

**THE TREATY OF AMITY,
COMMERCE, AND NAVIGATION
BETWEEN GREAT BRITAIN AND THE
UNITED STATES, THE JAMES BRYCE
HISTORICAL PRIZE ESSAY FOR 1906**

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The Treaty of Amity, Commerce, and Navigation between Great Britain and the United States,
the James Bryce Historical Prize Essay for 1906 by Robert R. Rankin

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ROBERT R. RANKIN

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*The Treaty of Amity, Commerce, and
Navigation between Great Britain
and the United States*

THE JAMES BRYCE HISTORICAL PRIZE ESSAY
FOR 1906

BY
ROBERT R. RANKIN

*To Julius
in no spirit of mere
formality,
from Robt.*

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THE TREATY OF AMITY, COMMERCE, AND
NAVIGATION BETWEEN GREAT BRITAIN
AND THE UNITED STATES.¹

ROBERT R. RANKIN.

Taken singly, the year 1794 contains the period of greatest peril to the American union and its international relations which the annals of this country have yet recorded. Only eleven years had passed since the treaty of peace was signed, closing a vital revolutionary war which had drained the resources of the colonies to their utmost. During the intervening period of those eleven years one government had been established which had proved so inadequate in two of its branches that it was laid aside, leaving only hesitancy and doubt of a union for the new government to meet. The constitution of this new government had been in force but five years and had by no means convinced the people that it was qualified to administer to their diverse interests. It certainly did not embody the unqualified ideas for government of any one man, or of a state, or of a national party, and in so far as it failed in this, so far was it carefully watched by the statesmen who had formed it.

Such were the internal conditions. Abroad a bitter war existed between England and France and with these two countries our international relations were primarily connected. With England, the mother country, there had been

¹ Bryce Historical Prize Essay, 1906.

a recent war, and since independence had been granted, her attitude had been haughty and overbearing. France had been the staunch ally of the American colonies during the period of the Revolution and now expected reciprocal aid and attention. Racial pride and national interests demanded an amicable relation with Great Britain; sympathy and national gratitude demanded every attention in behalf of France. President Washington in his appreciation of these conditions aptly described them:² "To sum the whole up in a few words: I have never, since I have been in the administration of the government, seen a crisis which, in my judgment, has been so pregnant with interesting events, nor one from which more is to be apprehended." * * *

Of all the policies which presented themselves to this government but one met with national approval. That was: The United States can not remain uninterested and oblivious to the opportunities now presented; it must take some definite stand and maintain it. What this policy should be was the vital question in the crisis of the administration.

As a solution of this question and as one of the interesting events from which much was apprehended the administration decided upon negotiations with England through its envoy extraordinary, John Jay.

But for the success of this envoy at the British court in London, the early history of this government would have to be rewritten. As is shown in the following pages, war, in all likelihood, would have resulted, and for war "the United States was never more unprepared." A conservative statement maintains that the independence which the colonies had so lately won would have suffered greatly. It is hardly less conservative to say that independence would have suffered irredeemably.

It is with these negotiations that this essay has to deal, and a word as to its sources and method of development

² Washington, "Writings," Vol. XI, p. 48. Cf. Gibbs, "Memories of Wolcott," Vol. I, p. 327.

might be in keeping with a better understanding of the subject.

In regard to sources, this essay has been unusually fortunate in having a large field of original material. The greatest contributors to this field have been the American State Papers, Foreign Relations, containing all the original documents relative to the negotiations, and the Annals of Congress, containing all the speeches which embody the views of this as well as foreign countries. Besides these, there is a great amount of indispensable material which is minor only in the quantity, not quality, which it contributes. In this class are noted the diaries, letters, speeches, and writings of contemporary statesmen who rank among the greatest which this or any other country has had the fortune to possess. George Washington, Alexander Hamilton, and James Madison might head this list. Upon such primary sources is the evidence in this essay based. All interests contained herein have been taken from first-hand materials and the great amount of secondary works appended have been used only in cross reference and most general considerations. There has been much subsequent periodical literature which is of such slight importance as hardly to merit attention. However, one exception must be made to the general condemnation of periodicals, and that is in favor of the contemporary newspapers published at Philadelphia, *The American Daily Advertiser* and the *Aurora*.

In regard to the development of this subject, several methods presented themselves. But upon a summary view the material divided itself most naturally into three parts. The first part consists of a chronological and narrative history of the events which surround the making of the treaty. The second part contains an exposition of the principles involved in the negotiations and in the treaty itself. Finally, there appear the subsequent results of these negotiations with an explanation of the objects effected by that docu-

ment. And there are added other interests which resulted from this special mission to England but of which there is absolutely no trace or even suggestion in the articles as finally ratified by the two nations.

The Treaty of Amity, Commerce, and Navigation between Great Britain and the United States, or as it was popularly called, Jay's Treaty of 1794, affords a study of the political, commercial, and international interests during the first years of this government.

I.—THE NARRATIVE HISTORY OF THE TREATY.

History, by its definition of evolutionary processes, is best illustrated in its narration, but its narration in this place may serve an additional purpose—that of a general understanding of the most unpopular treaty which the United States ever had the misfortune to contract.

1. Some of the conditions which led up to this treaty were of long standing. Many of them had existed before the Revolutionary War. Likewise, there were some arising from later reasons. There had been an attempt to settle many points of difference in the treaty of peace in 1783, and the breaking of certain provisions³ in this treaty was one of the main causes demanding a settlement. The retention of the forts⁴ in the northern and western parts of the United States acted as "a thorn in the side of the young republic," and another action equally painful was the ruinous commercial policy which had been adopted and enforced by the British Orders in Council. These had worked special injury in the Admiralty Courts of the West Indies, where hundreds of ships, particularly from New England, had been seized and condemned for carrying French produce or provisions to French ports. The impressment of American seamen was another source of irritation. All these direct

³ *Vide* Appendix E.

⁴ *Vide* p. 18.

causes were harped upon by the spirit of war on the part of the New England Democrats. The Republicans over the country adopted retaliation in the form of a suspension of all commercial relations with Great Britain. Both policies pointed directly to war, which was a thing to be dreaded in the extreme, owing to our new government and complete lack of preparation for any encounter whatsoever. Against this popular demand for war, which was voiced in many assemblies and made them scorn British relations and rejoice in French victories, there was another party which realized what war would mean for the United States under existing conditions. This party adopted the policy of peaceful negotiations. At the head of this conservative party stood President Washington. To his clear insight and statesman-like conduct more is due than to any one man of his time. Of his conduct more will be said hereafter, but at present let the words of the British chronicler suffice: "Happily for that country (America) and Great Britain itself, General Washington still presided over American councils."⁵ The policy of peace could be assured only by immediate negotiations to relieve the tension upon strained national relations. The United States had but recently enjoyed the honor of receiving an ambassador from Great Britain. Mr. Hammond was a man whom Fisher Ames properly estimated as lacking in prudence and moderation.⁶ Our own minister at London, Mr. Pinckney, was a man of prejudices and strongly pro-Gallician, although, as Washington declared, his confidence in him remained undiminished.⁷

2. Conditions demanded a special envoy, and Washington reasoned that such a representative would serve more properly to impress upon the minds of the British administrators the seriousness and dignity of the occasion, and to insure the British Government that the executive of the

⁵ Annual Register, 1794, p. 148.

⁶ *Ibid.* "Works." Letter to C. Gore, March 5, 1794.

⁷ Message to Senate, April 16, 1794.

United States intended if possible to maintain neutrality.⁸ With an eye to this purpose, his choice first rested upon Alexander Hamilton, whose work had shown him a man of no mean ability. But Hamilton had many and some bitter enemies, and Washington was warned by Monroe that a treaty satisfactory in most respects would find opposition on the prejudiced grounds that it was Hamilton's work. Hamilton was deeply grieved at being laid aside, but proposed the name of John Jay to Washington, who immediately assented. The appointment was laid before the Senate on the 19th of April, 1794, and three days of stormy debate followed before the Senate confirmed the nomination. The final vote stood eighteen in favor and eight against, with Aaron Burr and James Monroe of Virginia at the head of the opposition. Jay was holding Circuit Court at Philadelphia when his nomination was confirmed, so no time was lost in notifying him of his appointment. That he saw the difficulties before him can not be doubted. He writes: "I will go, foreseeing the consequences to my personal popularity. * * * The good of my country I believe demands the sacrifice and I am ready to make it."⁹ He writes to his wife upon the 15th of April, 1794, that his dilemma lay between personal and public considerations. On the 19th he writes in further explanation: "No appointment ever operated more unpleasantly upon me, but the public considerations which were urged, and the manner in which it was pressed, strongly impress me with the conviction that to refuse it would be to desert my duty for the sake of my ease and domestic concerns and comforts."¹⁰ His personal disinclination was not without foundation, for no portion of his career has been subject to more unsparing criticism than that on which he was about to enter.

The spirit of the country was not so much in opposition to Jay or a treaty which *he* might negotiate as it was to *any*

⁸ Message to Senate, April 16, 1794.

⁹ Johnston's "Life and Correspondence of John Jay," Vol. IV.

¹⁰ Johnston's "Life and Correspondence of John Jay," Vol. IV.