,
now repose in harmless obscurity.
Thru the baser passions of the human heart
the moral genealogist
may perhaps trace their origin to a remoter distance,
but their immediate progenitors, were
malignity and infatuation.
Fostered by unremitted parental care
and the laborious exertions of their nearest relatives
sophistry and falsehood
they rapidly obtained
a formidable and disgraceful maturity.
During a disastrous period
of six years
they exercised an uncontrolled oppression
over the resources and industry of the poor;
Polluted the commercial character of Great Britain
with the most loathsome villainies;
cherished the infant manufactures of our rivals;
and insulted the public rights of mankind
by a long series of hateful and aggressive depredations.
Their career was at length arrested
by the awakened energies of their victims:
and after a resistance
which only proved the genuine cowardice of tyranny
when opposed to the united efforts of
rectitude and patriotism -
overwhelmed by the contempt of the wise
and the execrations of the good
they expired June 16th, 1812.
On the same day
their only legitimate descendant
the license system
shared the fate of its guilty parent:
and their death is thus recorded
by an indignant public
as an event

fraught with admonition to future legislators,
and strongly illustrative
of the consolatory and important truth,
that it is essential to the very nature of evil
to issue in its own destruction.

Niles Register, Vol. IV. p. 46.

University of Kansas Libraries



3 3838 100531036