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AN AFTERMATH

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RICHARD HENRY DANA

CAMBRIDGE

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THE TRENT AFFAIR — AN AFTERMATH.

ON November 9th last our President, Mr. Charles Francis Adams, read a paper on the Trent Affair, taking the occasion of its fiftieth anniversary.¹

During the Civil War Captain Charles Wilkes of the United States navy, in command of the *San Jacinto*, a United States war vessel, took from off the *Trent*, a British mail steamer running between Havana in the island of Cuba and the island of St. Thomas, both neutral ports, Messrs. Mason and Slidell, two Confederate envoys sent out respectively to England and France, with their secretaries. This occurred on the 8th of November, 1861. It was done without any authority or knowledge on the part of the United States government.² Messrs. Mason and Slidell had various despatches which were successfully concealed on the *Trent*; but the envoys were taken off and the *Trent* was allowed to go on her way. Messrs. Mason and Slidell were taken as prisoners in the *San Jacinto* to Fortress Monroe, November 15, and later moved to Fort Warren in Boston Harbor. The news reached Washington, Saturday, November 16. The seizure was first known in England, November 27, on the arrival at Southampton of the passengers of the *Trent*. The news excited great rejoicing in the United States and intense indignation in Great Britain. One cause for the rejoicing at the North was that Mason was the author of the fugitive slave law and chiefly responsible for the decision of Virginia to secede. As Mr. Adams reminds us, there was no transatlantic cable in operation during the affair. It took from twelve to fourteen days for news to be carried between Great Britain and the United States.

¹ See *Mass. Hist. Soc. Proceedings*, XLV. 35.

² For fuller account, see Mr. Adams' paper, and Harris, *The Trent Affair*, 91-115.

Mr. Adams gives an account of how he, a youthful legal practitioner of twenty-six, after reading the announcement on the bulletin boards, hurried into the office of Mr. Richard H. Dana, Jr., with whom he had recently studied law, bearing the startling news. As Mr. Adams says, "Mr. Dana was deemed as high an authority on maritime law as there was at the American bar." "Well do I remember," says Mr. Adams, "his reception of it. His face lighted up, and, clapping his hands with satisfaction over the tidings, he expressed his emphatic approval of the act, adding that he would risk his 'professional reputation' on its legality."¹

It seems quite clear that Mr. Adams thinks Mr. Dana's opinion as to the legality of the act "did not have . . . a justifying leg to stand upon." It is enough of an answer in order to sustain Mr. Dana's opinion to quote from the letter written by Lord Palmerston to J. T. Delane, the editor of the *Times*, on November 11, 1861, just after the affair had taken place, but before the news of it had reached England, and which is given in full in Mr. Adams' paper:

94 PICCADILLY, November 11, 1861.

MY DEAR DELANE, — It may be useful to you to know that the Chancellor, Dr. Lushington, the three Law Officers, Sir G. Grey, the Duke of Somerset, and myself, met at the Treasury today to consider what we could properly do about the American cruiser, come, no doubt, to search the West Indian packet supposed to be bringing hither the two Southern envoys; and, much to my regret, it appeared that, according to the principles of international law laid down in our courts by Lord Stowell, and practised and enforced by us, a belligerent has a right to stop and search any neutral not being a ship of war, and being found on the high seas and being suspected of carrying enemy's despatches; and that consequently this American cruiser might, by our own principles of international law, stop the West Indian packet, search her, and if the Southern men and their despatches and credentials were found on board, either take them out, or seize the packet and carry her back to New York for trial.

The Chancellor was Lord Westbury, and he and Dr. Lushington, the celebrated Admiralty Judge, constituted with the Law Officers the highest authority in England at that time on international law.

¹ P. 48, *supra*.

I should note that during all the affair, till the prisoners were *delivered* up, and in which period, as Mr. Adams says, almost every one in the United States was carried off his feet, and so many holding prominent positions openly lent their names to the discussion, Mr. Dana never appeared before the public as committing himself on the subject. His first *public* utterance to which his name was attached was in support of the rendition and of the chief ground on which that was made. In the casual and private conversation with his recent law-student, he must have meant, even if he did not say so, legal according to British precedent. Mr. Dana was far too good an authority, and was far too familiar with the War of 1812 and its causes, not to know that the United States denied England's right to take men (not in enemy's military service) from neutral vessels. He was far too familiar with the efforts of his grandfather, Francis Dana, when Minister to Russia (though not officially accepted at court), during the latter part of the Revolutionary War, in concert with American envoys to other courts, to work up European nations on that subject, not to know that other countries beside the United States were opposed to England's principles.

Under these principles Great Britain had forcibly taken from neutral vessels her own subjects, or those she claimed or thought to be her own subjects, even though they were rendering no unneutral service, and even when the neutral vessel was going from one neutral port to another, and regardless whether the men were seamen or passengers,¹ and for the sole purpose of securing their allegiance or service. This, as all authorities agree, was a claim of police authority on the high seas, and was not founded on the doctrine of belligerent acts of neutrals.²

Messrs. Mason and Slidell were still "citizens" of the United States.³ The independence of the Southern Confederacy had

¹ Two nephews of General Washington were taken from a neutral vessel by a British man-of-war on the supposition that they were Englishmen.

² Dana, *Wheaton*, 175 n, 646 n.

³ See United States Constitution Preamble. "We the people of the United States . . . do ordain and establish this CONSTITUTION"; Art. I, § 2, par. 2 and § 3, par. 3 provide that a United States senator or representative must be "a citizen of the United States" and "be an inhabitant of that State" for or in which he is chosen. By Art. VI, par. 3, United States "Senators and representatives . . . shall be bound by oath or affirmation to support this constitution." Both Mr. Mason and Mr. Slidell had been United States Senators.

not been recognized by a single nation, and, under the British principles, we could take them out as our citizens to secure their allegiance, to say nothing of the fact that their despatches, we now know, included military and belligerent matter.¹ But it is contended in Mr. Adams' paper that England had abandoned her right of impressment, as it was called, for fifty years. Some writers in the English magazines, to justify England's inconsistent attitude, made that claim, to be sure; but no such writer ever made any such claim before the Trent Affair was known in England.² Is that abandonment view well sustained? Not only in 1814 and again in 1818 did England refuse to abandon her claim, but in the correspondence between Mr. Webster and Lord Ashburton in 1842 she again refused; and in the Declaration of Paris, in 1856, which adopted for the leading European nations new articles on the rights of neutrals, she would not abandon her claim; and as late as December, 1860, President Buchanan in his message to Congress said that "the claim on the part of Great Britain forcibly to visit and search American vessels on the high seas *in time of peace* has been abandoned," referring to the old claim of 1812. This shows that she still claimed it *in time of war*; and Lord Palmerston's letter of November 11, 1861, two days after the seizure above referred to, still held to the old view.

So far, I have been speaking, as my father spoke privately to his young friend and wrote confidentially to Mr. Adams in London, from the point of view of a lawyer. In Mr. Adams' recent paper it is asserted that we had outgrown any such principle. We surely had in America; but even if England had outgrown it, she had not admitted it nor changed her law. She came forward, however, as prosecuting officer to enforce within her own jurisdiction new rules which she adopted only after the seizure, — a clear case of *ex post facto* law, on her part.³

¹ Mr. Dana, in his letter of November 25 to Mr. Adams, speaks of their "mission" being "hostile," but to take them off the neutral vessel could be justified only on the English principles. See also notes on p. 7, *infra*.

² The London *Times* made this claim the day after (*viz.* on the 28th) and still more emphatically on the 29th and 30th of November, 1861.

³ If we should have consented to play the war game under the British rules, was it sportsmanlike in Great Britain to change her rules after we had scored a point and insist on enforcing as against us this change? It may have been and was good policy for us to accept the change on her part, but was it fair for her to act as she did?

To the question of whether, aside from the English principles, Messrs. Mason and Slidell could be taken off the *Trent*, or whether the *Trent* could properly have been taken to a United States port and condemned by a prize court, I shall not enter in so short a paper further than to remark that a second opinion of the British Law Officers, modifying their first one of December 11, was in favor of the right to condemn the *Trent* if taken to a prize court; though still later, on January 23, 1862, after the return of the prisoners, this was denied.¹ As a

¹ The text-books at the time generally admitted the right to stop the ambassador of an enemy *on his passage* (*Wheaton*, § 504; *Phillimore*, 368, § 27, 369-374). This was based on the authority of Lord Stowell; but that opinion of Stowell's was *obiter dictum*, and the famous passage from Vattel misapplied. See Dana, *Wheaton*, 641 n; Harris, 249. Sir William Scott's (Lord Stowell) celebrated dictum reads as follows: "You may stop the ambassador of your enemy on his passage. Despatches are not less clearly contraband, and their bearers fall under the same condemnation; . . . when it is of sufficient importance to the enemy that persons shall be sent on the public service at the public expense, it is only reasonable that it should afford equal ground of forfeiture against a vessel that it has been let out for a purpose so intimately connected with hostile operations." Dana, *Wheaton*, 645 n. Vattel's statement, on which this dictum is based, clearly refers to the right to stop outgoing ambassadors on the territory or vessels of either party to the war, and not on neutral territory or vessels.

The claim of the Duke of Argyll that the termini being neutral ports wholly exonerates the *Trent* and which Mr. Adams sustains in his paper, is not well founded in International Law. The neutrality of the termini has an important bearing on the weight of evidence required for condemnation but is not conclusive of innocence. It is a question of the ultimate destiny. See Dana, *Wheaton*, 652 n, 667 n; also the Declaration of London (1909), Art. 30, and Wilson and Tucker, *International Law* (1909), 339. If we had had a right to take off the envoys at all, it was not necessary that the voyage should have been a "continuous" one from an enemy's port to sustain that right.

For an instance where an attempt was made to take an enemy's ambassador from a neutral vessel going from one neutral port to another, we have the case of the British war ship *Africa* which in 1795 entered American waters for the avowed intention of seizing M. Fauchet, the French minister to the United States. He was on board the packet *Peggy*, a neutral American vessel going from New York to Newport, R. I., but hearing of the intention of the commander of the *Africa* he left the *Peggy* at Stonington. The *Peggy* was stopped, boarded, and thoroughly searched from the *Africa*, and great disappointment was shown on account of the absence of M. Fauchet. The British vice-consul at Newport aided in the matter. See Harris, 278; *Senate Executive Document*, No. 4, 3d Session, 37th Congress.

Mr. Adams in his paper, arguing against the acts of Commodore Wilkes, speaks of the absurdity of such right of search in modern times, instancing the possible stopping of the *Lusitania* or the *Oceanic* by a Mexican or Portuguese battleship. It may be remarked that although carrying envoys and diplomatic despatches is not to-day belligerent service, yet the Declaration of London of 1909, signed on behalf of the ten chief maritime powers of the world and purporting

minor matter, I may state in passing that the claim in Mr. Adams' paper that it was absurd to class Messrs. Mason and Sli-dell as envoys, as they were only private citizens, is not upheld by Lord Russell, who in his letter to Lord Lyons of January 23, 1862, replying to Seward's letter of December 26, claimed that these gentlemen and their despatches had the protection of ambassadors, on the ground that they were envoys from a *de facto* state whose belligerency was generally recognized.

Now, from the point of view of statesmanship, Mr. Adams, our Minister to England, was wholly right, and deserves, as he does for his many other acts during the trying period when he was in London, the highest praise. This Mr. Dana very properly acknowledged in his letter to Mr. Adams of January 19, 1862, written after the surrender, saying, "You saw the question as a statesman, I only as a lawyer." Indeed, Mr. Dana did not discuss the advisability of surrendering the men regardless of the English law, but discussed only our *legal* rights. I wish to point out that Mr. Dana in this letter made no admission that he was wrong as to the British principles of law then in force. Mr. Adams had had no controversy with Mr. Dana on that point. He admitted it, when he called those principles "cast-off rags," recently "cast-off" only, as Mr. Adams said, "because the sin had become inconvenient." Mr. Dana was not acting in a position of responsibility. To illustrate how that may affect one, let me recall that in 1867, when Mr. Dana was retained by the United States Government as counsel for the trial of Jefferson Davis for high treason, after giving the law and showing how an impartial jury might legally be selected, perhaps from the State of Pennsylvania where Davis' troops had been fighting, he took the view of the statesman and not of the lawyer, and strongly recommended as

to state "the generally recognized principles of international law," allows on mere suspicion the right of stoppage, visit, and search, resistance to which would subject the vessel and her owner's goods to condemnation. Some instances of belligerent service are, carrying an individual embodied in the armed force of an enemy, or contraband goods, which are carefully defined, or making a voyage "with a view to the transmission of information in the interest of the enemy," or with knowledge of the owner "transporting one or more persons who, during the voyage, lend assistance to the operations of the enemy"; and the fact that the voyage is from one neutral port to another is no defence if the ultimate destination is for the enemy. See Wilson and Tucker, *International Law*, 450-468.

the wisest and best policy for the future of our reunited country the release of Mr. Davis.

Mr. Sumner's great speech in the Senate upholding the return was made on January 12, just two weeks after Mason and Slidell had been given up. Before that date Mr. Dana, who was in Washington to argue a case before the Supreme Court and to consult regarding the prize cases, had become thoroughly converted to the extra-legal view of accepting England's demand as an abandonment of her old principles, surrendering the prisoners on that ground, and thus establishing our views of what the law ought to be. I have the most distinct recollection of his return and of his enthusiasm for this the chief ground on which the return was made, and of Seward's letter,¹ as, in the main, a statesmanlike paper.

As to the threats of war by Great Britain and her "bullying attitude" and Mr. Dana's comments on this phase of the "Affair" in his notes to *Wheaton*, the recent paper of our President truly says, Mr. Dana made the mistake of saying that "The news of the capture of Messrs. Mason and Slidell reached Washington about the same time it reached London,"² and then adds, "the error vitiates Mr. Dana's whole criticism." Strangely enough, the dates of the facts which Mr. Adams cites, when examined in their turn, vitiate Mr. Adams' vitiation, if one bears in mind the absence of the Atlantic cable. The news of the seizure reached Washington Saturday, November 16,³ and London, November 27, or eleven days later. The threats of war in England were made immediately in public meetings and in the press.⁴ Preparations for war were begun at once, "on a scale which was sufficient to tax the utmost resources of the United Kingdom,"⁵ with work day, night, and Sundays; troops were immediately ordered to Canada, cannon bought, the navy put on a war footing, a shipment of

¹ Lothrop, *William H. Seward*, 302; and *Dana to Adams*, p. 131, *supra*. Letters show that Mr. Dana was in Washington from about January 2 to the 15th, 1862.

² Mr. Dana's conclusion that "each side [was] acting without hearing from the other" till the very last (655 *n*) is, however, true, as shown below.

³ Too late for more than a mere notice in the Saturday evening papers. The rejoicing did not appear till Monday, the 18th.

⁴ The Liverpool meeting of "indignation" at the "outrage on the British flag" was held at 3 P. M. on the afternoon of the 27th. Harris, 146; *London Times*, November 28, 1861.

⁵ Harris, 141.

saltpetre to the United States Government stopped, a letter written to the Canadian authorities to prepare for war, and a peremptory demand made to the United States to be answered in seven days, with the alternative of the withdrawal of the British Minister from Washington, — all consummated by the 30th of November.¹ Now, Mr. Adams gives it as the excuse for this warlike and “bullying” attitude that England had been aroused by the events in America during the eleven days between November 16 and 27. But it took twelve days for news to go from New York to London. The 16th was Saturday. An examination of the United States newspapers shows that only a brief and somewhat incorrect statement appeared that afternoon, with no editorials. There were no Sunday papers. The first “rejoicings” appear in the United States papers of Monday, the 18th. There were no Monday or Tuesday sailings. News of Wednesday the 20th would not arrive in London till about December 2. Now, let us turn to the London *Times*. Its files show that not even the news of the first popular, unofficial “rejoicings” had reached London by the eventful 30th, — the day of war preparations begun and peremptory demand sent. The *Times* of the 30th states: “The public advices by this arrival [the last from the United States] do not mention the arrival of the *San Jacinto* at any American port.” The first news of the “rejoicings” appears in the *Times* of December 3,² brought by steamer leaving New York November 20. So Mr. Adams’ words “about, the same time,” referring to news of our “rejoicings” and “slopping over” reaching England when she first heard of the seizure, also need to be changed.

The chief events Mr. Adams refers to in this connection were the indiscreet speeches of the Governor of Massachusetts, the Chief Justice of the State, and others at the Wilkes

¹ Bancroft, *Seward*, II. 226, 227. See also London *Times*, November 30, p. 9. The royal order preventing the shipment of any saltpetre to the United States, as the London *Times*, December 2, said, “to prevent a power so arrogant and so much under the influence of passion from obtaining materials of war which may hereafter be turned against us,” was dated November 30. The transport *Melborne* was chartered for troops and war material to be carried to America, November 30. For some other war preparations of the same date see the London *Times*, December 2, p. 7, col. 6.

² In the *Times* of December 2 appears a notice of the arrival of the *San Jacinto*, and a telegram from Queenstown of news from New York to the 20th, but no details.

dinner given in Boston on the evening of November 26. They were printed in the Boston papers of November 27, only three days before the eventful 30th.

The only possible question remaining is, whether the English preparations for war might have ceased after November 30, say December 12, had not the news of this Boston dinner and other rejoicings reached the British Government. There are no indications that such is the fact.¹ Though Boston is the "hub of the universe," it was not for Great Britain the centre of diplomatic influence; and I doubt if these speeches would have had any more influence in England than a speech of the mayor of Birmingham would have had with us; but at all events, even supposing that the British Government would have ceased its preparation for war, cancelled the orders for arms, ammunition, and cannon, stopped work at her arsenals and on her ships, recalled her troops, and let the saltpetre, etc., go to the United States, news of this supposed change of attitude, had it taken place, could not have reached Washington before the Cabinet decision made December 26.

As to other happenings in the eleven days, news of the resolution of the national House of Representatives thanking Wilkes passed December 2, was first published in England December 17; and that of the half-approval and half-disapproval of Gideon Welles, Secretary of the Navy, dated November 30, had not reached London by December 20.

The London *Times* of December 3 and 4, after hearing of our "rejoicings," shows that the New York *Tribune*, the chief United States Government organ, suggested, and the *New York Commercial Advertiser* advised, returning the envoys. The London *Times* editorials of these two days were more stirred up by the absurd fictions from its own New York correspondent² than

¹ The London *Times* of December 11, saying there was no news from the United States later than November 25 (the day before the Boston dinner to Wilkes), still speaks of "war." The preparations had been going on, though the London *Times* of December 9 speaks of "a rapid subsidence of bluster" in the United States. For example, the transport *Australia*, engaged December 5, took on some troops for Canada December 11 and 12.

² The editorial in the London *Times* of December 3, says: "The news shows that the Federal public and forces have received their Commodore's exploit with considerable misgivings as to consequences. . . . Some portion of the New York press discovered immediately the weakness of their case." It then goes on to speak of the "violent acts of four boats' crew of American seamen," and "these cutlass-

by the actual statements in the United States papers. The London *Times* editorials show manifest unfairness in handling the material of its own news columns.¹

There seems to be "nothing," then, "that called for a menace of war"; news reaching England December 3 could not have caused the action of November 30; and Mr. Adams' whole argument on this point falls to the ground.

In justice to Lord Russell it should be stated that on this same November 30 he addressed a second private letter to Lord Lyons, saying, "if asked, you will say that you desire to abstain from anything like menace."²

This letter was never shown to Mr. Seward, and the fact of a menace of war, the demand for return and apology, and the seven-days limit were all that were known to our Cabinet.

An explanation for the hurried despatch of troops to Canada has been attempted of late years on behalf of Great Britain, namely, that this was the ordinary manœuvre of troops to

and-pistol-bearing Judges of the American Admiralty," and of a rumor that "Captain Wilkes is reported to have said 'right or wrong, these men had to be rescued,'" as far worse than the seizure itself. As a matter of fact the envoys were taken off with the least possible show of force, and the Slidell family had so testified at the official hearing, November 27; but the London press preferred to believe the absurd and unsustainable stories of Commander Williams, who had been in charge of the mails on the *Trent*, as to how he had thrown his body in front of the Yankee bayonets to save the life of the helpless Miss Slidell. The New York correspondent's story which the *Times* swallowed whole and repeated editorially was, "that the seizure of the *Trent* is but the first of a series of similar acts; that steamers are being fitted out at New York for the express purpose of committing similar outrages upon our flag; that they have been designedly entrusted to the command of 'young officers,' and that those 'young officers' have been authorized to exercise great latitude in the execution of their instructions and have received assurances in advance of the support of the Government."

¹ Though on December 3 it prints some extracts from New York papers that favored giving up the envoys, in its editorial of December 4 it purports to furnish a summary of the Northern press and quotes only such passages as were hostile to Great Britain.

² This menace existed in *fact* if not explicitly on paper. Joab's words to Amasa as he smote him in the fifth rib were, "Art thou in health, my brother?" (Congressman Thomas of Massachusetts, Harris, 228). But after all, this second letter may show that Lincoln rightly applied to the situation his story of the two quarrelsome dogs on opposite sides of the fence who on finding an unexpected opening instead of attacking each other, turned and ran away. Harris, 186. As against England there was the sudden appearance of two Russian fleets, one in San Francisco and one in New York, friendly to the United States, with sealed orders to be broken only in case of war between Great Britain and the United States. Russia was still smarting from her defeat in the Crimean War, for which England was so largely responsible. Harris, 209-210.

Canada about that time of year. In reply it should be stated that large numbers of extra troops had been sent to Canada the previous summer.¹ The order was for thirty thousand men of the best fighting regiments of England (far beyond the usual quota); and the hurry in sending troops at this time was so great that the *Persia* was taken off her regular passages, and among the transports used was an American side-wheeler, the *Adriatic*, bought and so hastily fitted up that even the American flag on her paddle-box was not painted out. To show the spirit in which the troops left, a military band on board one of the transports played "Dixie," the favorite Southern tune. The justification of England's threatening attitude having failed, then, let me state that Mr. Dana's notes on Wheaton in 1866 only recorded what all the authorities at the time felt, and all, I believe, except Mr. Adams in his recent paper, have felt since, that England's course in this matter was unfriendly — some calling it "bullying" — and certainly a departure from the usual methods employed in diplomacy in such a case as this, which would be, even when the rules of International Law were more clearly broken, to call the attention of the Government to the facts, assume that the act was done without authority, ask for an explanation,² and only threaten war as a last resort, perhaps after refusal to arbitrate, never as the first step. As Mr. Harris has shown in a most conclusive manner in his *The Trent Affair*, the ruling class of Great Britain was intensely hostile to the North, beginning with the letter of Lord John Russell of February 20, 1861, which came like a bolt from a clear sky after the unusually friendly relations following the visit of the Prince of Wales to the United States in 1860. This letter of Lord John Russell was most remarkable for its insulting language. It was written two weeks before the inauguration of Lincoln, and says, "Suppose, however, that Lincoln acting under bad advice should make political capital out of blustering demonstrations," the British patience "might be tried too far." Then there followed a series of articles in the papers and magazines, speeches by Lord Palmerston, Lord John Russell, Gladstone, and others,

¹ Harris, 61.

² Dana, *Wheaton*, 653 n; Harris, 271. In case there was a mistake compensation would be expected as well as return. See also Declaration of London (1909), Art. 64.

attacking the Northerners and showing confidence in the success of the Southern cause.¹ Lord Coleridge told me that in those days a dinner party he attended in London was broken up, because some one took the side of the North.

The ruling class in Great Britain were in truth hostile to the North and ready to be stirred up to warlike measures at the first excuse, and the *Trent* affair was prized as such.

On the same day that the news of the Boston dinner was published in the American papers, Mr. Seward wrote from Washington a letter to Adams in London, stating that Wilkes acted without the knowledge or authority of the United States Government, and that the Government was ready to consider the whole matter fairly. To show the spirit in which the British Government was acting, though the Government press had been constantly stating that the act was authorized, and indeed, part of a plan of Seward's for insulting Great Britain,² no denial was made from the Foreign Office, and the truth only came out in a roundabout way later. In addition to this, it now appears that Miss Slidell, who was among the *Trent* passengers who carried the first news to England November 27, immediately told the British ministry that the American officer who boarded the *Trent* took pains to state that the commander of the *San Jacinto* had no instructions from his Government, but was acting on his own responsibility.³ We know, too, that the original draft of Lord John Russell's letter as submitted to the Queen and the Prince Consort was so hostile in its form that the Prince Consort insisted upon its revision, — the last public act in the life of that noble man. We do not know the exact contents of the original draft, but we have learned that it had the words "wanton insult." The Queen's suggestions were adopted in the main, but couched in language less courteous than hers.

¹ Harris, 17-59; Morley, *Life of Gladstone* (1903), 69-86; *Life and Correspondence of Lord Coleridge* (1904), II. 1-5.

² This was based on some misunderstanding by the Duke of Newcastle when he was in the United States in the Fall of 1860. He related how Seward told him he was about to have a very high office in the Federal Government, "and it will become my duty to insult England, and I mean to do so." This story was constantly repeated in the London press and believed generally.

³ Lothrop, *William H. Seward*, 299. This statement of Miss Slidell was not known to Mr. Harris in 1896, when he wrote his admirable book on *The Trent Affair*.

Mr. Adams suggests as justifying England's threat of war and her peremptory and offensive demand some American examples, one, the course adopted towards the United States of Colombia in respect to the independent Republic of Panama and the Panama Canal. In the light of recent research,¹ we trust this will never be considered a precedent for anything in the past or the future; but another instance cited by Mr. Adams, namely, the memorable message in the Venezuelan affair which President Cleveland directed to Great Britain on December 17, 1895, is worth comparing. Great Britain was then at peace, in possession of an enormous navy. The subject had been presented to her time after time in diplomatic messages,² only to be pigeon-holed. There was immediate danger of war breaking out between Great Britain and Venezuela which might arouse a war-cry in America over the Monroe doctrine and Cleveland's demand was for arbitration. To make America's attitude in the case parallel to England's in the Trent Affair, it should have been something like this, — that, with no previous diplomatic correspondence on the subject, the United States should demand in seven days the ceding of a definite tract of territory to Venezuela, on a threat of war, at a time when England was fighting for her very life, let us say, with Germany, and a refusal to allow the matter to be arbitrated. Indeed, the threat of war, when we had one of immense proportions on our hands already, is the only thing that has given the Trent Affair its real importance and differentiated it from the hundreds of other cases of the exercise of the right of search of neutral vessels on the high seas which have continued up to this very day.³ In the present war between Italy and Turkey there have been several including the British steamer *Egyptian Prince*, going from Alexandria to Malta, both neutral ports, January 2, 1912; in the Chino-Japan War of 1894 there were eighty-one; and in the Russo-Japanese War of 1904-1905 sixty-four neutral vessels visited and searched. In two instances in the present war between Italy and Turkey, persons were taken off French vessels going between neutral ports without

¹ "A Chapter of National Dishonor," by Dr. Chamberlain, in *North American Review*, February, 1912, 145-174.

² About forty in all.

³ Even unlawful acts following the search have not been made a cause of war. Dana, *Wheaton*, 653 n.

causing any threat of war or unusual preparations for it by the neutral government concerned. It was the disgrace of having to yield to such threats that made it so hard to give up the prisoners; and whatever may be said of the great length of Seward's letter, its sublimated passages, refined reasoning, and one bombastic sentence, in the main it was, as most authorities agree, a statesmanlike paper.¹ It adopted the very ground suggested by Mr. Adams, our Minister in London, by Sumner here, and by General Scott in Paris, that of giving up the envoys on the understanding that it was a moral victory for America in her contention for greater liberty to neutrals, and the disavowal and final abandonment by Great Britain of her claim of right in case of search to look for her own subjects and take them off the decks of neutral vessels. This chief ground for the surrender was what reconciled the Cabinet, Mr. Dana, and others to what otherwise would have been a humiliation, and formed the chief theme of Sumner's great speech in the Senate on January 10, 1862. Strangely enough, this point seems to have been lost sight of in later times. Mr. Adams' paper passes it over, though it is the very position he now suggests Seward should have taken on November 16, 1861, or, at least, on December 12. I find, too, in such good recent histories as that of Rhodes and Woodrow Wilson, that this portion of Seward's letter is not referred to. Harris clearly mentions it, but hardly gives it its due moral emphasis. Moore's very full *Digest of International Law*, though it gives all that part of Seward's letter which leads up to the final sentence, that sentence which Seward considered the climax of the whole is omitted. The last portion of Seward's letter reads as follows:

"This Government after full examination of the subject decided that it could not detain the persons taken from the *Trent* by Captain Wilkes without disavowing its own liberal interpretations of the law of maritime war," and then, after quoting from the correspondence between James Madison, Secretary of State in the administration of Thomas Jefferson, to James Monroe, Minister to England in 1804, regarding England's old claims, goes on to the climax: "nor have I been tempted at all by suggestions that cases might be found in history where Great Britain refused to yield to other nations and even

¹ "Most critics pronounce it a very able state paper." Harris, 221. Lothrop, *Seward*, 313; Bancroft, *Seward*, II. 253.

to ourselves claims like that which is now before us. . . . She could in no other way so effectually disavow any such injury, as we think she does, by assuming now as her own, the ground upon which we then stood."¹

The reasoning of this part of Seward's letter is so like the editorial in the *New York Tribune* of November 20, quoted in the *London Times* of December 3, that it seems as if this editorial was inspired from our State Department, and strengthens the contention that Seward favored the return from the beginning.²

As abandoning forever the old claims of the War of 1812, we have Lord Russell's letter of January 26, 1862, in which he accepts Seward's claim that the United States would expect from Great Britain, or from any other friendly nation, the same reparation in a similar case.³ Lord John Russell, in announcing the surrender in Parliament, made no mention of the real grounds on which it was made. In 1875 and 1876 I frequently visited Lord John Russell at Pembroke Lodge, and I had the audacity to ask the Earl one day why he had not stated these grounds to Parliament, as I thought such a statement would have very much allayed the ill-feeling that had been aroused in America over the affair. Lord Russell's reply was that Seward's letters were so long and verbose. Though the answer was unsatisfactory, it was a warning against too long preambles. The letter has something like ten printed pages of preamble before the climax is reached. Had it consisted of the last few paragraphs only, with the rest in an appendix, its real purport could not have been hidden.

¹ *Senate Executive Document*, No. 8, 2d Session, 37th Congress, IV. 4-13. Seward's letter is not printed in the volume of diplomatic correspondence which contains some of the other correspondence on the Trent Affair, and in the only contemporary United States document where it appears it is so badly indexed that no one could find it without knowing previously that the letter existed and the date on which it was written. This may account for the passing out of mind of the most important part of Seward's letter. [The letter to Lord Lyons, dated December 26, 1861, will be found in *War Records*, Series II, II. 1145. *Ed.*]

² To be sure Seward and Horace Greeley were at sword's points politically; but this was a period of respite in their quarrels. The *New York Times*, personally more friendly with Seward, had some early suggestions of the surrender. See also Bancroft, *Seward*, II. 232-234, where it is maintained that Seward was against keeping the Southern envoys.

³ *Executive Document*, No. 46, 2d Session, 37th Congress, III. 3.

London *Punch* gives a very good idea of current history. The first issue after the British demand, that of December 7, 1861, represents huge Jack Bull threatening a small Jonathan and saying, "You do what 's right, my son, or I 'll blow you out of the water." The next week appeared two cartoons, one in which Mr. Bull says, "Now mind you, Sir — no shuffling — an ample apology, — or I put the matter in the hands of my lawyers, Messrs. Whitworth and Armstrong" (the firm manufacturing and supplying cannon for the British navy). The other represents Britannia standing on a war-ship by a huge cannon loaded and capped, with a halyard in her hand, looking across the ocean, and underneath, "Waiting for an Answer." On December 28 *Punch* pictured "Columbia's Fix" — "Which Answer shall I send, [Peace or War]?" There was no doubt from this and from the London *Times* and all the English papers that the threat of war was clear in the British mind from the very first news of the seizure.

Now, what happened after the surrender? Had it been graciously received on the other side with some due recognition of the inconsistency of England's attitude, or at least some indication of her willingness to come to the American point of view, it would have done much to make friends with America. It was not even received in silence. It was received with taunts and abuse in the press and by the public men.¹ *Punch* of January 11, 1862, had a cartoon called "Up a Tree," representing a coon with the head of Lincoln among the branches, and John Bull pointing a loaded gun. The lines below are as follows: "Col. Bull and the Yankee 'Coon. 'Coon: 'Air you in arnest, Colonel?' Colonel Bull: 'I am.' 'Coon: 'Don't fire; I 'll come down.'" The true cartoon would have been Jonathan fighting for his life in a duel with a slave owner, and John Bull saying, "I'll stab you in the back if you don't stop doing what I always did myself." The other cartoon was "Naughty Jonathan," — Mrs. Britannia saying to Earl Russell, "There, John! He says he is very sorry and that he didn't mean to do it. So you can put this back into the pickle-tub" ("this" being a bunch of birch rods). This unfriendly attitude did more even than the original demand to stir up that desire for revenge which was so common in our country for many years

¹ See Gladstone's Edinburgh speech, January, 1862. Harris, 235.

after the Civil War.¹ Good Mr. Longfellow, who had subscribed for *Punch* from its beginning in 1841, closed his subscription with this volume.

I visited Inverary in 1875, when there were present the Duke and Duchess of Argyll (she being the daughter of the celebrated Duchess of Sutherland), the Marquis of Lorne and Princess Louise, Earl Shaftesbury, Lord Edward Cavendish (brother of Lord Frederick Cavendish who was assassinated in Phoenix Park), and some other members of the nobility, all I have mentioned by name being friends of Sumner. The Duchess asked me how it was that Sumner, who had so many warm friends in England, became so hostile to the country during the War. I gave as answer, first, his regret that England, the great anti-slavery country, should have sided with the South, and, second, an outline of the Trent Affair, with some of the points I have given here, presenting to the Duchess and those about her an entirely new view of the case, which they agreed did much to explain Sumner's state of mind.

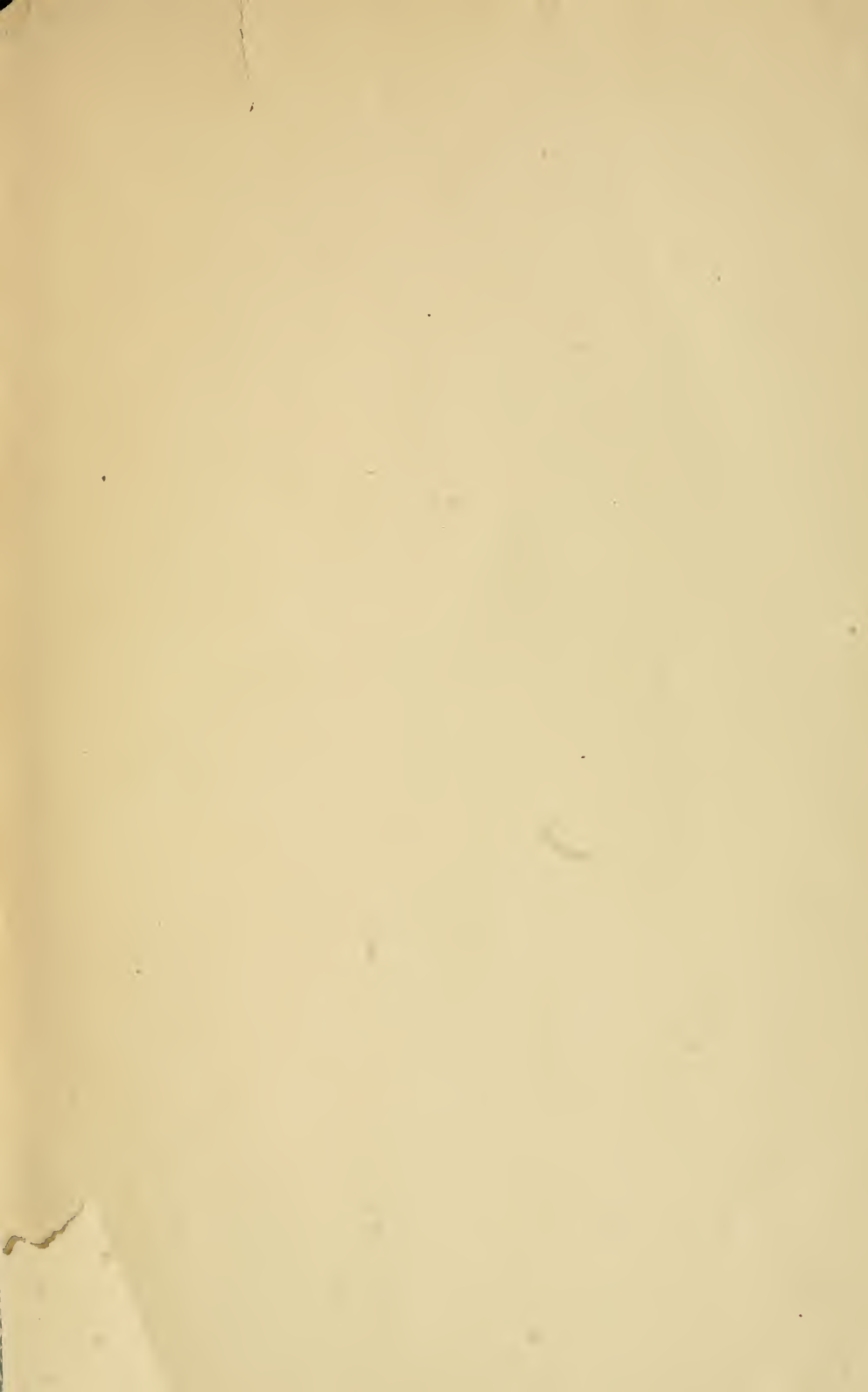
Perhaps it is better to bury England's attitude in forgetfulness for the sake of friendship with her and the peace of the world; but if we do call it to remembrance, let us recall it correctly, and if we do bury it, let us not write on the tombstone "Justified," but rather "Forgiven."

¹ James Russell Lowell has written: "The laity in any country do not stop to consider points of law, but they have an instinctive perception of the *animus* that actuates the policy of a foreign nation."

DATES OF EVENTS.

On the <i>West</i> Side of the Atlantic.	On the <i>East</i> Side of the Atlantic.
1861	
Nov. 8 Trent stopped and envoys taken off.	Nov. 11 Private letter of Palmerston to Delane stating U. S. would have a right to take off Mason & Slidell under English precedents.
16 (Sat.) The seizure known in the U. S. Brief statement only in Sat. p. m. papers.	27 Seizure first known in England. Liverpool indignation meeting 3 p. m.
18 First rejoicings appear in U. S. papers.	30 Lord Russell's peremptory demand for surrender and apology in seven days, or English ambassador to remove from Washington, and war preparations in Great Britain begun.
27 Speeches of Boston dinner to Wilkes of evening before, first published.	Dec. 3 First news of rejoicings in U. S. appears in <i>London Times</i> .
30 Letter of Welles, Sec'y of Navy, to Wilkes.	12 News of Boston dinner speeches first appears in <i>London Times</i> . (Letter of Welles to Wilkes does not appear in <i>Times</i> at this period. It must have been kept private at first.)
Dec. 2 Resolutions of U. S. House of Representatives thanking Wilkes.	17 News of the resolutions of the U. S. House of Representatives of Dec. 2 first appears in <i>London Times</i> .
12 News of England's hostile attitude first reaches the U. S.	
18 Lord Russell's demand reaches the U. S.	
20 The same presented to Seward.	
26 Letter of Seward to Lord Lyons delivering up Mason and Slidell.	
1862	
Jan. 9 Sumner's speech in the Senate sustaining the return of the envoys.	









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