

THE JOINT RESOLUTION PROHIBITING THE PICKETING OF DIPLOMATIC AND CONSULAR PREMISES IN THE DISTRICT OF COLUMBIA

According to the well-recognized principle of international law, every state must within its jurisdiction insure a respectful treatment of foreign representatives and must take care that they encounter no interference in the discharge of their important duties. A like obligation rests upon the states to prevent any discourtesy to the head of a foreign state or to the flag or other emblems considered to personify it. In order to fulfil this obligation, the United States, early in its history, passed an act imposing heavy penalties on any one who should "offer violence to the person of a public minister."¹ This provision is good as far as it goes, but it does not cover all of the acts for the prevention of which this country must be held responsible.

In recognition of this legislative deficiency and in order the better to fulfil our obligation under this head, Congress passed a Joint Resolution, approved February 15, 1938, which seeks to prevent what is known as picketing.² The resolution prohibits the display of banners and the commission of certain specified offensive or intimidating acts "within five hundred feet of any building or premises within the District of Columbia used or occupied by any foreign government or its representative or representatives as an embassy, legation, consulate, or for other official purposes . . ."

It is to be regretted that the application of this remedial legislation is limited to the District of Columbia. The responsibility of the Federal Government is as broad as our national jurisdiction. No doubt the States and municipalities of our Union may ordinarily be expected to protect foreign diplomatic and consular premises and residences from insult and interference, but the Federal Government cannot always safely rely upon this concurrent jurisdiction and coöperative action. In an effort to escape responsibility it will not avail to plead the lack of a legislative sanction, since Congress might well have enlarged the scope of the anti-picketing resolution.³ However loath the Federal authorities might be to act outside the District of Columbia in the absence of specific legislative authorization, they have, even in the absence of such legislation, the undoubted right to use whatever force may be necessary to protect foreign representatives and foreign flags and emblems from insult. If this were not the case, the failure of municipal authorities to insure an adequate protection might entail the most serious consequence and even endanger the maintenance of peaceful relations with the other nations.

The practice of making demonstrations before the offices or premises of foreign representatives, both diplomatic and consular, seems to be on the

¹ Act of April 30, 1790. R. S. 4062 of U. S. Code, Title 22 § 255.

² Public Resolution No. 79, 75th Cong., 3d Sess. "To protect foreign diplomatic and consular officers and the buildings and premises occupied by them in the District of Columbia." Printed in this JOURNAL, Supp., p. 100.

³ See note by Lawrence Preuss in this JOURNAL, Vol. 31 (1937), p. 705, at p. 710.

increase. In the press of March 12 it is reported from Boston that, following the announcement of the German invasion of Austria, a group staged an anti-Nazi demonstration before the building housing the offices of the German consul. According to the report, this demonstration was quiet and orderly and the police dispersed the demonstrators without trouble.⁴ The next day the German consulate in New York was subjected to picketing by a crowd reported to number a thousand, and a resolution against the invasion of Austria was handed to the German Consul-General who, according to the dispatch, stated that he would ignore it.⁵ From London comes the report that a crowd of 25,000 demonstrators against Premier Chamberlain and the German action in Austria marched towards the German Embassy until they were stopped by the police, but they were permitted to send a delegation with a protest to the Embassy.⁶ On March 14, the German swastika, flying from the German consulate in St. Louis, was set afire by a man who reached the flag from the thirteenth floor with a blow torch while a crowd in the street below cheered. Police were unable to discover the offender.⁷ On the same day in Washington 39 persons who were parading with anti-Nazi placards before the German Embassy and Austrian Legation were arrested.⁸

A year ago the Italian Embassy in Washington was picketed by sympathizers with the Spanish Loyalists.⁹ More recently it was reported in the press that the veterans of the Abraham Lincoln Brigade, picketing the Italian Embassy, made use of an airplane, flying high above the Embassy and trailing a streamer bearing the legend "quarantine the aggressor." The veterans also handed to a member of the Embassy staff a letter demanding withdrawal from Spain.¹⁰ As early as December 3, 1936, when demonstrators against Nazi intervention in Spain made a demonstration before the German Embassy, five of the demonstrators were sentenced by Police Court Judge Isaac R. Hitt to \$100 fines or thirty days in jail, and others received suspended sentences on charges of parading without a permit.¹¹ Last October a demonstration was made by a group of Chinese business men and students, who attempted to parade in front of the Japanese Embassy. They were interrupted by the police, who refused to let them picket in front of the Embassy, but they were permitted to deliver a protest to the Embassy. Although the resolution to prevent picketing had not at that time been adopted by Congress, the police inspector did not allow the demonstration.¹² These are only a few of the instances which have occurred, and similar demonstrations are of frequent occurrence in other countries.

The freedom, not to say license, of the press, gives foreign sovereigns and

⁴ Washington Times (I. N. S.), Mar. 12, 1938.

⁵ New York Times, Mar. 13, 1938.

⁶ Washington Post, United Press dispatch, Mar. 15, 1938.

⁷ *Ibid.*

⁸ *Ibid.*, Mar. 24, 1937.

⁹ *Ibid.*

¹⁰ *Ibid.*, Feb. 15, 1938.

¹¹ Washington Daily News, Dec. 3, 1936.

¹² Washington Herald, Oct. 9, 1937.

their representatives some ground for complaint because of the discourteous treatment to which they are sometimes subjected in the columns of newspapers and magazines of other countries. How to prevent offense to foreign states without interfering with the freedom of the press in democratic states is a difficult problem and one which will not soon be solved. Even though it be a half loaf, the anti-picketing resolution will prove of practical value in preventing a particularly offensive form of discourtesy to foreign representatives at the capital.

ELLERY C. STOWELL

THE INFLUENCE OF DUMAS

It is an interesting fact for Americans that in the period of the Revolution and for some time thereafter, the influence of a foreign scholar was significant in sane American international development. Franklin while in Europe in the early days of the Revolution had become acquainted with Charles William Frederick Dumas, a Swiss, who had lived many years in The Netherlands and was received in the diplomatic circles at The Hague. Dumas had a warm sympathy for the aspirations of the American colonies and was active in enlisting the sympathies of others when the American colonies were of relatively little concern abroad. Franklin, as chairman of the Committee of Secret Correspondence, turned to Dumas as a suitable confidential agent in Europe, and seems to have sent to him the first letter from the Committee and to have kept up a continued confidential relation.

As a Swiss, Dumas was naturally an admirer of the comprehensive work of Vattel on international law and seems to have thought it would be a sound guide for the early American leaders. He accordingly sent three copies of an edition, which he had issued, to Franklin. Of these books Franklin wrote to Dumas on December 19, 1775,

I am much obliged by the kind present you have made us of your [1775] edition of Vattel. It came to us in good season, when the circumstances of a rising state make it necessary frequently to consult the law of nations. Accordingly, that copy which I kept (after depositing one in our own public library here, and sending the other to the College of Massachusetts Bay, as you directed) has been continually in the hands of the members of our Congress now sitting, who are much pleased with your notes and preface, and have entertained a high and just esteem for their author.

A recent investigation has disclosed that the copies deposited in "our own public library here," now the Library Company of Philadelphia, and "the College of Massachusetts Bay," now Harvard College, more than one hundred and sixty years later are still preserved in those libraries. The third copy, said to have been "pounced upon by studious members of Congress," has not been located, even after considerable search, and it would be a satisfaction to know whether it is still in existence and, if so, where.

Dumas helpfully initiated and carried forward many negotiations with