THE APPEAL.

THE QUINTUPLE TREATY—THE RIGHT OF SEARCH.

LETTER FROM GEN. CASS, MINISTER OF THE UNITED STATES AT PARIS, TO MR. GUIZOT, MINISTER OF FOREIGN AFFAIRS OF FRANCE.

LEGATION OF THE UNITED STATES, PARIS, February 13, 1842.

SIR: The recent signature of a treaty, having for its object the suppression of the African slave trade, by five of the powers of Europe, and to which France is a party, is a fact of such general notoriety that it may be assumed as the basis of any diplomatic representations which the subject may fairly require.

The United States being no party to this treaty, have no right to inquire into the circumstances which have led to it, nor into the measures it proposes to adopt, except so far as they have reason to believe that their rights may be involved in the control of the exception. Their own desire to put a stop to this traffic is everywhere known, as well as the early and continued efforts they have adopted to prevent their citizens from prosecuting it. They have been invited by the government of Great Britain to become a party to the treaty, which should regulate the action of the combined governments upon the subject. But, for reasons satisfactory to themselves, and I believe satisfactory to the world, they have declined this united action, and have chosen to pursue their own measures, one to act upon their own responsibility, without subjecting these to any kind of foreign jurisdiction.

In a communication from Lord Palmerston, her Britannic Majesty's principal Secretary of State for Foreign Affairs, to Mr. Stevenson, the American Minister at London, dated 27th August, 1841, Lord Palmerston claims a right for the British cruisers, and avows the intention if his government to exercise it, to search American vessels at sea in time of peace, with a view to ascertain their national character. He adds that this examination of papers, or interrogatories on board of ship, are of the slave trade, even though they bear a United States flag, is a proceeding which is absolutely necessary that British cruisers employed in the suppression of the slave trade should continue to practice." &c. &c.

In a communication from the successor of Lord Aberdeen to Mr. Stevenson, dated October 13, 1841, the views and determinations announced in the first are confirmed; and Lord Aberdeen thus states the ground upon which rests this pretension to search American vessels in time of peace: "But the undersigned must observe that the present happy concurrence of the States of Christendom in this great object of the suppression of the slave trade, not merely justifies, but renders indispensable, the right now claimed and exercised by the British government; that is to say, the right of entering and examining American vessels to ascertain their nationality.

It is no part of my duty to offer any comments upon this pretension, nor upon the reasons advanced in support of it. And if it were, I should find the duty far better performed for me than I could perform it myself, in the annual message of the [President of the] United States to Congress of December 7, 1841. In that document will be found the views of the American government upon this subject; and it is there emphatically declared that, "now ever desirous the United States may be for the suppression of the slave trade, they cannot consent to interpolations into the maritime code at the mere will and pleasure of other governments. We deny the right of any such interposition to any one of all the nations of the earth, without our consent. We claim to have a voice in all amendments or alterations of that code; and when we are given to understand, as in the instance, by a foreign government, that it is inflexible with other nations, and has executed without the establishment and enforcement of new principles of maritime police, to be applied without our consent, we must employ language not her of equivocal import nor of questionable misconstruction."

You will perceive, sir, by these extracts, that the British government has advanced a pretension which it asserts to be indispensable to the execution of its treaties for the suppression of the slave trade, and to which the President of the United States has declared that the American Government will not submit. This claim of search, it will be observed, arising, as it is asserted, out of existing obligations has relation to the fulfilment of a treaty the abolition of this traffic which were in force at the date of the communications of Lord Palmerston and of Lord Aberdeen. It is now known that the contested treaty upon this subject is not yet ratified, and it appears still more minute in some of the details of its execution than the separate treaties with France which preceded it, and equally indefinite in the duration of its obligations. Of course, these were all known to the British Ministry, but indispensable for the execution of the latter, will find equal justice and necessity in the obligations of the former. With this previous declaration made by one of the parties to this quintuple treaty, concerning its operations, the American Government cannot admit their operation to their true position. The moral effect which such a union of five great powers, two of which have perhaps never had a vessel engaged in that traffic, is calculated to produce upon the United States, and the influence which, like them, may be indisposed to these combined movements, though it may be regretted, yet furnishes no just cause of complaint. But the subject assumes another aspect when they are told by one of the parties that their vessels are to be forcibly entered and examined in order to carry into effect these stipulations. Certainly the American Government does not believe that the high powers, contracting parties to this treaty, have assumed to compel the United States, by force, to adopt their measures to its provisions, or to adopt its stipulations. They have too much confidence in their sense of justice to fear any such result, and they will see with pleasure the prompt disavowal made by yours of it, in the name of your country, at the tribune of the Chamber of Deputies, of any intention of this nature. But were it otherwise, and were it possible that my duty could in this case deflect expectation, that would not alter in one little their course of action. Their duty would be the same, and the same would be their determination to fulfil it. They would prepare themselves and with regret, but with firmness, for one of those desperate struggles which have sometimes occurred in the history of the world, the where a just cause and the favor of Providence have given victory to superior weakness, and enabled it to break down the pride of power.

But I have already said that the United States do not fear that any such united attempt will be made upon their independence. What, however, they may reasonably fear is, that by the execution of this treaty measures will be taken which they must resist. How far the act of one of the parties putting its construction upon its own duties, and upon the obligations of its co-contracting parties may involve them in any unlooked-for consequences, either by the adoption of similar measures or by their rejection, I do not presume to judge. Certain it is, however, that if the fact, and the principle advanced by Lord Aberdeen, are correct, that these treaties for the abolition of the slave trade cannot be executed without forcibly boarding American ships at sea in time of peace, and that the obligations created by them confer such a right upon the vessels of any other American flag, but make this measure a duty, then it is a sad duty of France to pursue the same course. Should he put this construction upon her obligations, it is obvious the United States must be prepared to see in every vessel of their flag, if she persists in this attack upon their independence. Should she not, it does not become us to investigate the nature of her position with respect to one or her associates, whose opinion on respective obligations should be so widely different from her own. But I may express the hope that the Government of his Majesty, before ratifying this treaty, will examine maturely the pretensions asserted by one of the parties, and see how these can be reconciled, not only with the honor and interest of the United States, but with the received principles of the great maritime code of nations. I may make this appeal with the more confidence, because it is not the interest of France that a breach should be made between the United States, from a community of interest in the liberty of the seas, from a community of opinion respecting the principles which guard it, and from a common sympathy in danger which it may be menaced by the sudden violence of any maritime power.

It appears to me, sir, that in asking the attention of His Majesty's government to the subject of the quintuple treaty, with a view to its reconsideration, I am requesting nothing on the part of the United States which it does not the duties of France to other powers. If, during the course of the discussions upon this treaty, preparatory to the arrangement of its provisions, England has asserted to the other powers, that the United States may claim for the suppression of the slave trade, they cannot consent to interpolations into the maritime code at the mere will and pleasure of other governments. We deny the right of any such interposition to any one of all the nations of the earth, without our consent. We claim to have a voice in all amendments or alterations of that code; and when we are given to understand, as in the instance, by a foreign government, that it is inflexible with other nations, and has executed without the establishment and enforcement of new principles of maritime police, to be applied without our consent, we must employ language not her of equivocal import nor of questionable misconstruction."

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