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MINORITY REPORT

OF THE

COMMITTEE ON FOREIGN AFFAIRS,

PRESENTED BY MR. SMITH, OF ALABAMA.

The undersigned, members of the Committee of Foreign Affairs, to which was referred certain resolutions introduced into the House, touching the propriety of "recalling our Commissioners to foreign powers, and of expelling those persons acting within the limits of the Confederate States as Foreign Consuls," not being able to agree with the majority of the said Committee, and being unwilling to endorse their report, beg leave to present this minority report.

As it seems to us that the report of the majority reflects by implication upon the President of the Confederate States, and upon the Secretary of State, the undersigned deem it due to themselves and to the House, to refer to such portions of the documents laid before the Committee as will serve to place the subject in its proper light before the House.

In order that the Committee might be enabled to act most advisedly on the subject, the House at the Committee's request adopted the following resolutions:

Resolved, That the President be respectfully requested, if not incompatible with the public interest, to communicate to this House the number and names of all persons engaged in the service of the Confederate States in foreign countries, either as diplomatic, consular or commercial agents, or in any other capacity, stating the places to which they have been sent, the date of their appointment, the salaries they receive, the duties they are expected to discharge, and how far they have been officially or otherwise recognized by any foreign Government. Also the number and character of foreign agents, whether consular, commercial or other, known to our Government, representing in any capacity foreign Governments within the limits of the Confederate States, and whether in communicating with this Government, they do so under an exequatur from our own Government or that of the United States, and whether they are subordinate or subject to the

control and direction in any way, and to what degree, of the ministers of their respective countries, accredited to, and residing in the United States.

The President is further respectfully requested to communicate such instruction as may have been given our foreign agents, and such correspondence as may have been had with other Governments, either through the Secretary of State or our Commissioners abroad, as will aid Congress in its legislation regarding foreign nations, and their citizens residing in our midst."

In response to these resolutions, the President submitted to the House an answer, consisting of a vast amount of information, which was referred to the Committee, and by them examined. This answer was deemed unsatisfactory by the majority of the Committee, as shown by their report. The complaint of the majority seems to be based upon the idea that the answers to the resolutions are not sufficiently full and explicit. Let us examine this objection.

The House resolutions called only for such information as could be communicated not incompatible with the public interest.

Who is to be the judge—who is to decide what statements should be made public; certainly not the House nor the Committee, but the President and his adviser, the Secretary of State. According to the theory upon which our Government is based, the Secretary of State stands at the head of the Cabinet. He is the President's chief adviser. He is the keeper of the secrets of the State, and to his enlightened judgment is committed the important discretion of publication.

The President was advised by the terms of the resolutions, not to communicate anything, the publication of which would, in his opinion, be incompatible with the public interest. And thus, by the legitimate interpretation of the resolutions themselves, he was bound to conclude, that whatever he did communicate, might be made public at the discretion of the House.

We admit and claim, that the Committee of Foreign Affairs is entitled to the confidence of the President, but not to an unlimited extent; and we do not believe that any Committee of this House has a right to demand from him the possession of State secrets, when, in his opinion, these secrets ought not to be made public.

The Committee did not request the information as a Committee. The inquiry was preferred by the House; and, whatever information the answer might have disclosed, must, under the resolutions, be given to the House; and the House could publish or not, as a majority might determine. And it must not be forgotten, that the inquiry itself was upon a subject, which, from its very nature, belongs less to the House than to the President and the Senate. Diplomacy is a peculiar science; its very life is secrecy. It should always be crowned with the Helmet of Pluto, "which maketh the politic man go invisible."

The report of the majority, though guarded and courteous in its phraseology, is nevertheless a complaint that the President has not communicated all the facts requested. We come to this conclusion

from the expressions of regret that it contains, and its attempted argument, that, in making the inquiry, the House had not desired to trench upon the peculiar province of the Senate, nor had transcended its own powers.

Here is the argument of the majority: "This House in no way transcends its *powers*, when it seeks of the Executive through the proper channel, a knowledge not only of the number and names of our diplomatic agents, but also a statement of the fact, whether consular or commercial agents have been sent abroad, and if so, to what countries; and whether they have been permitted by the governments to which they have been sent, to exercise the customary powers of such agents, or have been forced to forego entirely the discharge of the very important duties pertaining to such appointments, and made to occupy the character of extraordinary, or special, or secret agents."

If, by the use of the word "*powers*," in the foregoing extract, we are to understand that it occupies the place of a synonym to the word "*right*," we do not admit the proposition,—the very contrary is true. In this connection, it must not be forgotten that the resolution of inquiry requested the President to communicate the "number and names of *all* persons engaged in the service of the Confederate States in foreign countries, either as diplomatic, consular, or commercial agents, or in any *other* capacity, stating the *places* to which they have been sent, the date of their appointments, the salaries they receive, the *duties* they are expected to discharge, and how far they have been officially or otherwise recognized by any foreign government."

This argument of the majority that the House has not transcended its power must be held to embrace the foregoing broad and sweeping interrogatory.

As a political proposition it is certainly true that every Government has the undoubted right, especially in times of war, to have *secret* diplomatic, commercial and consular agents. If the Government had this undoubted right, it cannot be deprived of it by any one of its co-ordinate branches. It is impossible that the Government and one branch of the Congress should have the same "power," if the existence of the one is inconsistent with the existence of the other; and for a Government to reveal the names, number and functions of its secret agents, is at once to destroy that power, for they would no longer be secret agents.

Many of the commercial, diplomatic and other agents now abroad, were appointed in the first year of the Government, under the strictest secrecy; and Congress have repeatedly recognized the power of the Government to have secret agents, and has endorsed their appointment by appropriating money for the payment of their salaries.

It will be seen by an examination of the communication that the Secretary has given the names and localities of our principal diplomatic agents, together with his instruction to them; but that he has not communicated all the names, localities and functions of others than the diplomatic agents. And the Secretary says that: "It would be impossible to communicate to the House without *great* detriment to

the public interest, the names and number of all persons engaged in the service of the Confederate States in foreign countries, either as diplomatic, commercial or consular agents, or in any other capacity, stating the places to which they have been sent, the date of their appointment, the salaries they receive, the duties which they are expected to discharge."

On this subject the Secretary adds: "During the pendency of hostilities the very objects for which, other than diplomatic agents have been sent abroad would be exposed to defeat by divulging the details called for in the resolutions; and these objects are of great national importance."

The undersigned recognize the force of these observations.

Can it be supposed that a Government whose pride it has been to develop its mightiest energies in the prosecution of this war of subjugation at home, could have failed to have established abroad a system of espionage with detectives to track our foreign agents and to thwart their enterprises? We may well suppose, on the contrary, that wherever a ship may be built or purchased, wherever a gun or a pound of powder may be obtained, there are the agents of the United States to be found. Experience has proven this; and wherever abroad, Southern sympathy exists, there in particular this swarm of secret emissaries may be supposed to congregate. Would not a revelation of the number, names and functions of our secret agents, under such circumstances, endanger the success of their respective missions.

And shall the Secretary of State be expected the step aside from his high duty, even to answer the most solemn enquiry of a Congressional Committee. We think not.

Among the many subjects of interest which the communication of the Secretary of State discloses, we quote passages from the letters of Commissioners Mason and Slidell, bearing especially upon the subject of the original resolutions. Upon the subject of recognition, Mr. Mason says: "I am in full and frequent communication here with many able and influential members of the House of Commons, who confer with me in perfect frankness and candor, and who are prepared to move the question in the House, whenever it may be found expedient, but in the attitude of parties here, (meaning the Ministerial and Opposition,) as the Ministry will not move, it is not deemed prudent to enable *it* to make the question an issue with the opposition, and so, motions that have been projected, '*hang fire.*'"

"As far as the public is concerned, all agree that there has been a complete change in sentiment as the war goes on. Both my own intercourse—which is becoming large—and information derived from all quarters, satisfy me that the educated and enlightened classes are in full sympathy with us, and are becoming impatient at the supineness of the government."

Mr. Slidell says, speaking of his interview with ———: "In reply to my suggestions, that the war could only be brought to a close by the intervention of European Powers, which should be preceded by our recognition, and a renewed proffer of mediation, he said, that 'France could not act without the co-operation of England,' but that

within the last few days there seemed to be a change in the tone of the English Cabinet; that if New Orleans had not fallen, our recognition could not have been much longer delayed; but that even *after that disaster, if we obtained decided successes in Virginia and Tennessee, or could hold the enemy at bay a month or two, the same result would follow.*"

Mr. Mason also refers to this opinion, that if New Orleans had not fallen, our recognition would not have been much longer delayed.

Thus, the undersigned show, through this correspondence, that the state of things now actually exist in this country, which, in the opinion of our Commissioners, would have probably secured our recognition in England and France: for we have not only kept the enemy at bay a month or two, but have obtained decided successes in Virginia and Tennessee. If the fall of New Orleans prevented recognition, as we are bound to believe from the opinions of our Commissioners, may we not now expect such a reaction in the minds of European Powers as will produce the best feeling in our behalf? To-day; while we are discussing the propriety of recalling our Commissioners, it may be, that the French and British Cabinets, driven by our recent glorious victories, have already decreed our recognition.

What is the fall of New Orleans, disastrous as it was, when we have driven off a vast beleaguering army from the precincts of our Capital, and pursued the fugitives to their gates.—When Washington and not Richmond is threatened; when a veteran army, crowned with twenty successive victories, and led by Generals whose fame is yet unsullied by a single defeat, triumphantly erect their standards in the valleys and on the hills of an amazed and discomfited enemy.—If after such developments as these, such demonstrations of an ability to maintain our own independence, the Courts of Europe should still stubbornly refuse to proclaim our rights, and to invite us to participate upon terms of perfect equality at their diplomatic boards, that policy which would be petulance in us now, may well assume the majestic proportions of national indignation; and Christendom would then applaud a resolution on our part, to scorn those nations which had too sullenly denied our association.

As to the merits of that part of the original resolution referring to our Commissioners, the undersigned are of opinion that we have done, as a nation, precisely as we ought to have done.—Guided by the custom of ages, we sent Commissioners abroad to proclaim that we had dissolved the political bands that connected us with the United States, and that we claimed a place amongst the Independent Powers of the Earth.

This we did with modesty and dignity; to send other Commissioners would be unbecoming, and to recall those we have already sent, would be an exhibition of impatience which the world would interpret as petulance.

In regard to persons claiming to act as Consuls for foreign powers in the Confederacy, the Secretary of State submits the following remarks:

"The annexed list, marked C, shows the names of the only agents of foreign Governments known by the Department within the limits

of the Confederate States. All of these agents, except one, had been recognized by the Government of the United States, by exequaturs as the duly authorized agents of foreign Governments, by which they were respectively appointed at a period antecedent to that when the several Confederate States revoked the powers previously delegated to the United States, and under which the Government of the United States controlled the relations, whether diplomatic or commercial, which grew up between those States and foreign countries."

The Secretary adds :

"According to well recognized principles, both of public and private law, the agents of foreign governments, having been recognized as such by the agent of the several Confederate States prior to the revocation of the power delegated to that agent, remain so recognized after the revocation. It was and is undoubtedly within the power of this Government, as it is within that of all governments, to decline permitting the above mentioned agents to remain within our limits; but for obvious reasons the exercise of such power has been deemed unwise and impolitic. It is known to the Department that the foreign Consuls within the Confederacy communicate with their governments, in Europe, by sending despatches to the care of the Ministers of their respective governments residing in Washington, and this Department has thus been enabled, on different occasions, to cause correct information to reach foreign countries on matters which it was highly important to the public interest should be widely disseminated and properly understood."

The undersigned cordially endorse the wisdom of these suggestions, and the propriety of the policy therein indicated. In the present irregular condition of our commercial affairs, arising from the blockade of our ports, these persons may well be permitted to remain at their posts without strict formality, doing no harm to us, and often affording channels of information and communication which we might not otherwise readily obtain. The few truths that have reached Europe of the eventful occurrences of the war, within our borders, have been communicated through these persons—they have promptly contradicted the exaggerated statements of our foes—and charity compels us to suppose that while some of them may be unfriendly to us, yet a vast majority of them are at least sufficiently friendly to make to their respective governments the most favorable and impartial reports of the actual condition of things within the Confederate States.

While we admit and complain that the powers of Europe have been slow to be convinced of our right to be received into the fraternity of nations, we cannot deny that they advised us in the earliest days of our struggle that, while recognition was impossible then, still, *as soon as we had demonstrated our ability to maintain the independence we had declared, we should be recognized.* This was their ultimatum. They had a right to make it. They are the judges. We must bide our time. Every nation is the keeper of its own fortunes—the dictator of its own policy, and we have no right to thrust our quarrels upon it. It would be unbecoming in us to be importunate, especially when we can ap-

proach only the precincts of foreign Courts, for importunity in claiming favors is the basest suppliancy.

The resolutions of the House further inquire how far the agents aforesaid have been officially or otherwise recognized by foreign governments? To this question the Secretary gives all the information contained in the diplomatic correspondence now in the Department.

For these and other reasons, the undersigned are of opinion that the communication of the President, in answer to the resolutions of the House, contains information as full and explicit as the circumstances authorized.

We, therefore, recommend the adoption of the following resolution :

Resolved, That it is inexpedient, at this time, to take any legislative action on the resolutions originally introduced on the subject of recalling our Commissioners, and dismissing from the limits of the Confederacy such persons as are supposed or known to act as Consuls for foreign countries in the Confederate States.

All of which is respectfully submitted,

W. R. SMITH,
E. BARKSDALE,
JOHN McQUEEN.

RESOLUTION OFFERED BY MR. HARTRIDGE,

As a Substitute for the Reports of the Committee.

Resolved, That the reports from the Committee on Foreign Affairs and the resolution of inquiry upon which they are based, be re-committed to the said Committee with instructions to report, at as early a day as possible, a joint resolution declaring it to be the sense of this Congress that the Commissioners sent to certain European powers by virtue of the Acts of the Provisional Congress, approved

, and August 20th, 1861, should be instructed to ask of the Governments to which they are respectively accredited, an immediate recognition of the independence of the Confederate States of America, and upon a refusal upon the part of said Governments of such recognition, or a failure immediately to make it to withdraw from such Governments and return to this country; also, a further resolution declaring it to be the sense of this Congress that the consular agents of Foreign powers, resident in the Confederate States, should not be recognized by this Government as having any of the functions or powers of Consuls, unless accredited to and receiving exequaturs from the Government of the Confederate States.

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