

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

*In compliance with a resolution of the Senate, on the subject of the communication of the Quintuple treaty to the Government of the United States.*

JANUARY 11, 1843.

Read, and ordered to be printed.

*To the Senate of the United States :*

I have received a resolution of the Senate, of the 27th of December, in the following terms :

*“ Resolved, That the President be requested to inform the Senate, if compatible with the public interest, whether the quintuple treaty for the suppression of the slave-trade has been communicated to the Government of the United States in any form whatever; and if so, by whom? for what purpose? and what answer may have been returned to such communication? Also, to communicate to the Senate all the information which may have been received by the Government of the United States going to show that the ‘ course which this Government might take in relation to said treaty has excited no small degree of attention and discussion in Europe.’ Also, to inform the Senate how far, the ‘ warm animadversions’ and the ‘ great political excitement’ which this treaty has caused in Europe, have any application or reference to the United States. Also, to inform the Senate what danger there was that ‘ the laws and the obligations’ of the United States in relation to the suppression of the slave-trade, would be ‘ executed by others,’ if we did not ‘ remove the pretext and motive for violating our flag and executing our laws,’ by entering into the stipulations for the African squadron, and the remonstrating embassies which are contained in the 8th and 9th articles of the late British treaty. Also, that the President be requested to communicate to the Senate all the correspondence with our ministers abroad, relating to the foregoing points of inquiry. Also, that the President be requested to communicate to the Senate all such information upon the negotiation of the African squadron articles, as will show the origin of such articles, and the history and progress of their formation.”*

I informed the Senate, in the message transmitting the treaty with England, of the 9th of August last, that no application or request had been made to this Government, to become a party to the Quintuple treaty. Agents of the Government abroad, regarding the signature of that treaty as a political occurrence of some importance, obtained, unofficially, copies of it, and transmitted those copies to the Department of State, as other intelligence is com-

municated, for the information of the Government. The treaty has not been communicated to the Government of the United States from any other quarter, in any other manner, or for any other purpose.

The next request expressed in the resolution is in these words: "Also, to communicate to the Senate all the information which may have been received by the Government of the United States going to show that the 'course which this Government might take in relation to said treaty has excited no small degree of attention and discussion in Europe.' Also, to inform the Senate how far the 'warm animadversions' and the 'great political excitement' which this treaty has caused in Europe, have any application or reference to the United States."

The words quoted in this part of the resolution appear to be taken from my message above mentioned. In that communication I said:

"No application or request has been made to this Government to become a party to this treaty; but the course it might take in regard to it has excited no small degree of attention and discussion in Europe, as the principle upon which it is founded, and the stipulations which it contains, have caused warm animadversions and great political excitement.

"In my message at the commencement of the present session of Congress, I endeavored to state the principles which this Government supports respecting the right of search and the immunity of flags: Desirous of maintaining those principles fully, at the same time that existing obligations should be fulfilled, I have thought it most consistent with the honor and dignity of the country that it should execute its own laws, and perform its own obligations, by its own means and its own power. The examination or visitation of the merchant vessels of one nation by the cruisers of another, for any purposes except those known and acknowledged by the law of nations, under whatever restraints or regulations it may take place, may lead to dangerous results. It is far better, by other means, to supersede any supposed necessity, or any motive, for such examination or visit. Interference with a merchant vessel by an armed cruiser is always a delicate proceeding, apt to touch the point of national honor, as well as to affect the interests of individuals. It has been thought, therefore, expedient, not only in accordance with the stipulations of the treaty of Ghent, but at the same time as removing all pretext on the part of others for violating the immunities of the American flag upon the seas, as they exist and are defined by the law of nations, to enter into the articles now submitted to the Senate.

"The treaty which I now submit to you, proposes no alteration, mitigation, or modification of the rules of the law of nations. It provides simply that each of the two Governments shall maintain on the coast of Africa a sufficient squadron to enforce, separately and respectively, the laws, rights, and obligations, of the two countries for the suppression of the slave-trade."

These opinions were expressed by me officially, upon the occasion of making to the Senate a communication of very great importance. It is not perceived how the accuracy of this general statement can be doubted by those who are acquainted with the debates of public bodies in Europe, the productions of the press, and the other modes by which public opinion is manifested, in an enlightened age. It is not to be supposed that excited attention to public and national transactions, or general political discussions in Europe on subjects open to all the world, are known only in consequence of private information communicated to the Government; and feeling a strong persuasion that it would be improper in the Executive to go into any

discussion or argument upon such a subject with the Senate, I have no further remarks to make upon this part of the inquiry.

The third inquiry is: "What danger there was that 'the laws and the obligations' of the United States in relation to the suppression of the slave-trade, would be 'executed by others' if we do not, 'remove the pretext and motive for violating our flag and executing our laws?'"

I have already quoted from the message the entire paragraph, to a part of which this portion of the inquiry is supposed to refer.

As to the danger there was that the laws and the obligations of the United States in relation to the suppression of the slave-trade, would be executed by others, if we did not remove the pretext and motive for violating our flag, and provide for executing our laws, I might say, that this depends upon notorious facts and occurrences, of which the evidence has been in various forms before the country, and all the branches of the Government.

When I came to occupy the executive chair, I could not be ignorant of the numerous complaints which had been made on account of alleged interruptions of American vessels, engaged in lawful commerce on the coast of Africa, by British cruisers, on the ground of their being engaged in the slave-trade. I could not be ignorant, at the same time, of the well-grounded suspicions which pervaded the country, that some American vessels were engaged in that odious and unlawful traffic. There were two dangers, then, to be guarded against: the one, that this traffic would continue to be carried on in American ships, and perhaps much increased, unless some new and vigorous effort should be made for its suppression; the other, that acquiescence in the capture of American vessels, notorious slave-dealers, by British cruisers, might give countenance to seizures and detentions of vessels lawfully employed, on light, or groundless suspicions. And cases had arisen, under the administration of those who preceded me, well calculated to show the extent and magnitude of this latter danger; and believing that very serious consequences might, in time, grow out of the obvious tendency and progress of things, I felt it to be my duty to arrest that progress, to rescue the immunity of the American flag from the danger which hung over it, and to do this by recommending such a provision for the execution of our own laws as should remove all pretence for the interference of others.

Among the occurrences to which I have alluded, it may be useful to particularise one case.

The schooner "Catharine," an American vessel owned by citizens of the United States, was seized on the coast of Africa, by the British cruiser, called the "Dolphin," and brought into the port of New York, in the summer of 1839. Upon being brought into port, Benjamin F. Butler, Esq., district attorney of the United States for the southern district of New York, appeared in the district court of the United States, for that district, and, in the name and behalf of the United States, libelled the schooner, her apparel and furniture, for a violation of the several acts of Congress passed for the suppression of the slave-trade. The schooner being arrested by the usual process in such cases, and possession taken of her, from the hands of the British captors, by officers of the United States, the cause proceeded, and by a decree of the circuit court, in December, 1840, a forfeiture was pronounced; from this decree an appeal was taken, which is now pending in the Supreme Court of the United States.

It is true, that, in another case, that of the "Tigris," of like general character, soon after arising, the then Secretary of State, on the 1st of March, 1841, informed Mr. Fox, the British minister, that, "however strong and unchangeable may be the determination of this Government to punish any citizens of the United States who violate the laws against the African slave-trade, it will not permit the exercise of any authority by foreign armed vessels in the execution of those laws."

But it is evident, that this general declaration did not relieve the subject from its difficulties. Vessels of the United States found engaged in the African slave-trade, are guilty of piracy, under the acts of Congress. It is difficult to say that such vessels can claim any interference of the Government in their behalf, into whosoever hands they may happen to fall, any more than vessels which should turn general pirates. Notorious African slave-traders can not claim the protection of the American character, inasmuch as they are acting in direct violation of the laws of their country, and stand denounced by those laws as pirates. In case of the seizure of such a vessel, by a foreign cruiser, and of her being brought into a port of the United States, what is to be done with her? Shall she be libelled, prosecuted, and condemned, as if arrested by a cruiser of the United States? If this is to be done, it is clear that the agency of a foreign power has been instrumental in executing the laws of the United States. Or, on the other hand, is the vessel, with all her offences flagrant upon her, to be released, on account of the agency by which she was seized, discharged of all penalties, and left at liberty to renew her illegal and nefarious traffic?

It appeared to me that the best, if not the only, mode of avoiding these and other difficulties, was by adopting such a provision as is contained in the late treaty with England.

The Senate asks me for the reasons for entering into the stipulations for the "remonstrating embassies," contained in the late treaty. Surely there is no stipulation in the treaty for any "remonstrating embassies," or any other embassies, nor any reference or allusion to any such thing. In this respect, all that the treaty provides is in the 9th article, and is in these words: "The parties to this treaty agree that they will unite in all becoming representations and remonstrances, with any and all powers within whose dominions such markets [for African slaves] are allowed to exist; and that they will urge upon all such powers the propriety and duty of closing such markets, effectually, at once and for ever."

It always gives me sincere pleasure to communicate to both Houses of Congress anything in my power, which may aid them in the discharge of their high duties, and which the public interest does not require to be withheld. In transmitting the late treaty to the Senate, everything was caused to accompany it, which it was supposed could enlighten the judgment of the Senate upon its various provisions. The views of the Executive, in agreeing to the 8th and 9th articles, were fully expressed; and pending the discussion in the Senate, every call for further information was promptly complied with, and nothing kept back which the Senate desired. Upon this information, and upon its own knowledge of the subject, the Senate made up and pronounced its judgment upon its own high responsibility; and as the result of that judgment, the treaty was ratified, as the journal shows, by a vote of thirty-nine to nine. The treaty has thus become the law of the land, by the express advice of the Senate, given in the most solemn manner known to its proceedings.

The fourth request is, "that the President be requested to communicate to the Senate all the correspondence with our ministers abroad relating to the foregoing points of inquiry."

If this branch of the resolution were more definite, some parts of it might, perhaps, be met without prejudice to the public interest, by extracts from the correspondence referred to. At a future day, a communication may be expected to be made as broad and general as a proper regard to these interests will admit; but at present, I deem any such communication not to be consistent with the public interest.

The fifth, and last, is, "that the President be requested to communicate to the Senate all such information upon the negotiation of the African squadron articles, as will show the origin of such articles, and the history and progress of their formation."

These articles were proposed to the British minister by the Secretary of State, under my express sanction, and were acceded to by him, and have since been ratified by both Governments. I might, without disrespect, speak of the novelty of inquiring by the Senate into the history and progress of articles of a treaty, through a negotiation which has terminated, and as the result of which, these articles have become the law of the land by the constitutional advice of the Senate itself. But I repeat, that those articles had their origin in a desire on the part of the Government of the United States to fulfil its obligations, entered into by the treaty of Ghent, to do its utmost for the suppression of the African slave-trade, and to accomplish this object, by such means as should not lead to the interruption of the lawful commerce of the United States, or any derogation from the dignity and immunity of their flag. And I have the satisfaction to believe that both the Executive, in negotiating the treaty of which these articles form part, and the Senate, in advising to its ratification, have effected an object important to the Government and satisfactory to the people.

In conclusion, I hope I may be permitted to observe, that I have, out of a profound respect for the Senate, been induced to make this communication in answer to inquiries, some of which, at least, are believed to be without precedent in the history of the relations between that body and the Executive Department. These inquiries were particularly unexpected to me at the present moment. As I had been so fortunate as to find my own views of the expediency of ratifying the late treaty with England, confirmed by a vote of somewhat more than four fifths of the Senators present, I have hitherto flattered myself that the motives which influenced my conduct had been fully appreciated by those who advised and approved it; and that, if a necessity should ever arise for any special explanation or defence in regard to those motives, it could scarcely be in that assembly itself.

JOHN TYLER.

WASHINGTON, *January 9, 1843.*